



**BERKELEY CENTER FOR  
LAW & TECHNOLOGY**

**BerkeleyLaw**  
UNIVERSITY OF CALIFORNIA

2016-2017 Annual Bulletin

Established in 1995, the Berkeley Center for Law & Technology (BCLT) is the focal point at the University of California, Berkeley, School of Law for teaching, research, convening, and student activities on issues at the intersection of law and technology.


The wide-ranging scholarship of BCLT's faculty frames and advances the law and technology discussion. Equally noteworthy is BCLT's global community of students, alumni, practicing attorneys, policymakers, and scholars, who come together at BCLT to teach, to learn, and to develop the legal principles that are shaping — and being shaped by — our technological future.

Situated in the San Francisco Bay Area, BCLT capitalizes on its location:

- at the world's foremost public research university;
- surrounded by biotech and Internet innovation;
- on the Pacific Rim, enhancing its global outlook.

BCLT was the first center of its kind. Now entering its third decade, BCLT is continuing to grow, expanding the law school curriculum to better prepare students for practice, convening the legal community for dialogue around vital issues, developing programs that link Berkeley Law and Bay Area startups, and broadening the school's international relationships.

A Scope as Wide as the Internet .....	4
Curriculum .....	5
Events .....	6
Faculty .....	10
Students .....	18
Partnerships .....	21
Sponsors .....	22
Staff .....	23



The mission of the Berkeley Center for Law & Technology is to foster the beneficial and ethical advancement of technology by guiding the development of intellectual property law, information privacy law, and related areas of law and public policy as they interact with business, science, and technical innovation.

# Our Mission

# A Scope as Wide as the Internet

Starting with a focus on intellectual property, BCLT has expanded over the years to develop an equally deep expertise on privacy. Our activities now encompass the full range of technology law, including cybercrime and cybersecurity, biotech, entertainment law, telecommunications regulation, and many other areas of constitutional, regulatory, and business law related to innovation and the Internet.

## **Intellectual Property**

Over the years, BCLT's pioneering intellectual property program has provided not only an unmatched classroom education for our students but also a multitude of conferences and other events where scholars, attorneys, and policymakers meet to consider the complex and dynamic issues arising in the field of intellectual property.

## **Privacy and Cybersecurity**

The Berkeley Law faculty includes leading privacy experts with concentrations spanning international and comparative privacy law, consumer privacy, cybercrime, and the law of government surveillance. In addition to teaching, research, and writing, BCLT faculty directors work with corporations and non-profits and testify at legislative hearings and other governmental forums.

## **Digital Entertainment**

BCLT is exploring the challenges raised as sports and entertainment law responds to the digital revolution. Conferences and networking opportunities as well as innovative courses such as seminars on music law and video game law provide students an introduction to this diverse and rapidly changing field.

## **A Global Perspective**

In today's interconnected world, technology law issues are global in scope. Recognizing this, BCLT collaborates with international scholars, lawyers, and public officials to compare IP and regulatory regimes and to confront issues surrounding the international development of technology law. BCLT has strong working relationships with universities around the world, including Tel Aviv University, Israel; Renmin University, Beijing; Peking University, Beijing; and the Institute for Information Law, University of Amsterdam.

*"Teaching, scholarship, convening, and student activities – these are the core functions of BCLT. Through a uniquely rich catalogue of courses, we train tomorrow's leaders in technology law. We support our faculty directors' groundbreaking research and writing. With our ever-expanding community of practitioners and scholars, we convene yearly a series of must-attend conferences. We support a host of student-led activities. In Europe and Asia, we are expanding our international engagement. Our Startup@BerkeleyLaw initiative focuses on legal issues crucial to the start-up ecosystem of the Bay Area. For all these reasons, Berkeley is the place to come for a law and technology education."*

—Jim Dempsey, BCLT Executive Director

# Curriculum

Berkeley Law offers a remarkably rich curriculum on technology issues: over 20 courses a year, ranging from the intellectual property survey class to the intensive learning experience provided by the Samuelson Law, Technology & Public Policy Clinic to advanced courses and seminars on patent prosecution, antitrust, privacy, cybercrime, biotech, telecoms, the law affecting the entertainment industry — even a course on wine law.

Annually, BCLT faculty directors reassess the curriculum to ensure that it covers emerging topics that our students will encounter in practice. In 2015-16, Berkeley added two new technology law courses: Patent Litigation II, focused on proceedings before the Patent Trial and Appeal Board, and the Berkeley IP Lab, with both practicum and classroom components, pairing Berkeley Law students with startups, supervised by practicing lawyers from leading firms in the Bay Area. In 2016-17, we are offering three new courses:

## **Privacy Litigation**

Leading practitioners, one from the plaintiff side and one from the defense, will co-teach this course, which will take students through the trajectory of a privacy class action lawsuit, from complaint drafting to settlement negotiations.

## **Technology for Lawyers**

A one-credit course explaining foundational technologies that every lawyer should understand.

## **Negotiating Hollywood Contracts**

Linda Lichter, who has negotiated deals for Hollywood's most successful filmmakers, will introduce Berkeley students to the legal and business issues surrounding the negotiation of entertainment agreements.

## **Law & Technology Certificate**

The Law & Technology Certificate recognizes a student's sustained commitment to technology law through successful completion of a prescribed number of tech-related courses plus participation in a student-led activity. The curricular requirements emphasize depth and breadth while affording students flexibility in adapting their course of study to a range of career paths in this growing field.



Through its conferences, symposia, judicial education programs, and other convenings, BCLT provides a forum where academics from throughout UC Berkeley and beyond, law students, policymakers, judges, practitioners, entrepreneurs, and technology experts can exchange ideas and advance their understanding of complex and rapidly changing areas of the law.

