

MARK A. LEMLEY

Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305

(650) 723-4605

mlemley@law.stanford.edu

CURRENT EMPLOYMENT

Stanford Law School, Palo Alto, California

William H. Neukom Professor of Law; Director, Program in Law, Science and Technology	2004 – present
Senior Fellow, Stanford Institute for Economic Policy Research	2013 – present
Affiliated Faculty, Stanford Symbolic Systems Program	2018 – present
Visiting Professor	Fall 2003
Courses: Patent Law; Intellectual Property and Antitrust; Introduction to Intellectual Property; Advanced Topics in Patents; Remedies; Trademark Law; Intermediary Liability; Video Game Law; The Ethical Robot	
Research Interests: intellectual property; antitrust; Internet law; robotics and artificial intelligence	

Lex Lumina PLLC

Counsel	2023 - present
Litigation and client counseling in all aspects of intellectual property, antitrust, and Internet law. District court and appellate practice in patent law, trade secrets, contract and software copyright before the U.S. Supreme Court, the California Supreme Court, and the Second, Fifth, Seventh, Ninth, Tenth and Federal U.S. Circuit Courts of Appeals. I have litigated more than 100 cases and argued in the California Supreme Court and 32 times in the federal appeals courts in more than 30 years as a lawyer.	

EMPLOYMENT EXPERIENCE

Boalt Hall School of Law, University of California, Berkeley, California

Elizabeth Josselyn Boalt Chair in Law	2003 - 2004
Professor of Law; co-Director, Berkeley Center for Law and Technology	2000 - 2003
Visiting Professor	Fall 1998
Lecturer	1993 - 1994
Courses: Introduction to Intellectual Property; Electronic Commerce; Computer Law; Intellectual Property and Antitrust; Patent Law; IP Scholarship Seminar	

University of Texas School of Law, Austin, Texas

Marrs McLean Professor of Law	1999 - 2000
Professor	1998 - 1999
Assistant Professor	1994 - 1998
Courses: Antitrust Law; Computer Law; Intellectual Property and Antitrust Law; Introduction to Intellectual Property; Law of the Internet; Patent Law; Regulated Industries	

Durie Tangri LLP, San Francisco, California

Partner	2009 - 2022
Representative clients included Genentech, Dykes on Bikes, and virtually every significant Internet company, including Amazon.com, Facebook, Google, and Twitter.	

EMPLOYMENT EXPERIENCE CONTINUED

<u>Keker & Van Nest</u> , San Francisco, California	
Of Counsel	2001 - 2009
Representative clients included Comcast, Genentech, Google, Grokster, Hummer Winblad, Intel, NetFlix, TiVo, and the University of Colorado Foundation.	
<u>Fish & Richardson</u> , Menlo Park, California & Austin, Texas	
Of Counsel	1995 - 2001
Attorney	1993 - 1994
Representative clients included Amicus Communications, Genentech, Mentor Graphics, 3M, Mobil Oil, Nassda, NeoForma, Thermolase, Valentis and Varian	
<u>Brown & Bain</u> , Palo Alto, California	1992 - 1993
Attorney	
Representative clients included EP Technologies and National Semiconductor	
<u>United States Court of Appeals, Ninth Circuit</u> , Pasadena, California	1991 - 1992
Law Clerk to Judge Dorothy W. Nelson	

EDUCATION

<u>Boalt Hall School of Law, University of California at Berkeley</u>	
J.D., 1991. Graduated #1 in class. California Law Review (Articles Editor); Order of the Coif; Industrial Relations Law Journal; Moot Court Board	
<u>Stanford University</u>	
A.B. with distinction, Economics and Political Science, 1988.	

PROFESSIONAL ASSOCIATIONS AND COMMUNITY SERVICE

Member, Board of Directors, Silicon Valley Urban Debate League, 2022 - present
Member, Advisory Board, Clairvolex (AI-based legal tech company), 2021 - present
Principal Investigator on grants from National Institutes of Health and National Science Foundation
Co-founder and Member, Board of Directors, Lex Machina, Inc., 2009 – 2015
Member, American Law Institute, 2012 – present
Obama for America 2008 campaign (fundraiser; served on IP and antitrust policy advisory committees)
Member, Boalt Hall Alumni Association Board of Directors, 2007 – 2010
Chair, Association of American Law Schools Section on Antitrust and Economic Regulation, 2006
Member, California Blue Ribbon Task Force on Nanotechnology, 2004 – 2005
Advisor, American Law Institute “Principles of the Law of Software Contracts” Project, 2004 - 2009
Master, San Francisco Bay Area Intellectual Property Inns of Court
Member, Northern District of California Patent Instructions and Rules Committee, 2000 – present
Moderator, “CyberProf” Internet listserv
Peer reviewer: Applied Economics Letters; Cambridge University Press; Genomics; Journal of the American Medical Association; Journal of Law, Economics and Organization; Journal of Legal Studies; Jurimetrics Journal; MIT Press; the New England Journal of Medicine; the National Science Foundation; Nature; Oxford University Press; Research Policy; Frontiers; and Science, among others
ICANN domain name dispute arbitrator (disputes.org/eresolution.ca), 1999-2001
Member, Advisory Board, Electronic Frontier Foundation, 2004-present
Member, Board of Directors, University Cooperative Society (a private non-profit college bookstore), 1995-1999
Member, Panel of Academic Advisors, American Committee for Interoperable Systems, 1995-1999

