

## Samuelson Clinic News



*Our spring and fall 2019 clinic teams*

### Dear Alumni and Friends,

Happy Holidays from the Samuelson Law, Technology & Public Policy Clinic! In this year's newsletter, you'll find many stories about our growing docket as well as updates from alumni. Please consider [donating to the clinic](#) to support our students and work into the New Year.

Samuelson Clinic alumni are everywhere. Two of our main client contacts in the past year were clinic veterans and many more of you responded to student inquiries on copyright, patents, privacy, and the Freedom of Information Act. And a special thanks to Brianna Schofield '12, Amy Keating '06, and Joe Hall (School of Information '08) for speaking with clinic students about how their experience in the clinic informs the important work they do today.

As for our news, Megan Graham has been promoted from teaching fellow to clinical supervising attorney. She has been hired specifically to build out a docket focused on the impact of new technologies on the criminal justice system, with an emphasis on ensuring fairness for criminal defendants. Already, she and clinic students have advised public defender organizations on topics ranging from facial recognition to overbroad warrants for searches of digital devices to probabilistic genotyping software. Congratulations to Megan—our students are fantastically lucky to have you.

With Erik Stallman now heading into his second year, and Jennifer Urban more regularly in the teaching rotation, the clinic has substantially expanded its work promoting balanced intellectual property laws and access to information. Clinic students and faculty filed amicus briefs in the U.S. Supreme Court, Ninth Circuit, and Federal Circuit, and also counseled both individual and organizational clients on intellectual property matters.

Our students continue to do amazing work—and we love to hear from you years after you graduate from the clinic. Please stay in touch and drop by for coffee when you are back on campus.

Catherine Crump, Director and Erik Stallman, Associate Director

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**Congratulations, Catherine!**



We are excited to announce that the law school faculty voted that Director Catherine Crump merits tenure! We are all proud of this accomplishment, and appreciate Catherine's dedication to and leadership of the clinic.

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## Clinic News

### Clinic urges Supreme Court to give library patrons full access to the law

Clinic students Erin Moore '21, Aislinn Smalling '20, and Emma Lee '21 (pictured left to right on the Supreme Court steps) along with clinic Professors Erik Stallman '03 and Jennifer Urban '00, filed an [amicus brief in \*Georgia v. Public.Resource.Org\*](#) asking the United States Supreme Court to affirm a centuries-old principle that the law is free to all. The clinic developed the brief on behalf of four library associations, supporting their commitment to provide the law to library patrons. Erik and the students watched the argument in person on Dec. 2. [Read more.](#)



### Clinic expands into criminal justice arena



*Clinical Supervising Attorney Megan Graham, second from left, with her student team.*

For two decades, the Samuelson Clinic has protected civil liberties in the digital age. But as tech-related legal dilemmas continue to snowball, the clinic is now expanding its focus to include an [increased emphasis on technology and the criminal justice system](#)—and has hired Clinical Supervising Attorney, Megan Graham, to lead this line of work.

### Dr. Seuss, Star Trek and copyright fair use

In October 2019, the clinic [filed an amicus brief](#) on behalf of five intellectual property law professors in the Ninth Circuit in *Doctor Seuss Enterprises, LP v. ComicMix LLC*. At issue is whether the copyright fair use doctrine protects the use of copyrightable elements of the Dr. Seuss classic, *Oh the Places You'll Go!*, in a self-described parody mash-up of Dr. Seuss and Star Trek in a book titled *Oh the Places You'll Boldly Go*. The case raises fundamental questions on the distinction between transformative fair uses and derivative works, and the proper scope of copyright protection for works that have acquired symbolic or even iconic cultural significance.



## Helping cities safeguard personal information

Earlier this year, clinic students Courtney Reed '20, Nomi Conway '20, and Amisha Gandhi '20 (pictured left to right at Oakland City Hall) drafted a set of privacy principles for the city of Oakland at the request of Oakland's Privacy Advisory Commission. Working with clinic alum Heather Patterson '12 and the other commissioners, the students drafted a set of principles and accompanying guidance that provides a privacy framework mindful of Oakland's spirit and history for

city departments to consider. The [principles were unanimously approved by the commission in May 2019](#) and will go before the Oakland City Council in the coming months. [Read the principles and guidance here on pages 4-28](#). Also, the [city of Alameda is set to vote on substantially similar privacy principles](#) on Dec. 17.

## Clinic files amicus brief in *Google v. Oracle* software copyright case

Clinic students, Director Catherine Crump, and Professor Pamela Samuelson [filed an amicus brief in the Supreme Court](#) on behalf of 65 intellectual property scholars in *Google v. Oracle* in support of Google's cert petition. The brief argued that the Supreme Court should hear the case to resolve splits in circuit court interpretations of several major copyright doctrines as applied to computer programs. [Cert was recently granted](#) and the case will be argued later this term.