The breadth of topics covered by these events reflects the scope of BCLT. Audio, photos, presentations, and other resources from BCLT events are online: [law.berkeley.edu/research/bclt/past-events/](http://law.berkeley.edu/research/bclt/past-events/)



# Events

## Intellectual Property

### **15th Annual Intellectual Property Scholars Conference (IPSC)**

*August 6-7, 2015 – DePaul University, Chicago, IL*

BCLT co-sponsored the 2015 IPSC, a full two-day program in which IP scholars from across the country came together to present and discuss a wide range of in-progress works.

### **US-China IP Conference**

*October 8-9, 2015 – Berkeley, CA*

Expanded in 2015 to two days, this conference brought together senior policymakers, academics and practitioners from China and the U.S. This annual event is co-hosted by Loyola Law School, Los Angeles; BCLT; and the Renmin University IP Academy, Beijing.

### **ChIPs Women in Global IP Summit: Tenth Anniversary Celebration**

*October 27-28, 2015 – Washington, DC*

BCLT co-sponsored the ChIPs 2015 Summit, celebrating the organization's tenth anniversary and bringing together hundreds of women from private and public corporations, academia, law firms, the judiciary, government agencies, and public interest organizations, to build relationships and engage in dialogue on cutting edge issues relating to intellectual property.

### **7th Annual Patent Law and Policy Conference**

*November 6, 2015 – Washington, D.C.*

BCLT and Georgetown University Law Center collaborate to present this unique program, with experts from practice, the academy, government, and the judiciary.

### **16th Annual Advanced Patent Law Institute: Silicon Valley (APLI:SV)**

*December 10-11, 2015 – Palo Alto, CA*

Co-organized by BCLT and Stanford Law School, the APLI brings together a nationally recognized faculty of district judges, academics, litigation experts, patent attorneys, and senior IP counsel from major corporations for an in-depth look at the latest developments in the prosecution and litigation of patents.

### **Patent Damages Workshop**

*March 3, 2016 – Berkeley, CA*

This full day workshop brought together law professors and academic economists, judges, patent litigators, testifying experts, and in-house counsel, to clarify areas of consensus and disagreement regarding the analysis of patent damages.

### **The 20th Annual BCLT/BTLJ Symposium: "Software IP – Intellectual Property Protections for Computer Programs: Past, Present, and Future"**

*April 14-15, 2016 – Berkeley, CA*

In the aftermath of the Supreme Court's decision on patentability in *Alice v. CLS Bank* and with the *Oracle v. Google* copyright case in the background, this two-day event brought together law and economics scholars, industry representatives, and practicing lawyers to consider the roles that patent, copyright, and other forms of IP are and should be playing in the legal protection of computer software.



## Privacy and Cybersecurity

### **Cybersecurity Incidents – Liability and Response**

*July 23, 2015 – San Francisco, CA*  
BCLT and Morrison & Foerster co-sponsored this event, which examined the issues that arise in responding to a data breach, including breach notification, class actions and standing, and cybersecurity insurance, while representatives from the FBI and the Secret Service explained how to interface with their agencies.

### **Multistakeholder Meeting on Vulnerability Disclosure**

*September 29, 2015 – Berkeley, CA*  
BCLT hosted the first meeting of a process convened by the National Telecommunications and Information Administration to address the challenges of cybersecurity vulnerability disclosure and enhance collaboration between security researchers and software and system developers and owners.

### **Amsterdam Privacy Conference and Privacy Law Scholars Conference – Europe**

*October 23-26, 2015 – Amsterdam*  
BCLT co-sponsored the Amsterdam Privacy Conference and replicated its Privacy Law Scholars Conference in a European venue, with twenty-four papers workshopped in an interdisciplinary environment, fostering greater connections between academia and practice.

### **Digital Health: Rethinking Healthcare in the Digital World**

*November 5, 2015 – Palo Alto, CA*  
BCLT co-sponsored this event with White & Case, examining the unique intellectual property and privacy issues that arise as digital technologies and

life sciences converge in the delivery of healthcare.

### **8th Annual Privacy Lecture: “Is Personal Information a Public Good?”**

*November 6, 2015 – Berkeley, CA*  
Alessandro Acquisti, a pioneer in the privacy field, invoked the methods of traditional economic analysis to argue that more data and less privacy are not always the best, either in terms of aggregate or individual welfare.

### **Responsible Uses of Open Data: Government and the Private Sector**

*November 20-21, 2015 – New York University, New York, NY*  
The conference, a follow-on to BCLT’s April 2015 symposium, examined both the normative challenges associated with the open data movement, including equitable access and privacy and other civil liberties issues, and the obligations of commercial holders of data to make their holdings available for public and research purposes.

### **Electronics and IT Industry Forum: Legal and Regulatory Challenges**

*December 1, 2015 – Palo Alto, CA*  
BCLT co-sponsored this event with Covington & Burling, featuring FTC Commissioner Terrell McSweeney and former U.S. Attorney General Eric Holder.

### **Workshop on Transborder Government Access Demands: MLATs and Beyond**

*February 3-4, 2016 – Washington, DC*  
As part of an ongoing discussion about improving the procedures for transborder government demands for communications data, BCLT convened and chaired this meeting of a working group comprised of academics, civil liberties advocates, and Internet companies, with input from invited government officials.



### **5th Annual BCLT Privacy Law Forum: Silicon Valley**

*March 11, 2016 – Palo Alto, CA*  
Leading academics and practitioners discussed the latest developments in privacy law and explored real world privacy law problems.

### **9th Annual Privacy Law Scholars Conference (PLSC)**

*June 2-3, 2016 – Washington, DC*  
Organized jointly by BCLT and the George Washington University Law School, PLSC has become the privacy event of the year. The 2016 conference assembled a wide array of privacy law scholars and practitioners from around the world to discuss current issues and foster greater connections between academia and practice.

### **Privacy Shield: A Discussion**

*June 8, 2016*  
BCLT and Paul Hastings co-hosted senior Commerce Department official Justin Antonipillai for this discussion of the U.S.-EU Privacy Shield and its likely role in trans-Atlantic transfers of personal data.