PROFESSIONAL ASSOCIATIONS AND COMMUNITY SERVICE **continued**

Member, Board of Editors, American Intellectual Property Law Association Quarterly Journal, 1994-2000
Chair, Association of American Law Schools Section on Law and Computers, 1997
Founder and Coach, Stanford Debate Team, 1985-1988
Admitted to practice in California, before the United States Supreme Court, the Second, Fifth, Seventh, Ninth, Tenth, and Federal Circuit Courts of Appeals as well as numerous district courts

AWARDS

Individual

Outstanding Mentor Award, Stanford Faculty Women's Forum, 2025
Honorable Mention, Association of American Law Schools Award for Outstanding Mentorship, 2025
Mark Banner Award for Outstanding Achievement in Intellectual Property, American Bar Association, 2024
Winner, World Technology Network's World Technology Award for Law, 2018 (also finalist 2004, 2011)
Best Lawyers in America San Francisco IP Attorney of the Year, 2010 (IP), 2013 (patent litigation), 2017 (trade secrets), 2019 (trade secrets)
Managing IP Magazine, Influential Individual of the Year, 2017
P.J. Federico Award, Patent and Trademark Office Society, 2017
California Lawyer's Attorney of the Year (CLAY) Award for Antitrust, 2015
Managing IP Magazine, IP Thought Leader of the Year, 2012, 2013
Parkway Alumni Association Hall of Fame, 2012
California State Bar inaugural IP Vanguard Award, 2009
California Lawyer's Attorney of the Year (CLAY) Award for Intellectual Property, 2005
Young Alumnus of the Year, Boalt Hall School of Law, 2002
Thelen Marrin Prize (given to the top student in each graduating class), Boalt Hall School of Law, 1991
John G. Sobieski Prize in Economics, Stanford University, 1988

Group

American Academy of Arts and Sciences, inducted 2018
IP Hall of Fame, inducted 2014
World Economic Forum Young Global Leader, 2007
Daily Journal 100 Most Influential Attorneys in California, 2004, 2005, 2006, 2008, 2009, 2011, 2015, 2017, 2018, 2019, 2020, 2021, 2023
Managing IP Magazine, 50 Most Influential People in IP World-wide, 2012, 2018
Law360 Icons of IP, 2016
Daily Journal Top 75 IP Lawyers in California, every year since 2009
Managing IP Magazine, IP Stars 2014, 2016, 2019, 2022
National Law Journal, 100 Most Influential Lawyers in the U.S., 2006, 2013
Top 100 Lawyers in Northern California, SuperLawyers, 2013, 2014, 2016
Intellectual Asset Magazine Global Patent 1000, every year since 2012
Intellectual Asset Magazine Global IP Strategy 300, 2013, 2014, 2015, 2016
Parkway Alumni Association Hall of Fame, 2012
Best Lawyers in America, recognized as an outstanding lawyer in one or more of antitrust, bet-the-company litigation, IP, patent, and trade secret law every year since 2007
San Francisco Chronicle, San Francisco's Top Attorneys 2011
Chambers 2016 (Patents); 2016 (Patent: Star Individuals); ranked every year since 2010
American Lawyer, The 25 Most Influential People in IP, 2010
IP360's Ten Most Admired IP Attorneys, 2010
Who's Who Legal 2010, 2011, 2012, 2013, 2014, 2015 (Patents), 2016 (Thought Leader)
IP Law and Business Magazine, Top 50 Under 45, 2008
Daily Journal Top 50 IP Lawyers in California, 2008

Group continued

Corporate Counsel Magazine Top Lawyers, 2007, 2008, 2009
American Lawyer's Young Litigators Fab Fifty, 2007
Lawdragon 3000 Leading Lawyers in America 2010
Lawdragon 500 Leading Lawyers in America, 2005, 2006, 2007
Northern California SuperLawyers (IP litigation), every year since 2004
Daily Journal Top 25 Intellectual Property Attorneys in California, 2003
Truman Scholar, 1986

PUBLICATIONS

Books

Video Game Law (self-published 2024, 2023), with Sonali M. Maitra, available at
<https://law.stanford.edu/directory/mark-a-lemley/video-game-law/> (also translated into Chinese)

Scarcity, Regulation, and the Abundance Society (Frontiers in Research 2022) (co-editor, with Deven Desai)

Antitrust (Gilbert's Law Summaries, 12th ed. 2023), with Christopher Leslie (259 pages). Also 11th ed. 2010, with Christopher Leslie; 10th ed. 2005, with Christopher Leslie; 9th ed. 1996, with Thomas M. Jorde and Robert H. Mnookin

3D Printing and Beyond: IP and Regulation (Edward Elgar 2019) (co-editor, with Dinusha Mendis & Matthew Rimmer)

Intellectual Property in the New Technological Age 2025 (two-volumes), with Robert P. Merges, Peter S. Menell, and Shyamkrishna Balganesh (self-published, 1241 pages) (along with **Teacher's Manual**; also **2023** edition, **2022** edition, **2021** edition, **2020** edition, **2019** edition, **2018** edition; **2017** edition; **2016** edition; 6th ed. 2012 (Aspen Law & Business), with Robert P. Merges & Peter S. Menell; also 5th ed. 2010; Revised 4th ed. 2007; 4th ed. 2006; 3d ed. 2003; 2d ed. 2000; 1st ed. 1997, with Robert P. Merges, Peter S. Menell, and Thomas M. Jorde (plus Chinese translation)