## Design patents and open source hardware

Clinic students and faculty, working on behalf of the Open Source Hardware Association, drafted and [filed an amicus brief in the Federal Circuit](#) in *Curver Luxembourg, SARL v. Home Expressions, Inc.* The brief argued that it is crucial to maintain the connection between the "article of manufacture" specified in the patent and the scope of design patent protection. This issue is of particular importance for the community of open-source hardware makers who create designs for others to use, modify, and share. Ultimately, [the Federal Circuit agreed](#), holding that the scope of a design patent is limited to the named article of manufacture.

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## Quick News

In November, the clinic [hosted a lively debate](#) between Ken White (better known on Twitter as [@Popehat](#)) and Elie Mystal ([@elienyc](#) and executive editor of Above the Law) on what speech the First Amendment does and should protect.

In October, clinic student Michael Kostukovsky '20 [spoke at the Library Leaders Forum](#) about a copyright project the clinic has been working on for the Internet Archive related to the [Archive's Serials in Microform Collection](#).

Also in October, Associate Director Erik Stallman participated along with representatives of the Wikimedia Foundation, Public Knowledge, and the Internet Archive on a [panel hosted by the Congressional Internet Caucus Advisory Committee](#) on the importance of

copyright exceptions and limitations in fighting misinformation online.

[The New York Times Magazine referenced the clinic's work](#) on juvenile electronic monitoring in California in an article about the social and financial costs of electronic monitoring.

The [clinic co-hosted a convening of activists, lawyers, academics, and others](#) to discuss the future of electronic monitoring of youth in the juvenile justice system.

In July, Clinical Supervising Attorney [Megan Graham argued a summary judgment motion in a Freedom of Information Act case](#) seeking records related to the Trump Administration's ideological screening of individuals trying to enter the United States.

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## Former Faculty Updates

**Jack Lerner** continues to direct the UCI Intellectual Property, Arts, and Technology Clinic at UC Irvine School of Law. The clinic recently received a three-year grant to support its Press Freedom and Transparency team, which works with local, independent, and diverse journalists, bloggers, podcasters, photojournalists, media organizations, and others engaged in enterprise journalism and investigative reporting. [Read more about our work here](#)—and if you're in Orange County please stop by!

**Jennifer Lynch '05** has been promoted to surveillance litigation director at the Electronic Frontier Foundation. This year, Jennifer was named to the Daily Journal's Top 100 Lawyers in California list for her litigation work challenging the use of face recognition and location tracking technologies. Following a 2017 win at the California Supreme Court about the public's right to data collected by the police, this year Jennifer obtained millions of license plate scans from Los Angeles police.



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## Alumni Updates

### 2003

**Michelle Engelhardt Danley** is outside of Seattle practicing family law and mediation at Danley Law, PLLC. Michelle also represents parents in dependency appeals throughout many counties of California.



**Nicole Ozer** spent the spring on sabbatical from the ACLU and is now back at Berkeley Law as a visiting researcher with Berkeley Center for Law & Technology.

### 2007



**Susheel Daswani** joined Citi Ventures in early 2019 where he is building an engineering organization for the studio team, a startup incubator that focuses on advancing economic progress for workers, cities and entrepreneurs. He still lives in Orinda with his wife and sons, ages 4 and 6.

**Peter Maybarduk** directs [Public Citizen's access to medicines and](#)

[knowledge economy group](#), which helps partners worldwide lower drug prices and secure the benefits of technology and culture for all. Peter and his colleagues are shaping U.S. drug pricing legislation and working to defend privacy under new digital trade rules. Peter still writes music under Creative Commons licenses and [has just released an album, "Pacifica."](#) with J. Robbins producing.



**Kristy Murphy** has been practicing commercial litigation at the Los Angeles office of Bryan Cave Leighton Paisner LLP for the last 12 years, focusing her practice in the area of franchise litigation. She is a certified legal specialist in franchise and distribution law by the State Bar of California and represents both franchisors and franchisees in a variety of industries that use franchising as a method of distribution, including hotel chains, restaurants, food and beverage companies, automotive products and services, car rental companies, and real

estate agencies.

## 2008

**Joe Lorenzo Hall** has recently left the Center for Democracy and Technology as chief technologist to join the Internet Society (ISOC) as their senior vice president for a Strong Internet, responsible for a variety of technical and policy programs, including end-to-end encryption policy, routing security, time security, open-standards-based secure servers, and making the case for the Internet Way of Networking.



## 2010



**Shane Witnov** is a director on the privacy and public policy team at Facebook where he works closely with the product teams on implementing privacy best practices. It's a challenging time but also a great time to be helping shape the future of Facebook. His team is hiring, reach out if you're interested ([switnov@fb.com](mailto:switnov@fb.com)).

## 2012

**Dena Chen** is a patent litigator, working at Cooley LLP in Palo Alto.



**Heather Patterson** has reached her fifth year anniversary at Intel Labs, where she leads social science privacy research. She spent the year developing tools to help engineers and product teams understand and mitigate bias, explainability, and privacy harms associated with artificial intelligence. As a commissioner with Oakland's Privacy Advisory Commission, in 2019 Heather co-sponsored a motion that led to Oakland banning government use

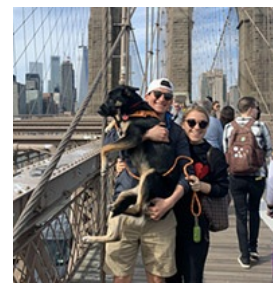


of facial recognition technology. She was also delighted to be a client of the Samuelson Clinic, which spearheaded the development of privacy principles for Oaklanders.