## A Global Perspective

### **US-China IP Summit 2015**

*October 8-9, 2015 – Berkeley, CA*





In 2015, we expanded this multi-national conference to two days, again bringing together senior policymakers, leading academics, and practitioners from China and the U.S. to compare developments and to explore the increasingly important relationships between IP protections in the two countries.

### **Privacy Law Scholars Conference – Europe**

*October 26, 2015 – Amsterdam*

In 2015, BCLT expanded its Privacy Law Scholars Conference to Europe, with a workshop held at the Amsterdam Privacy Conference. Twenty-four papers were workshopped.

### **Law in the Global Marketplace: Intellectual Property and Related Issues**

*November 4, 2015 – San Francisco, CA*

BCLT co-sponsored this one-day conference with Hogan Lovells and Santa Clara Law School, featuring prominent government officials, in-house counsel, and leading scholars addressing key issues in IP law across Asia, North America, and Europe.

### **Corporate Data and Human Rights: A Panel on Corporate Transparency and Accountability**

*February 18, 2016 – Berkeley, CA*

In partnership with the UC Berkeley Human Rights Program, Social Science Matrix, and the Center for Technology, Society & Policy at the UC Berkeley School of Information, BCLT presented this discussion on corporate transparency and accountability around Internet surveillance and censorship.

## **Judicial Education**

### **Intellectual Property in the New Technological Age**

*May 17-20, 2016 – Berkeley, CA*

Berkeley Law has a long and productive relationship with the Federal Judicial Center (FJC). Since 1998, Professor Peter Menell and BCLT have organized with the FJC an annual intellectual property program for the federal judiciary. More than 500 judges have attended these one-week training sessions, which include lectures by leading scholars and practitioners, panels, and mock hearings.

Professor Menell has also organized for the FJC advanced programs on patent law, copyright law, trademark law, Internet law, and the interplay of IP and bankruptcy law, and he has made numerous presentations on intellectual property for circuit

court and district court conferences. Professor Menell has also coordinated production of the Patent Case Management Judicial Guide. Now in its 3rd Edition, with chapters authored by Professor Menell and a team of leading practitioners, the guide is an authoritative resource for both judges and practitioners.

## **Digital Entertainment**

### **Copyright 2015: A Year in Review**

*March 10, 2016 – San Francisco, CA*

The Berkeley Law Entertainment Networking & Development (BLEND) group is an alumni group, conceived by Professor Peter Menell and founded in Los Angeles by one of his former students, Amber Becerra ('10). BLEND's 2016 networking event brought together law students and alumni working in the entertainment industry for a multi-media review of copyright law, presented by Professor Menell.

### **Legal Frontiers in Digital Media**

*May 19-20, 2016 – Mountain View, CA*

BCLT co-hosted the 8th annual iteration of this conference with the Media Law Resource Center, exploring emerging legal issues surrounding digital content in today's multiplatform world.

# Faculty

A black and white photograph of a woman with short, dark hair, wearing a dark suit jacket over a patterned blouse. She is holding a pen in her right hand and pointing it towards the camera. The background is a plain, light-colored wall.

BCLT is led by twelve faculty directors. The range and depth of their scholarship and their skill as instructors make Berkeley's the most sophisticated academic program in law and technology in the country. BCLT faculty directors also play an influential role beyond the academic setting, participating in public policy debates, testifying before federal and state legislatures, serving on advisory boards, and submitting amicus briefs in major cases before the Supreme Court.

In 2015-16, Berkeley has been pleased to welcome two new scholars to its law and technology faculty and to add them as BCLT directors.

## Sonia Katyal

**intellectual property, civil rights, technology and new media**

Sonia Katyal is Chancellor's Professor of Law. Her scholarly work focuses on intellectual property, art law, civil rights (including gender, race and sexuality), property theory, and innovation. Katyal also works on issues relating to intellectual property and indigenous people's rights, with a special focus on cultural property and trademark law in the United States and abroad. Her current projects consider the intersection between technology, internet access and civil/human rights, including the right to information, and the intersection between gender, sexuality, and the commons. Professor Katyal has been

named, based on seniority, as one of the top 25 most cited intellectual property law professors in the country. Professor Katyal is the co-author of *Property Outlaws* (Yale University Press, 2010) (with Eduardo Peñalver), which studies the intersection between



civil disobedience and innovation in property and intellectual property frameworks. In 2008, she was awarded a grant from the Warhol Foundation for her forthcoming book, *Contraband*, which examines the relationship between art, advertising, and trademark and copyright law. In March of 2016, Professor Katyal was selected by U.S. Commerce Secretary Penny Pritzker to be part of the inaugural U.S. Commerce Department's Digital Economy Board of Advisors. Professor Katyal is also a Fellow at the Yerba Buena Center for the Arts in San Francisco, where she is part of the 2016 class of artists, activists, and scholars responding to the question, "Can We Design Freedom?"

### Recent Publication

The Numerus Clausus of Sex, *University of Chicago Law Review* (forthcoming)

## Tejas N. Narechania

**intellectual property, patents, telecommunications regulation, administrative law, federal courts**

Tejas N. Narechania joins Berkeley Law in the Fall of 2016, after completing a clerkship with Associate Justice Stephen G. Breyer of the Supreme Court of the United States. Prior to that, Professor Narechania was a research fellow in the Julius Silver Program in Law, Science, and Technology at Columbia Law School. From 2012 to 2013, he served as Special Counsel at the Federal Communications Commission, where he held primary responsibility for

matters relating to the Commission's net neutrality rules. Professor Narechania clerked for Chief Judge Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit. His scholarly work focuses on intellectual property and telecommunications regulation.