Intellectual Property in the New Technological Age: 2023 Statutes, with Robert P. Merges, Peter S. Menell, and Shyamkrishna Balganesh (self-published); also **2022 Statutes 2021 Statutes, 2020 Statutes, 2019 Statutes; 2018 Statutes; 2017 Statutes; 2016 Statutes; 2015 Case and Statutory Supplement**; also **2014 Case and Statutory Supplement; 2013 Case and Statutory Supplement; 2012 Statutory Supplement; 2011 Case and Statutory Supplement; 2010 Case and Statutory Supplement; 2009 Case and Statutory Supplement; 2008 Case and Statutory Supplement; 2007 Statutory Supplement; 2006 Statutory Supplement; 2005 Case and Statutory Supplement; 2004 Case and Statutory Supplement; 2003 Case and Statutory Supplement; 2002 Case and Statutory Supplement; 2001 Case and Statutory Supplement; 2000 Statutory Supplement; 1999-2000 Case and Statutory Supplement; Intellectual Property: Selected Statutes** (Aspen Law & Business 1997), with Robert P. Merges, Peter S. Menell, and Thomas M. Jorde (380 pages)

Trademarks, Unfair Competition, and Business Torts (Aspen Law & Business 2d ed. 2016), with Barton Beebe, Thomas Cotter, Peter S. Menell, & Robert P. Merges (1124 pages); also 1st ed. 2011

IP and Antitrust (Aspen Law & Business, 3d ed. 2016), with Herbert Hovenkamp, Mark Janis, Christopher R. Leslie, & Michael A. Carrier (two volume treatise) (1500 pages) plus annual supplements; also 2d ed. 2010 with Herbert Hovenkamp, Mark Janis, & Christopher R. Leslie; 1st ed. 2001 with Herbert Hovenkamp & Mark Janis (also translated into Chinese)

Books continued

Software and Internet Law (Aspen Law & Business, 4th ed. 2011), with Peter S. Menell, Robert P. Merges, Pamela Samuelson and Brian W. Carver (along with **Teacher's Manual**) (1205 pages); also 3d ed. 2006, with Peter S. Menell, Robert P. Merges, and Pamela Samuelson; 2d ed. 2003; and 1st ed. 2000 (also translated into Chinese)

The Patent Crisis and How the Courts Can Solve It (University of Chicago Press 2009), with Dan L. Burk (220 pages) (also translated into Chinese and Korean); plus paperback edition 2011

Academic Journal Articles and Book Chapters (* denotes peer-reviewed article)

A relaxation of probabilistic extraction for quantifying near-verbatim memorization in language models, with A. Feder Cooper and others (in progress)

The Implications of Labor Antitrust for Merger Enforcement (in progress)

Trademarks Without Confusion (in progress), with Mark P. McKenna

Copyright Implications of Memorization of Large Language Models (in draft), with A. Feder Cooper, Aaron Gogulan, Amy Cyphert, Christopher De Sa, Daniel E. Ho, & Percy Liang

Plagiarism, Copyright, and AI, University of Chicago Law Review Online (forthcoming 2025), with Lisa Larrimore Ouellette

Patent Law's Era of Normalcy, Washington University Law Review (forthcoming 2026)

What Copyright Can Learn from Memorization Measurements of Language Models, 2025 Proceedings of the International Conference on Machine Learning,* with A. Feder Cooper, Aaron Gogulan, Amy Cyphert, Christopher De Sa, Daniel E. Ho, & Percy Liang

Anticompetitive Acquiescence, Florida Law Review (forthcoming 2025), with Jacob Noti-Victor

Anticompetitive Directors, Columbia Law Review (forthcoming 2025), with Rory van Loo and Lane Miles

Machine Unlearning Doesn't Do What You Think: Lessons for Generative AI Policy and Research, 2024 Proceedings of the International Conference on Machine Learning and Law,* with A. Feder Cooper, Katherine Lee, James Grimmelmann, Amy Cyphert, and others

Rule or Reason? The Role of Balancing in Antitrust Law, Notre Dame Law Review (forthcoming 2025), with Michael A. Carrier

Protecting Consumers in a Post-Consent World, 77 Stanford Law Review Online 247 (2025)

Where Are All the Prior Users in Patent Cases?, 53 AIPLA Q.J.* 325 (2025)

The Mirage of Artificial Intelligence Terms of Use Restrictions, 100 Indiana Law Journal 1325 (2025), with Peter Henderson

Coopting Disruption, 105 Boston University Law Review 457 (2025), with Matthew Wansley

Fixing Double Patenting, 74 American University Law Review 1013 (2025), with Lisa Larrimore Ouellette

Law Review Articles and Book Chapters continued

Authoring While Dead, 59 **Georgia Law Review** 385 (2025), with Oliver Wendell Holmes, Jr.

Free the Market: How to Save Capitalism from the Capitalists, 76 **Hastings Law Journal** 115 (2024)

The Broken Balance: How “Built-In Apportionment” and the Failure to Apply *Daubert* Have Distorted Patent Infringement Damages, 37 **Harvard Journal of Law and Technology** 255 (2024), with William Lee, reprinted in 2023 **Intellectual Property Law Review***

Our More-than-Twenty-Year Patent Term, 39 **Berkeley Technology Law Journal** 681 (2024), with Jason Reinecke

Design Patents Aren’t Patents (and It’s a Good Thing Too), 92 **George Washington Law Review** 811 (2024), with Mark P. McKenna, reprinted in 2023 **Intellectual Property Law Review***

How Generative AI Turns Copyright Upside Down, 25 **Columbia Science & Technology Law Review** 190 (2024), reprinted in 5 **Revista Ultracontinental de Literatura Jurídica** 198 (2024) (Brazil)