## 2013

**Ana Enriquez** has been on the faculty at the Penn State University Libraries for a bit over a year, as the scholarly communications outreach librarian. She teaches researchers about copyright law and negotiating publishing contracts and advocates for open access. Outside of work this year, she is enjoying being the parent of a toddler, growing food, and traveling.

**Jane Levich** is enjoying in-house life as senior legal counsel at Databricks, which is experiencing massive growth, including on the legal team which has grown from three to 11 in under two years. She focuses primarily on global employment matters, disputes, soft IP, and strategic commercial transactions. On a personal note, Jane relocated from San Francisco to New York last year and is loving life in Manhattan with her partner Phil and puppy Bear.



**Paula Vargas** is the head of privacy engagement for Latin America at Facebook.

## 2014

**Aida Ashouri** is an associate at Foley & Mansfield LLP. She recently helped plan a successful Diversity & Inclusion Conference with the LACBA Diversity Committee focusing on increasing diversity in the legal field. A report on the conference is forthcoming.

**Brady Blasco** has joined the Department of the Interior to advise the National Park Service on intellectual and cultural property matters. He previously spent five years negotiating software licenses and reviewing ads and stamp products for IP compliance at the United States Postal Service. He is recently engaged to longtime partner Karisa Daniels.

**Charlie Crain** is in his second year as the Stanton First Amendment Fellow at Yale Law School's Media Freedom and Information Access Clinic. As a clinical fellow he supervises students assisting journalists with matters including Freedom of Information Act litigation and constitutional challenges to state and federal government secrecy.

## 2016

**Rena Coen** is a privacy specialist at Rakuten, Inc. in Tokyo. At present she spends most of her time preparing the business for CCPA.

**Lisa Patel** is a newly minted associate product counsel at Google. When she's not lawyering, you can usually find her tinkering with gadgets or paddleboarding. She lives in Mountain View with her fiancé. She's always up to take current clinic students and alums (who live in the Bay Area) out for a chai or bubble tea.

## 2017

**David Schlüssel** is the deputy director of the Collateral Consequences Resource Center.

## 2018

**Dan Luecke** is currently in the second half of a two-year district court clerkship with Judge Ronald Leighton in the Western District of Washington. Dan has been having a great time working on diverse, interesting cases, learning more about the federal court system, and catching up with old friends in Seattle (Dan is a PNW native).

## 2019



**Mukund Rathi** graduated from Berkeley Law in May. He took the California Bar Exam in July, and recently learned that he passed. He is looking forward to being admitted to practice law in California. Mukund is currently working as the legal fellow in the Fourth Amendment Center at the National Association of Criminal Defense Lawyers.

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### Thank you to the Clinical Program staff!

We are very thankful for the help and support of the Clinical Program staff: Director of Administration Amy Utstein, Legal Case Manager Olivia Layug Balbarin, Office Manager Jeanette Ching, and Communications and Development Officer Sarah Weld (left to right, Sarah, Olivia, Amy, and Jeanette). They keep us on track and make sure the faculty and students have the tools they need to do their best work. Thanks for everything you do, Amy, Olivia, Jeanette, and Sarah!



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### Stay Engaged

We are extremely grateful for your support of the Samuelson Clinic over the years. You have helped us as students, alumni, faculty members, and friends. The clinic has a large and welcoming community because of all of you. Thank you!

If you're looking for new ways to continue your involvement (or to get involved again), we've got a few ideas:

#### Take students out for coffee

Our students appreciate meeting and talking to our alumni about their careers. If you're up for taking a student or two out for coffee, [email Megan Graham](#). If you live away from the Bay Area, she can connect you with students who are working in your neck of the woods over the summer.

#### Become a client or send us project ideas

We value our clients a great deal and strive to do excellent work for them. But you may not know that we're always on the lookout for awesome new clients and project ideas. If you come across an issue or organization you think is ripe for a clinic project, let us know!

#### Be a pro bono partner on a project

From time to time, the clinic needs outside support on a project. Whether that's getting something filed in court, preparing for argument, conducting research, or connecting with others who could lend a hand (or knowledge) to a project, let us know if you'd like to help out.

#### Financial support

We'd be remiss if we didn't pitch you one more time for financial support. If you'd like to

make a donation, [click here to give online](#), or send a check payable to:  
"UC Regents/Samuelson Law, Technology & Public Policy Clinic" addressed to:

Berkeley Law c/o University of California, Berkeley Gift Services  
1995 University Avenue, Suite 400  
Berkeley, CA 94704-1070

We genuinely appreciate all of the contributions you have made to the success of the Samuelson Clinic over the years and we look forward to many more exciting opportunities in the future. If you're ever on campus, be sure to stop by to say hello!

[Donate to the Samuelson Clinic](#)