### Recent Publications

Patent Conflicts, 103 *Georgetown Law Journal* 1483 (2015)

Judicial Priorities, 163 *University of Pennsylvania Law Review* 1719 (2015) (with Bert I. Huang)

Federal and State Authority for Broadband Regulation, 18 *Stanford Technology Law Review* 456 (2015)

Sender Side Transmission Rules for the Internet, 66 *Federal Communications Law Journal* 467 (2014) (with Tim Wu)

An Unsettling Development?: Using Settlement-Related Evidence for Damages Determinations in Patent Litigation, 2012 *University of Illinois Journal of Law, Technology & Policy* 1 (with J. Taylor Kirklin)



# Kenneth A. Bamberger

**administrative law, technology and governance, information privacy and data governance, the first amendment**

Kenneth Bamberger is the Rosalinde and Arthur Gilbert Foundation Professor of Law at Berkeley Law. He is an expert on government regulation and corporate compliance, especially with regard to issues of technology, free expression, and information privacy. Professor Bamberger's research more generally covers risk regulation, the use of technology in regulation and compliance, and the role of private actors in regulation. In 2016, he and Professor Deirdre Mulligan were awarded the 2016 Privacy Leadership



Award by the International Association of Privacy Professionals for their comparative study of privacy regimes and corporate privacy practices, *Privacy on the Ground: Driving Corporate Behavior in the United States and*

*Europe*. His current work focuses on the governance of technology design to protect public values, and the meaning of cybersecurity.

## Recent Publications

*Privacy on the Ground: Driving Corporate Behavior in the United States and Europe* (MIT Press Nov. 2015) (with Deirdre K. Mulligan)

*Public Values, Private Infrastructure and the Internet of Things: The Case of Automobiles*, 9 *Journal of Law and Economic Regulation* 7 (with Deirdre K. Mulligan) (2016)

*Apple v. FBI: Just One Battle in the 'Design Wars'*, *The Recorder* (March 21, 2016)



# Catherine Crump

**first amendment, fourth amendment**

Catherine Crump is Associate Director of the Samuelson Law, Technology

and Public Policy Clinic and Assistant Clinical Professor of Law. Her work focuses on the application of First and Fourth Amendment principles to new technologies, and in particular government surveillance programs. Representative recent litigation includes challenges to the National Security Agency's mass collection of domestic telephony metadata and to the Department of Homeland Security's policy of engaging in purely suspicionless searches of cell phones and laptops at the international border. Professor Crump is a TED fellow and a member of the Constitution Project's Committee on Policing Reforms.

## Recent Work

*Surveillance Policy Making by Procurement*, 90 *Washington University Law Review* (forthcoming 2016)

TED talk on automatic license plate readers (2014)

*In the latest rankings done by Washington & Lee Law School Library, the Berkeley Technology Law Journal was #1 among specialized journals in both the IP and the Science, Technology and Computing categories.*

## Chris Jay Hoofnagle

**privacy, computer crime, online advertising, web privacy measurement**

Chris Hoofnagle teaches about the regulation of technology. He has written extensively in the fields of information privacy, the law of unfair and deceptive practices, consumer law, and identity theft. Professor Hoofnagle is co-founder of the Privacy Law Scholars Conference.  
Twitter: @hoofnagle

### Recent Publications

What We Buy When We “Buy Now,” 165 *University of Pennsylvania Law Review* (forthcoming 2017) (with Aaron Perzanowski)

Online Pharmacies and Technology Crime, in *The Handbook of Technology, Crime and*



*Justice* (Michael McGuire and Thomas J. Holt, eds.) (Routledge Press 2016)

*Federal Trade Commission Privacy Law and Policy* (Cambridge University Press 2016)

The Price of “Free”: Accounting for the Cost of the Internet’s Most Popular Price, 61 *UCLA Law Review* 606 (2014) (with Jan Whittington)

*In a survey published in June 2016, 3 BCLT faculty directors were listed among the Top 10 most cited IP and cyberlaw faculty in the US for 2010-2014.*

## Peter Menell

**intellectual property, computer law, entertainment law, property law, environmental law**

Peter Menell is Koret Professor of Law. Reflecting his training in economics



and law, Professor Menell’s research focuses principally on the role and design of intellectual property law with particular emphasis on the digital technology and content industries. His current projects explore the scope of patentable subject matter, copyright protection for application program interfaces, the history and economics of academic publishing, and the interplay of intellectual property and social justice. In 2016, he founded Clause 8 Publishing, which seeks to promote creation and dissemination of the highest quality and most up-to-date educational resources at fair prices and in a way that ensures that much of the revenue flows to authors.

### Recent Publications

*Patent Case Management Judicial Guide* (Federal Judicial Center) (3rd ed. 2016) (with L. Pasahow, M. Powers, J. Pooley, S. Carlson, J. Homrig, G. Pappas, C. Chang, C. Mayer, and M. Peters)

*Intellectual Property in the New Technological Age: 2016, Vols. I & II* (Clause 8 Publishing) (with M. Lemley and R. Merges)

Adapting Copyright Law for the Mashup Generation, 164 *University of Pennsylvania Law Review* 441 (2016)

Economic Analysis of Copyright Notice: Tracing and Scope in the Digital Age, 96 *Boston University Law Review* 967 (2016)

Property, Intellectual Property, and Social Justice: Mapping the Next Frontier, *Brigham-Kanner Property Rights Conference Journal* (2016)

Tailoring a Public Policy Exception to Trade Secret Protection, 105 *California Law Review* (forthcoming 2017)

# Robert P. Merges

**patents, intellectual property, economics, technology markets & valuation**

Robert Merges is Wilson Sonsini Goodrich & Rosati Professor of Law and Associate Dean of Advanced Degree Programs and Global Engagement. He is the author of *Justifying Intellectual Property*, published by Harvard University Press in 2011. A comprehensive statement of mature views on the ethical and economic foundations of IP law, the book reviews foundational philosophical theories of property and contemporary theories about distributive justice and applies them to IP; identifies operational high-level principles of IP law; and, with all this as background, works through several pressing problems facing IP law today.