Myths and Reality of Patent Law at the Supreme Court, 104 **Boston University Law Review** 891 (2024), with Paul R. Gugliuzza, reprinted in 2024 **Intellectual Property Law Review***

Illegal Interlocks in Life Science Boards of Directors, 13 **Journal of Law and Biosciences*** 1 (2024), with Anoop Manjunath, Nathan Kahrobaei & Ishan Kumar

First Amendment Neglect in Supreme Court IP Cases, 2023 **Supreme Court Review*** 85, with Rebecca Tushnet, reprinted in 2024 **First Amendment Law Handbook** (Rodney Smolla, ed.) and in 12:5 **Revista Amagis Jurídica** 54 (2024) (Brazil)

Foundation Models and Fair Use, 24 **Journal of Machine Learning Research*** 1 (2023), with Peter Henderson, Xuechen Li, Dan Jurafsky, Tatsunori Hashimoto and Percy Liang

Red Courts, Blue Courts, 93 **Mississippi Law Journal** 143 (2023), reprinted in 2 **Revista Forumul Judecătorilor** 45 (2025) (Romanian)

The Exclusive Right to Customize?, 103 **Boston University Law Review** 385 (2023), with Sari Mazzurco

Freedom of Speech and AI Output, 3 **Journal of Free Speech Law*** 651 (2023), with Eugene Volokh and Peter Henderson

Where’s the Liability in Harmful AI Speech?, 3 **Journal of Free Speech Law*** 589 (2023), with Peter Henderson and Tatsunori Hashimoto, reprinted in abridged form in **Oxford Handbook of the Foundations and Regulation of Generative AI** (Oxford University Press 2025)

The Benefit of the Bargain, 2023 **Wisconsin Law Review** 237 (2023)

The Antibody Patent Paradox, 132 **Yale Law Journal** 994 (2023), with Jacob Sherko Winner, Carroll P. Hurd Award for Scholarly Excellence, 2024

Trademark Spaces and Trademark Law’s Hidden Step Zero, 75 **Stanford Law Review** 1 (2023), with Mark P. McKenna, reprinted in 2023 **Intellectual Property Law Review*** and in 12 **Revista Amagis Jurídica** 153 (2024) (Brazil)

Law Review Articles and Book Chapters continued

Scarcity, Regulation, and the Abundance Society, 7 **Frontiers in Research*** 1104460 (2023), with Deven Desai

How to Punish a Robot,* in **Research Handbook on the Law of Artificial Intelligence** (Edward Elgar 2022) (with Bryan Casey), republished in 13 **Revista Ultracontinental de Literatura Juridica** 172 (2021) (Portuguese translation)

The Imperial Supreme Court, 136 **Harvard Law Review Forum** 97 (2022)

What Litigators Can Teach the Patent Office About Pharmaceutical Patents, 99 **Washington University Law Review** 1673 (2022), with S. Sean Tu

Atomistic Antitrust, 63 **William & Mary Law Review** 1869 (2022), with Robin C. Feldman
Winner, American Antitrust Institute Jerry S. Cohen Memorial Fund Award for outstanding paper, 2023
Winner, Concurrences Writing Award for outstanding paper on private antitrust enforcement, 2023

The Contradictions of Antitrust Challenges to Platforms, 36 **Antitrust*** 22 (2021)

Interfaces and Interoperability After Google v. Oracle, 100 **Texas Law Review** 1 (2021), with Pamela Samuelson, reprinted in 2022 **Intellectual Property Law Review***

The Death of the Genus Claim, 35 **Harvard Journal of Law and Technology** 1 (2021), with Dmitry Karshtedt and Sean Seymore

Disappearing Content, 101 **Boston University Law Review** 1255 (2021), reprinted in 2022 **Intellectual Property Law Review*** and in **Southwestern Intellectual Property Review**
(Chinese translation)

The Contradictions of Platform Regulation, 1 **Journal of Free Speech Law*** 303 (2021)

Does Alice Target Patent Trolls?, 18 **Journal of Empirical Legal Studies*** 47 (2021), with Samantha Zyontz

Fair Learning, 99 **Texas Law Review** 743 (2021), with Bryan Casey, reprinted in **The Legal Structure of Emerging Technologies: Social and Legal Challenges** (Cambridge Univ. Press forthcoming 2025)

The Splinternet, 70 **Duke Law Journal** 1397 (2021)

Exit Strategy, 101 **Boston University Law Review** 1 (2021), with Andrew McCreary

Abandoning Trade Secrets, 73 **Stanford Law Review** 1 (2021), with Camilla Hrdy, reprinted in 48 **Macau Law Review** (forthcoming 2022) (Chinese translation)

The Role of Antitrust in Preventing Patent Holdup, 168 **University of Pennsylvania Law Review** 2019 (2020), with Carl Shapiro, reprinted in 13 **Revista Ultracontinental de Literatura Juridica** 16 (2022) (Portuguese translation)

Chief Justice Webster, 106 **Iowa Law Review** 299 (2020)

Pledging Intellectual Property for COVID-19, 38 **Nature Biotechnology*** 1146 (2020), with Jorge Contreras, Ariel Bacaner Ganz, Michael Eisen, Jenny Molloy, Frank Tietz, and Diane Peters

Law Review Articles and Book Chapters continued

You Might Be a Robot, 105 **Cornell Law Review** 287 (2020), with Bryan Casey

The Medicare Innovation Subsidy, 95 **New York University Law Review** 75 (2020), with Lisa Ouellette & Rachel Sachs

Without Preamble, 100 **Boston University Law Review** 357 (2020)

Playing Both Sides? Branded Sales, Generics, and Patent Policy, 71 **Hastings Law Journal** 307 (2020) with Michael A. Carrier & Shawn Miller

Unfair Disruption, 100 **Boston University Law Review** 71 (2020), with Mark P. McKenna

Remedies for Robots, 86 **University of Chicago Law Review** 1311 (2019), with Bryan Casey

How Essential Are Standard-Essential Patents?, 104 **Cornell Law Review** 607 (2019), with Tim Simcoe

The Sound and Fury of Patent Activity, 103 **Minnesota Law Review** 1793 (2019), with Robin C. Feldman

Privacy, Property, and Publicity, 117 **Michigan Law Review** 1153 (2019)

Fame, Parody, and Policing in Trademark Law, 2019 **Michigan State Law Review** 1 (2019), reprinted in **Charting Limitations on Trademark Rights** 105 (Haochen Sun ed., Oxford University Press 2023)

Winner, International Trademark Association Ladas Memorial Award for best paper on trademark law, 2019

The Patent Enforcement Iceberg, 97 **Texas Law Review** 801 (2019), with Erik Oliver and Kent Richardson

Intelligent Design, 68 **Duke Law Journal** 75 (2018), with Christopher J. Buccafusco and Jonathan Masur

Law, Virtual Reality, and Augmented Reality, 166 **University of Pennsylvania Law Review** 1051 (2018), with Eugene Volokh

Can a Court Change the Law By Saying Nothing?, 71 **Vanderbilt Law Review** 765 (2018), with Paul Gugliuzza

Is Patent Litigation Efficient?, 98 **Boston University Law Review** 649 (2018), with Robin C. Feldman, reprinted in **Research Handbook in Intellectual Property and Technology Transfer** 320 (Jacob Rooksby ed. 2019)

Platforms and Interoperability in *Oracle v. Google*, 31 **Harvard Journal of Law and Technology** 603 (2018), with Joseph C. Gratz

The Fruit of the Poisonous Tree in IP Law, 103 **Iowa Law Review** 245 (2017)

Functionality Screens, 103 **Virginia Law Review** 1293 (2017), with Christopher J. Buccafusco), reprinted in 2018 **Intellectual Property Law Review**

The Real Law of Virtual Reality, 51 **UC Davis Law Review** 51 (2017), with Eugene Volokh

How Often Do Non-Practicing Entities Win Patent Cases?, 32 **Berkeley Technology Law Journal** 235 (2017), with John R. Allison & David L. Schwartz

Law Review Articles and Book Chapters continued

Did eBay Irreparably Injure Trademark Law?, 92 **Notre Dame Law Review** 1793 (2017), reprinted in 2018 **Intellectual Property Law Review**

Expecting the Unexpected, 92 **Notre Dame Law Review** 1369 (2017)

Patent Licensing, Technology Transfer, and Innovation, 106 **American Economic Review*** 198 (2016), with Robin C. Feldman

The Surprising Resilience of the Patent System, 95 **Texas Law Review** 1 (2016)

Patent Purchases and Litigation Outcomes, 2016 **Patently-O Patent Law Journal** 15, with Kent Richardson, Erik Oliver, Michael Costa, and James Yoon

Rethinking Assignor Estoppel, 54 **Houston Law Review** 513 (2016)

Ready for Patenting, 96 **Boston University Law Review** 1171 (2016)

Open Letter on Ethical Norms in IP Scholarship, 29 **Harvard Journal of Law and Technology** 339 (2016), with Robin C. Feldman, Jonathan Masur, and Arti Rai

Scope, 57 **William & Mary Law Review** 2197 (2016), with Mark P. McKenna

If You Can't Beat 'em, Join 'em? How Sitting By Designation Changes Judicial Behavior, 94 **Texas Law Review** 451 (2016), with Shawn Miller

Antitrust Arbitration and Merger Approval, 110 **Northwestern University Law Review** 1 (2015), with Christopher R. Leslie
Winner, American Antitrust Institute Jerry S. Cohen Memorial Fund Writing Award for outstanding paper on private antitrust enforcement, 2016

Do Patent Licensing Demands Mean Innovation?, 101 **Iowa Law Review** 137 (2015), with Robin C. Feldman

Our Divided Patent System, 82 **University of Chicago Law Review** 1073 (2015), with John R. Allison & David L. Schwartz

Antitrust Arbitration and Illinois Brick, 100 **Iowa Law Review** 2115 (2015), with Christopher R. Leslie

Faith-Based IP, 62 **UCLA Law Review** 1328 (2015), reprinted in **Intellectual Property Law and Technology Journal** (2016) (Japanese translation)

IP in a World Without Scarcity, 90 **New York University Law Review** 460 (2015), reprinted in 1 **Journal of Intellectual Property Studies** 10 (India) (2017), reviewed in **Regulation**, Fall 2014, at 79.