Professor Merges also has undertaken extensive revisions to two of the casebooks he coauthors, to update them in light of the America Invents Act.

## Recent Publications

Measuring the Costs and Benefits of Patent Pools, 76 *Ohio State Law Journal* (forthcoming 2016) (with Michael Mattioli)

Copyright and Distributive Justice, *Notre Dame Law Review* (forthcoming 2016) (with Justin Hughes)

Against Utilitarian Fundamentalism, *St. John's Law Review* (forthcoming 2016)

Philosophical Foundations of IP Law: The Law and Economics Paradigm, in the *Research Handbook on the Economics of IP Law* (Peter S. Menell, Ben Depoorter, and David Schwartz, eds.) (Vol. I - Theory) (Edward Elgar Publishing, forthcoming 2016).

Intellectual Property in the New Technological Age (Clause 8 Publishing, 7th ed. 2016) (with P. Menell and M. Lemley)



A Few Kind Words for Absolute Liability in Patent Law, 31 *Berkeley Technology Law Journal* 1 (2016).

The Path of IP Studies: Growth, Diversification, and Hope, 92 *Texas Law Review* 1757 (2014) (with Golden & Samuelson)

Foundations and Principles Redux: A Reply to Professor Blankfein-Tabachnick, 101 *California Law Review* 1361 (2013)

# Deirdre K. Mulligan

**privacy, cybersecurity, technology and governance, values in design**

Deirdre K. Mulligan is an Associate Professor in the School of Information at UC Berkeley and a PI on the new Hewlett-funded Berkeley Center for Long-Term Cybersecurity. Professor Mulligan's research explores legal and technical means of protecting values such as privacy, freedom of expression, and fairness in emerging technical systems. With Kenneth Bamberger, she received the 2016 International Association of Privacy Professionals Leadership Award for their book, *Privacy on the Ground: Driving Corporate Behavior in the United States and Europe*, a study of privacy practices in large corporations in five countries. In 2015-16,

Professor Mulligan chaired a series of interdisciplinary workshops with the Computer Community Consortium to develop a research agenda around the concept of Privacy by Design. She is Chair of the Board of Directors of the Center for Democracy & Technology; a founding member of the standing committee for the AI

100 project, a 100-year effort to study and anticipate the impact of artificial intelligence on society; and a founding member of the Global Network Initiative, a multi-stakeholder initiative to protect and advance freedom of expression and privacy in the ICT sector.

## Recent Publications

Privacy on the Ground: Driving Corporate Behavior in the United States and Europe (MIT Press 2015) (with Kenneth A. Bamberger)

Public Cybersecurity and Rationalizing Information Sharing, 30 *Berkeley Technology Law Journal* 1687 (2016) (with Elaine M. Sedenberg)

Apple v. FBI: Just One Battle in the 'Design Wars,' *The Recorder and law.com*, (March 18, 2016) (with Kenneth A. Bamberger)

Public Values, Private Infrastructure and the Internet of Things: The Case of Automobiles, *Journal of Law & Economic Regulation*, Vol. 9. No. 1 (2016) (with Kenneth A. Bamberger)



# Pamela Samuelson

**copyright, patent, internet and digital media, cyberlaw**

Pamela Samuelson is Richard M. Sherman Distinguished Professor of Law and Information. Her recent work has focused on updating and adapting U.S. copyright law to meet challenges of the digital age. She has proposed several ways in which the law should be reformed and has considered various modes and venues through which reform might be achieved. Other recent work has focused on mass digitization and intellectual property protection for computer programs, on which she has coauthored several amicus curiae briefs in recent cases. Professor Samuelson is President and Chair of the Board of Authors

Alliance, a nonprofit organization that represents the interests of authors who want their works to be widely available for the public good. She is vice chair of the Board of Directors of the Electronic Frontier Foundation and a member of the ACM Council, as well as a Contributing Editor to Communications of the ACM, a computing professionals society. Twitter: @PamelaSamuelson

## Recent Publications

Reconceptualizing Copyright's Merger Doctrine, 63 *Journal of the Copyright Society* (forthcoming 2016)

Functionality and Expression in Computer Programs, 31 *Berkeley Technology Law Journal* (forthcoming 2016)

Possible Futures of Fair Use, 90 *Washington Law Review* 815 (2015)

The Path of IP Studies: Growth, Diversification, and Hope, 92 *Texas Law Review* 1757 (2014) (with Golden & Samuelson)



Book Review: Is Copyright Reform Possible? 126 *Harvard Law Review* 740 (2013)

Essay: A Fresh Look at Tests for Nonliteral Copyright Infringement, 107 *Northwestern University Law Review* 1821 (2013)

The Quest for a Sound Conception of Copyright's Derivative Work Right, 101 *Georgetown Law Journal* 1505 (2013)

# Paul M. Schwartz

**privacy, data security, international data protection law, cyberlaw, intellectual property**

Paul Schwartz is Jefferson E. Peyser Professor of Law. His scholarship focuses on how the law has sought to regulate and shape information technology. His most frequently researched topic concerns information privacy and data security. At present, Professor Schwartz is engaged in several different research projects, including research into comparative privacy developments in the U.S. and the European Union as well as the interplay between state and federal privacy law. Twitter: @paulmschwartz



The Value of Privacy Federalism, in *Social Dimensions of Privacy: Interdisciplinary Perspectives*, Beate Roessler & Dorota Mokorsinska, eds. (2015)

Reconciling Personal Information in the U.S. and EU, 102 *California Law Review* 877 (2014) (with Daniel J. Solove)

In Practice: The 'California Effect' on Privacy Law, *The Recorder* (Jan. 2, 2014)

The EU-US Privacy Collision: A Turn to Institutions and Procedures, 126 *Harvard Law Review* 1966 (2013)