Does "Public Use" Mean the Same Thing It Did Last Year?, 93 **Texas Law Review** 1119 (2014), reprinted in 2016 **Intellectual Property Law Review**

Understanding the Realities of Modern Patent Litigation, 92 **Texas Law Review** 1769 (2014), with John R. Allison & David L. Schwartz

Does Familiarity Breed Contempt Among Judges Deciding Patent Cases?, 66 **Stanford Law Review** 1121 (2014), with Jennifer Urban & Su Li

The Audience in IP Infringement, 112 **Michigan Law Review** 1251 (2014), with Jeanne Fromer

Law Review Articles and Book Chapters continued

Taking the Regulatory Nature of IP Seriously, 92 **Texas Law Review** See Also 68 (2014)

A Rational System of Design Patent Remedies, 17 **Stanford Technology Law Review** 219 (2013)

Do Applicant Patent Citations Matter?, 42 **Research Policy*** 844 (2013), with Christopher A. Cotropia & Bhaven Sampat

Parody as Brand, 47 **U.C. Davis Law Review** 473 (2013), with Stacey L. Dogan, reprinted in **The Luxury Economy and Intellectual Property: Critical Reflections** 93 (Barton Beebe et al. eds, Oxford University Press 2015), and reprinted in 105 **Trademark Reporter** 1177 (2016)

A Simple Approach to Setting Reasonable Royalties for Standard-Essential Patents, 28 **Berkeley Technology Law Journal** 1135 (2013), with Carl Shapiro
Winner, Concurrences Antitrust Writing Award for outstanding antitrust paper, 2014

Why Do Juries Decide If Patents Are Valid?, 99 **Virginia Law Review** 1673 (2013)

Missing the Forest for the Trolls, 113 **Columbia Law Review** 2117 (2013), with A. Douglas Melamed, abridged in **Patent Assertion Entities and Competition Policy** 9 (Danny Sokol ed., Cambridge University Press 2017)
Winner, ABA Antitrust Writing Award 2014

Software Patents and the Return of Functional Claiming, 2013 **Wisconsin Law Review** 905

The Fractioning of Patent Law, in **Intellectual Property and the Common Law*** 504 (Shyamkrishna Balganesh ed., Cambridge University Press 2013)

Rush to Judgment? Trial Length and Outcomes in Patent Cases, 41 **American Intellectual Property Law Association Quarterly Journal*** 169 (2013), with Clint Martin & Jamie Kendall

Fixing the Patent Office, 13 **Innovation Policy and the Economy*** 83 (2013)

The Regulatory Turn in IP, 36 **Harvard Journal of Law and Public Policy** 109 (2013)

Patent Holdup, the ITC, and the Public Interest, 98 **Cornell Law Review** 1 (2012), with Colleen V. Chien

Examiner Characteristics and Patent Office Outcomes, 94 **Review of Economics and Statistics*** 817 (2012), with Bhaven Sampat

Is Pepsi Really a Substitute for Coke? Market Definition in Antitrust and IP, 100 **Georgetown Law Journal** 2055 (2012), with Mark P. McKenna, reprinted in **Antitrust, Intellectual Property, and High Tech** 183 (Daniel Sokol & Roger Blair eds., Cambridge University Press 2017), plus Chinese translation (2020)

The Dubious Autonomy of Virtual Worlds, 2 **Irvine Law Review** 575 (2012)

Contracting Around Liability Rules, 100 **California Law Review** 463 (2012)

The Myth of the Sole Inventor, 110 **Michigan Law Review** 709 (2012)

Point of Novelty, 105 **Northwestern University Law Review** 1253 (2011)

Industry-Specific Antitrust Policy for Innovation, 2011 **Columbia Business Law Review** 637 (2011)

Law Review Articles and Book Chapters continued

Don't Break the Internet, 64 **Stanford Law Review Online** 34 (2011), available at <http://www.stanfordlawreview.org/online/dont-break-internet>, with David S. Levine & David Post, reprinted at <http://www.openskill.lu/ensopa-concernedfrsopa-tout-monde-est-concern/> (French translation), and at http://www.huffingtonpost.com/mark-lemley/protect-ip-act_b_1162702.html (abridged version)

Tailoring Patents to Different Industries, in **Biotechnology and Software Patent Law: A Comparative Review of New Developments** (Emanuela Arezzo & Gustavo Ghidini eds, Edward Elgar 2011), with Dan L. Burk

Earning Exclusivity: Generic Incentives and the Hatch-Waxman Act, 77 **Antitrust Law Journal*** 947 (2011), with C. Scott Hemphill

The Ongoing Confusion Over Ongoing Royalties, 76 **Missouri Law Review** 695 (2011)

Life After Bilski, 63 **Stanford Law Review** 1315 (2011), with Michael Risch, Ted Sichelman, and R. Polk Wagner, reprinted in 2012 **Intellectual Property Law Review***

Who Chooses Open Source Software?, 78 **University of Chicago Law Review** 139 (2011), with Ziv Shafir (National Institutes of Health grant # NGA: 1 R01 HG003769-01)

Patent Quality and Settlement Among Repeat Patent Litigants, 99 **Georgetown Law Journal** 677 (2011), with John R. Allison & Joshua Walker

Is the Sky Falling on the Content Industries?, 9 **Journal of Telecommunications and High Technology Law** 125 (2011), reprinted in <http://www.dseneste.dk/index.php/politik/falder-himlen-ned-over-musikbranchen-medier-film-tv-radio-forlag/> (Danish translation)

Can the Patent Office be Fixed?, in **Rules for Growth*** 367 (Robert Litan ed. 2011), reprinted in 15 **Marquette Intellectual Property Law Review** 295 (2011)

Owning Mark(et)s, 109 **Michigan Law Review** 137 (2010), with Mark McKenna

Irrelevant Confusion, 62 **Stanford Law Review** 413 (2010), with Mark McKenna

A Structured Approach to Calculating Reasonable Royalties, 14 **Lewis & Clark Law Review** 627 (2010), with Daralyn J. Durie, reprinted in 2011 **Intellectual Property Law Review***

Our Bizarre System for Proving Copyright Infringement, 57 **Journal of the Copyright Society*** 719 (2010)

Where to File Your Patent Case, 38 **American Intellectual Property Law Association Quarterly Journal*** 401 (2010), reprinted in **AIPPI-Japan** (2011) (Japanese translation) and in **Chizai Prism** (2011) (Japanese translation)

Examining Patent Examination, 2010 **Stanford Technology Law Review** 2, with Bhaven Sampat, reprinted in 2011 **Intellectual Property Law Review***

Extreme Value or Trolls on Top? Evidence From the Most-Litigated Patents, 158 **University of Pennsylvania Law Review** 1 (2009), with John R. Allison & Josh Walker

Distinguishing Lost Profits From Reasonable Royalties, 51 **William & Mary Law Review** 655 (2009)

Law Review Articles and Book Chapters continued

Copying in Patent Law, 87 **North Carolina Law Review** 1421 (2009), with Christopher A. Cotropia

Fence Posts or Sign Posts? Rethinking Patent Claim Construction, 157 **University of Pennsylvania Law Review** 1743 (2009), with Dan L. Burk, reprinted in 42 **Intellectual Property Law Review*** (2010) and in **International Patent Law and Policy: Cases and Materials** (2013)

Antitrust Law and Regulatory Gaming, 87 **Texas Law Review** 685 (2009), with Stacey L. Dogan

Courts and the Patent System, Regulation, Summer 2009, at 18, with Dan L. Burk

A Cautious Defense of Intellectual Oligopoly With Fringe Competition, 5 **Review of Law and Economics*** 3 (2009) (reviewing Michele Boldrin & David Levine, **Against Intellectual Monopoly**), reprinted in **Indian Journal of Intellectual Property Law** (2010)

California Restrictive Employee Covenants After Edwards, 23 **California Labor and Employment Law Review** 3 (2009), with James H.A. Pooley

Is The Patent Office A Rubber Stamp?, 58 **Emory Law Journal** 181 (2008) with Bhaven Sampat, reprinted in **Patent Prosecution** (India) (2009)

A Realistic Approach to the Obviousness of Inventions, 50 **William & Mary Law Review** 989 (2008), with Daralyn J. Durie, reprinted in **Nonobviousness and Patents** 35 (India) (2010)

The Surprising Virtues of Treating Trade Secrets as IP Rights, 61 **Stanford Law Review** 311 (2008), abridged in **The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research** (Rochelle C. Dreyfuss & Katherine J. Strandburg eds. 2011), and reprinted in **Andean Yearbook of Intellectual Rights** 157 (Peru) (2013) and in **Critical Concepts in Intellectual Property Law** (Robert P. Merges ed. 2014)

Categorical Analysis in Antitrust Jurisprudence, 93 **Iowa Law Review** 1207 (2008), with Christopher R. Leslie

How to Make a Patent Market, 36 **Hofstra Law Review** 257 (2008), with Nathan Myhrvold

Ignoring Patents, 2008 **Michigan State Law Review** 19, reprinted in **The Future of the Patent System** 79 (Japan) (Ryo Shimanami ed. Edward Elgar 2012)

The Trademark Use Requirement in Dilution Cases, 24 **Santa Clara Computer & High Technology Law Journal** 541 (2008), with Stacey L. Dogan, reprinted in **Trademark Dilution: Applications and Implications** (India) 103 (2008)

Are Universities Patent Trolls?, 18 **Fordham Intellectual Property, Media & Entertainment Law Journal** 611 (2008), reprinted in **Academic Patents: Emerging Issues and Challenges** (India) 80 (2008), in **Patent Licensing** (India) (2009), and in **Perspectives on Commercializing Innovation** (Cambridge University Press 2012)

Rationalizing Internet Safe Harbors, 6 **Journal of Telecommunications and High Tech Law** 101 (2007), reprinted in 7 **ICFAI Journal of Cyber Law** (India) 45 (2008), in **Trademarks and Internet** (India) (2009), in **Internet Service Provider Liability: Legal Dimensions** (India) (2008), and in **Copyright for the 21st Century** (Brian Fitzgerald & Benedict Atkinson eds. 2011) (Australia)

Law Review Articles and Book Chapters continued

A Search-Costs Theory of Limiting Doctrines in Trademark Law, in **Trademark Law and Theory: A Handbook of Contemporary Research** 65 (Graeme Dinwoodie & Mark D. Janis, eds. 2007), with Stacey L. Dogan, reprinted in 97 **Trademark Reporter** 1223 (2007), reprinted in **Technical Protection Measures and Their Legal Implications** (India) (forthcoming 2010), and reprinted in **Trademark Protection: Emerging Concerns** (India) (2009)

A New Balance Between IP and Antitrust, 13 **Southwestern Journal of Law and Trade in the Americas** 237 (2007), reprinted in 7 **ICFAI Journal of International Business Law** 64 (India) (2008), in **Patents vs. Competition: A Legal Debate** (India) (2009), and in **Analisis Economics del Derecho** 289 (Chile) (2017) (Spanish translation)

Rethinking Patent Law's Presumption of Validity, 60 **Stanford Law Review** 45 (2007), with Doug Lichtman, reprinted in **Patent Examination: A Critical Study** (India) (2009) and in **Regulating Innovation: Competition Policy and Patent Law Under Uncertainty** (Cambridge Univ. Press 2011)

Should a Licensing Market Require Licensing?, 70 **Law and Contemporary Problems*** 185 (2007), reprinted in **Agency, Franchising, and Licensing Contracts** (India) (2009)