Information Privacy in the Cloud, 161 *University of Pennsylvania Law Review* 1623 (2013)

## Recent Publications

Privacy Law Fundamentals (IAPP 2015) (with Daniel J. Solove)

*In addition to our full-time faculty directors, 23 practicing lawyers taught tech-related courses at Berkeley Law in 2015-16.*

## Jennifer M. Urban

**intellectual property, privacy, copyright, information law, licensing, artists' rights, patents**

Jennifer Urban is Clinical Professor of Law and director of the Samuelson Law, Technology & Public Policy Clinic. Her work considers how the legal, private-ordering, and social systems that govern technology interact with values such as free expression, access to knowledge, freedom to create or innovate, and privacy. With Joe Karaganis, Professor Urban conceived and directs The Takedown Project, a consortium of scholars studying takedown regimes around the world. [www.takedownproject.org](http://www.takedownproject.org). Recent research includes a three-part empirical study, with Karaganis and Brianna L.

Schofield, of the DMCA notice-and-takedown system. The studies reveal notice-and-takedown's importance to copyright holders, online service providers, and the online ecosystem, along with some weaknesses. Professor Urban's recent paper with Mark Lemley shows that judges with more experience handling patent cases



are more likely to rule for defendants. Recent papers with Chris Hoofnagle empirically question longstanding research used to support the dominant "notice and choice" regime in privacy regulations.

### Recent Publications

Notice and Takedown in Everyday Practice (2016) (with Joe Karaganis and Brianna L. Schofield)

Takedown and Today's Academic Library, *IS: A Journal of Law and Policy for the Information Society* (forthcoming) (with Brianna L. Schofield)

Alan Westin's Privacy Homo Economicus, 49 *Wake Forest Law Review* 261 (2014) (with Chris Jay Hoofnagle)

Does Familiarity Breed Contempt Among Judges Deciding Patent Cases? 66 *Stanford Law Review* 1121 (2014) (with Mark A. Lemley)

## Molly S. Van Houweling

**copyright, digital media, intellectual property, technology law**

Molly Van Houweling is Professor of Law and Associate Dean for J.D.



Curriculum and Teaching. Her teaching portfolio includes intellectual property, basic property law, and food law and policy (touching on agricultural innovation and patent policy, among other topics). Much of Professor Van Houweling's research focuses on copyright law's implications for new information technologies (and vice versa). She often explores this and other intellectual property issues using theoretical and doctrinal tools borrowed from the law of tangible property. Professor Van Houweling is an Associate Reporter on the American Law Institute's Restatement of the Law, Copyright, and an Adviser to the Restatement of the Law Fourth, Property. She is a member of the Board of Directors of the Authors Alliance and an adviser to Creative Commons.

### Recent Publications

Disciplining the Dead Hand of Copyright: Durational Limits on Remote Control Property,

*Harvard Journal of Law & Technology* (forthcoming 2016)

Exhaustion and the Limits of Remote Control Property, *Denver Law Review* (forthcoming 2016)

Exhaustion and Personal Property Servitudes, in *Research Handbook on Intellectual Property Exhaustion and Parallel Imports* (Irene Calboli & Edward Lee, eds., forthcoming 2016)



# Fellows

## Current

**Michael Wolfe**, Copyright Research Fellow, is developing research and commentary to promote public interest authorship in the digital age. He received his J.D. from Duke in 2013 and holds a B.A. in Social Studies from Harvard. Michael also serves as the Executive Director of Authors Alliance, a non-profit that provides public interest authors with resources on copyright and contract law.

**Kathryn Hashimoto** is the Copyright Research Fellow. While working in book publishing, she attended the University of San Francisco School of Law and received her J.D. in 2010. She also interned at the Electronic Frontier Foundation.

**Christina Koningisor** is the Privacy Law Fellow. She received her J.D. from Yale in 2014 and her B.A., in International Relations, from Brown (2007). After law school, she clerked for the Hon. Sidney R. Thomas, Chief Judge for the Ninth Circuit Court of Appeals, and was a fellow teaching international law at Guanghua Law School, Zhejiang University, in Hangzhou, China.

## Past

**Kevin Hickey**, 2014-16 BCLT Microsoft Research Fellow, is currently a law clerk for the Hon. Phyllis J. Hamilton, Chief Judge for the federal District Court for the Northern District of California. Kevin's scholarship at Berkeley focused on copyright law and theory.

His works include Reframing Similarity Analysis in Copyright, 93 Washington University Law Review (forthcoming), and Consent, User Reliance, and Fair Use, 16 Yale Journal of Law & Technology 397 (2014).

**Patrick Goad**, 2012-14 BCLT Microsoft Fellow, is currently IP Fellow at Chicago-Kent College of Law, where he teaches international intellectual property and European Union law. His research interests include competition law, IP law, public international law, and legal theory. His most recent articles have appeared in the Virginia Law Review, Boston University Law Review, and the Berkeley Technology Law Journal.

**Michael Mattioli**, 2011-12 BCLT Microsoft Fellow, is currently an Associate Professor at the Indiana University Maurer School of Law, where he teaches contracts and a variety of IP courses. His scholarship examines how new forms of knowledge-sharing and collective licensing influence patenting, industrial organization, and the process of innovation itself.

**Jonas Anderson**, 2009-11 BCLT Microsoft Fellow, is currently Associate Professor of Law at American University, Washington College of Law, where he teaches courses in patent law, trade secret law, and real property. Recent articles appear in Washington Law Review, Vanderbilt Law Review, and University of Pennsylvania Law Review.

**Aaron Perzanowski**, 2008-09 BCLT Microsoft Fellow, is Professor of Law at Case Western Reserve University of Law where he teaches intellectual property and telecommunications law. His research, which examines the influence of law and technology

on the creation and exchange of information goods, has been published in law reviews and top specialty journals at Harvard, UC Berkeley, University of Pennsylvania, Northwestern University, UCLA, University of Minnesota, and UC Davis.

**Stuart Graham**, 2007-09 BCLT Kauffman Foundation Fellow in Social Science and the Law, served as the first Chief Economist of the USPTO. He is currently an Associate Professor at Georgia Tech Scheller College of Business. He teaches and conducts research on the economics of the patent system, IP strategies and transactions, and the relationship of IP to entrepreneurship and the commercialization of new technologies.

**Ted Sichelman**, 2008-09 BCLT Kauffman Foundation Legal Research Fellow, is Professor of Law at the University of San Diego School of Law, teaching intellectual property law. His current research includes exploring theories of patent remedies, the effects of the patent system on entrepreneurial companies, and the role of patent law in technology commercialization.

**Miriam Marcowitz-Bitton**, 2007-08 BCLT Microsoft Fellow, is a Law Professor at Bar-Ilan University in Israel. She writes and teaches in the fields of intellectual property law, law and technology, and property. Her articles have appeared in law and technology journals at Texas, North Carolina, Fordham, UC Berkeley, Cardozo, and Michigan. Her works in Hebrew include Database Protection in Israel (2014) and the forthcoming book Israeli Patent Law: Theoretical and Comparative Perspectives.

# Students



Berkeley Law attracts the very best students and offers them the most comprehensive instructional program available anywhere in law and technology. BCLT extends beyond the classroom, supporting extra-curricular groups that provide students a wide range of opportunities to enrich their law school experience.

The unmatched experience of Berkeley Law makes its students sought-after hiring prospects by top law firms, judges, government agencies, and other organizations. BCLT works closely with the law school's Career Development Office to present a series of career fairs and informal networking events where students can meet potential employers and learn about areas of practice.

# Student Events

For students interested in law and technology, BCLT provides a wealth of information, guidance, and support, from their first days on campus to graduation and beyond.

## **Law & Technology Program Orientation**

BCLT welcomes incoming students with information on the law and technology program as well as related extracurricular opportunities at the law school.

## **Fall Reception**

BCLT hosts an annual fall networking mixer for law students and lawyers from top law firms in the Bay Area.

## **Spring Career Fair**

BCLT introduces representatives from leading law firms to law students interested in technology law.

## **Summer Mixer**

BCLT brings together Berkeley Law students with summer jobs in the Bay Area and lawyers from top law firms for a summer networking opportunity.

## **Summer LL.M. Networking**

BCLT offers this opportunity for attorneys from Bay Area law firms to meet the extraordinary participants in the Berkeley summer LL.M. program.

## **BCLT/BTLJ Law & Tech Speaker Series**

Every Tuesday and Thursday when classes are in session, BCLT and BTLJ bring to the school for a lunchtime talk prominent practitioners who share with students their real-world experience and practical legal knowledge on a wide variety of law and technology-related topics.



# Student Groups

BCLT provides administrative and financial support to eight student groups. These groups concentrate on specific legal skills or areas of the law, allowing students to supplement their classroom education. BCLT also provides primary funding to the Moot Court program at Berkeley for its Intellectual Property Law, Technology Law, and Entertainment Law Competitions.

## **BERC@Boalt**

BERC@Boalt is the law school branch of the Berkeley Energy & Resources Collaborative, a student-led organization that aims to connect and educate the UC Berkeley energy and resources community. BERC@Boalt helps to inform law students about current legal practice and advances in the fields of energy, climate and clean technologies. It does this through the development of curriculum, the continuing expansion of an alumni and professional network, the promotion of events and discussions centered on green issues, and the creation of a Career Guide for Energy, Climate and CleanTech Law.

## **Berkeley Technology Law Journal**

The Berkeley Technology Law Journal (BTJ) is a student-run publication that covers emerging issues in the areas of intellectual property, privacy and cyberlaw. In 2016, Washington & Lee Law School Library ranked BTJ as #1 among specialized journals in both the IP and the Science, Technology and Computing categories. Since 1986, BTJ

has kept judges, policymakers, practitioners, and the academic community abreast of the dynamic field of technology law. The Journal's membership of approximately 150 students publishes three issues of scholarly work each year, plus the Annual Review of Law and Technology. The Annual Review is a distinctive issue of the Journal published in collaboration with BCLT and is comprised entirely of student-written pieces discussing the most important IP and technology law developments.

Each year, BTJ co-hosts the Annual BCLT/BTJ Symposium. For each conference, BTJ publishes a symposium issue, featuring articles by presenters at the conference. BTJ also co-sponsors BCLT's twice weekly law and technology speakers series.

## **Berkeley Information Privacy Law Association**

The Berkeley Information Privacy Law Association (BIPLA) serves as a forum for students, faculty and others interested in the various facets of information privacy law. The



Association organizes roundtables, talks, and other events. It aims to develop a strong network of people committed to overcoming privacy challenges posed by the digital world.

### **boalt.org**

boalt.org is Berkeley Law's public interest and technology group. It meets regularly to network, share resources and ideas, build community, and discuss trends in law and technology. It works with the Boalt community and with other campus initiatives to foster collaboration and improve legal innovation, design, and technology.

### **Consumer Advocacy and Protection Society**

The Consumer Advocacy and Protection Society (CAPS) is dedicated to promoting consumer protection law at Berkeley. Its mission is to connect students interested in consumer protection issues, organize and host consumer-related events, network with the greater consumer law community, and promote the availability of courses and clinical opportunities related to consumer protection law. Its listserv delivers information about consumer protection jobs and major developments in consumer law.

### **Boalt Healthcare and Biotech Law Society**

Members of the Boalt Healthcare and Biotech Law Society (BHBS) examine and analyze the intersection between law, society, policy, and science. Their mission is to explore emerging health/biotech issues and to stimulate the intellectual and professional development of Boalt students interested in these subjects. They do this by organizing networking events with practitioners, promoting health and biotech courses at the law school, and increasing interaction between the law school and other healthcare and biotech-related institutions at UC Berkeley and beyond.

### **Patent Law Society**

The Patent Law Society (PLS) provides a forum for students interested in practicing patent law to discuss and debate the latest developments in this specialty and to interact, network and exchange ideas with others interested in the field. The group invites patent law practitioners to the school to share their experiences with students.

### **Sports and Entertainment Law Society**

The mission of the Sports and Entertainment Law Society (SELS) is to educate the Berkeley Law community about legal opportunities and issues in the entertainment and sports industries. SELS creates opportunities for students to network with each other and with legal professionals in these industries. During the academic year, SELS sponsors guest lectures and social events.

# Partnerships

BCLT has expanded its presence within and beyond the law school, developing relationships locally, nationally, and internationally. BCLT works closely with other programs at the Law School, including the Samuelson Law, Technology & Public Policy Clinic and the Berkeley Center for Law, Business, and the Economy. BCLT is also involved in cross-disciplinary programs with other schools and departments on the UC Berkeley campus.

### **Samuelson Law, Technology & Public Policy Clinic**

Founded in 2001, the Samuelson Law, Technology and Public Policy Clinic (SLTPPC) provided the first opportunity in legal academia for students to represent public interest clients in key debates and litigation at the intersection of law and technology. Today, it is the leader in a growing movement of clinics that give law students hands-on training in advocacy in the areas of IP, technology, and civil liberties.

### **Berkeley Center for Law, Business and the Economy**

The Berkeley Center for Law, Business and the Economy (BCLBE) is Berkeley Law's hub for rigorous, relevant, empirically based research and education on the interrelationships of law, business, and the economy. BCLBE's areas of focus include technology innovation and commercialization and financing in the tech sector. BCLT and BCLBE collaborate on events and programs exploring the continuum of legal issues crucial to innovation and the start-up ecosystem.

# Sponsors

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# Staff



## Jim Dempsey

### Executive Director

Jim Dempsey is the Executive Director of the Berkeley Center for Law & Technology. A leading expert on privacy, Dempsey has experience as a judicial law clerk, a law firm attorney, a Capitol Hill staffer, a non-profit leader, and a Presidential appointee. Before joining BCLT, Jim spent 18 years with the Center for Democracy & Technology, serving as its executive director from 2003 to 2005 before moving to California to open CDT West. Dempsey led CDT's Global Internet Policy Initiative, which worked with government officials, industry, and human rights organizations on Internet policy issues in developing and transitional countries, and he founded Digital Due Process, a diverse coalition working to update the Electronic Communications

Privacy Act. In 2012, he was confirmed by the U.S. Senate and appointed by the President as a part-time member of the Privacy and Civil Liberties Oversight Board, an independent agency within the executive branch charged with advisory and oversight roles regarding the nation's counterterrorism programs.



## Louise Lee

### Associate Director

Louise has extensive knowledge of the business of law practice with a special emphasis on recruitment and business development, having worked for 12 years at leading San Francisco law firms doing marketing, business development, CLE coordination, and attorney recruiting. In 2000, Louise joined the Career Development Office at Berkeley Law, as the on-campus interview program manager. In 2005 she joined the BCLT team. As Associate

Director, Louise is responsible for event management, donor communications and sponsorship, short and long range planning, and managing the team of professionals that organize BCLT's ambitious agenda of events for law students, alumni, and the law and technology community.



## Claire Trias

### Assistant Director Program Development & Student Engagement

Prior to joining BCLT in 2013, Claire was a research assistant at Touro University California. At BCLT, she enhances law students' educational experience by managing the Tuesday-Thursday speakers series, coordinating the Law & Technology Certificate, organizing career fairs and networking events, advising law and technology-related student groups, and coordinating the mentor program. Claire holds a BA

in English with a minor in Art from Holy Names University.



## Richard Fisk

### Assistant Director Events & Communications

Richard joined BCLT in September 2015. Prior to that, he was Special Events Manager for the 2015 San Francisco International Film Festival. From 2011-2015, Richard was Director of Events at Central European University, a graduate institution in Budapest, Hungary. He has an extensive background in corporate project coordination, which is when he first began organizing large events. At BCLT, Richard is responsible for planning and executing the center's extensive schedule of conferences, symposiums, forums, and workshops. Richard holds an M.A. in Broadcast and Electronic Communication from San Francisco State.

## Save the dates: 2016-2017 events

**16th Annual  
Intellectual Property  
Scholars Conference**

*August 11-12, 2016  
Stanford, CA*

**ChIPs Women in IP  
Global Summit**

*September 15-16, 2016  
Washington, DC*

**9th Annual BCLT  
Privacy Lecture: Dean  
Robert Post**

*October 6, 2016  
Berkeley, CA*

**Fall Reception for  
Berkeley Law Students  
and BCLT Sponsors**

*November 3, 2016  
Berkeley, CA*

**US-China IP Conference**

*November 17-18, 2016  
Shenzhen, China*

**The Role of the Courts in  
Patent Law and Policy**

*December 1-2, 2016  
Washington, DC*

**17th Annual Advanced  
Patent Law Institute:  
Silicon Valley**

*December 8-9, 2016  
Palo Alto, CA*

**6th Annual BCLT Privacy  
Law Forum: Silicon Valley**

*March 24, 2017  
Palo Alto, CA*

**21st Annual BCLT/BTLJ  
Symposium: Law of the  
Platform**

*April 20-21, 2017  
Berkeley, CA*

**10th Annual Conference  
on Emerging Legal  
Issues Surrounding  
Digital Publishing and  
Content Distribution**

*May 18-19, 2017  
Mountain View, CA*

**10th Annual Privacy Law  
Scholars Conference**

*June 1-2, 2017  
Berkeley, CA*

**17th Annual Intellectual  
Property Scholars  
Conference**

*August 2017  
Cardozo Law  
New York, NY*



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