Grounding Trademark Law Through Trademark Use, 92 **Iowa Law Review** 1669 (2007), with Stacey L. Dogan, reprinted in 98 **Trademark Reporter** 1345 (2008), and in **Beijing Private Law Review** (forthcoming 2014) (Chinese translation)

Patent Holdup and Royalty Stacking, 85 **Texas Law Review** 1991 (2007), with Carl Shapiro, reprinted in **FRAND Literature Collection** (Chinese translation) (2019)

Reply: Patent Holdup and Royalty Stacking, 85 **Texas Law Review** 2163 (2007), with Carl Shapiro

Should Patent Infringement Require Proof of Copying?, 105 **Michigan Law Review** 1525 (2007), reprinted in 7:2 **ICFAI Journal of Intellectual Property Rights** 31 (India) (2008)

The (Unnoticed) Demise of the Doctrine of Equivalents, 59 **Stanford Law Review** 955 (2007), with John R. Allison

The Limits of Claim Differentiation, 22 **Berkeley Technology Law Journal** 1389 (2007), reprinted in **Patent Claims: Judicial Interpretation and Analysis** 1(India) (2008)

Should Property or Liability Rules Govern Information?, 85 **Texas Law Review** 783 (2007), with Philip J. Weiser

Ten Things to Do About Patent Holdup of Standards (and One Not To), 48 **Boston College Law Review** 149 (2007), reprinted in 6 **ICFAI Journal of Intellectual Property Rights** (India) 38 (2007) and in **The Standards Edge: Golden Mean** 59 (2007)

Spillovers, 107 **Columbia Law Review** 257 (2007), with Brett M. Frischmann

What the Right of Publicity Can Learn From Trademark Law, 58 **Stanford Law Review** 1161 (2006), with Stacey L. Dogan, reprinted in 2007 **Intellectual Property Law Review*** 383 and in Chinese translation (2010)

Terms of Use, 91 **Minnesota Law Review** 459 (2006), reprinted in **E-Contracts** (India) (2008)

Inherency, 47 **William & Mary Law Review** 371 (2005), with Dan L. Burk, reprinted in 38 **Intellectual Property Law Review*** (2006)

Law Review Articles and Book Chapters continued

The Changing Meaning of Patent Claim Terms, 104 **Michigan Law Review** 101 (2005), reprinted in **Patent Claims: Construction and Drafting** 1 (India) (IFCAI Books 2008)

Patenting Nanotechnology, 58 **Stanford Law Review** 601 (2005), reprinted in 30 **Derecho y Sociedad (Peru)** 287 (2008) (in Spanish) and in **Patenting of Nanotech Inventions: A Debate** (India) (C. Sri Krishna ed. 2007)

Inducing Patent Infringement, 39 **U.C. Davis Law Review** 225 (2005), reprinted in 51:12 **AIPPI Japan** 16 (December 2006) (in Japanese) and in **Patent Infringement: Disputes and Remedial Options** 83 (India) (C. Sri Krishna ed. 2008)

The Merchandising Right: Fragile Theory or Fait Accompli?, 54 **Emory Law Journal** 461 (2005), with Stacey L. Dogan, reprinted in **Trademarks** (Graeme Dinwoodie ed. 2011)

Quantum Patent Mechanics, 9 **Lewis & Clark Law Review** 29 (2005), with Dan L. Burk

What's Different About Intellectual Property, 83 **Texas Law Review** 1097 (2005), reprinted in **Intellectual Property and Business** (Stephen E. Margolis & Craig M. Newmark eds. 2009)

Property, Intellectual Property, and Free Riding, 83 **Texas Law Review** 1031 (2005), reprinted in **Intellectual Property and Business** (Stephen E. Margolis & Craig M. Newmark eds. 2009) and in 10 **Private Law Review** 123 (China) (2012) (Chinese translation)

What To Do About Bad Patents, Regulation, Winter 2005-06, at 10 (2005), with Douglas Lichtman & Bhaven N. Sampat; reprinted in **IP Law and Business**, January 2006, at 20

A Quick and Inexpensive System for Resolving Digital Copyright Disputes, 23 **Cardozo Arts & Entertainment Law Journal** 1 (2005), with R. Anthony Reese

Unilateral Refusals to License in the U.S., in **Antitrust, Patents and Copyright: EU and US Perspectives** 12 (Francois Leveque & Howard Shelanski eds. 2005), with Herbert Hovenkamp & Mark Janis, reprinted in 2 **Journal of Competition Law and Economics** 1 (2006), and in reprinted in **Intellectual Property and Competition** (Edward Elgar 2011)

Divided Infringement Claims, 33 **American Intellectual Property Law Association Quarterly Journal*** 255 (2005), with Ryan M. Kent, David W. O'Brien, Ashok Ramani, and Robert Van Nest, reprinted in 6 **Sedona Conference Journal** 117 (2005), and reprinted in **Economic Law and Justice in Times of Globalisation** (Mario Monti ed. 2007)

Probabilistic Patents, 19 **Journal of Economic Perspectives*** 75 (2005), with Carl Shapiro, reprinted in **China Technology Law Annual Report 2007** (Huazhong Univ. Press 2008) (Chinese translation)

Designing Optimal Software Patents, in **Intellectual Property Rights in Frontier Industries: Software and Biotechnology** (Robert E. Hahn ed. 2005), with Dan L. Burk, reprinted in **Software Patents: Legal Perspectives** (India) (A.V. Narsimha Rao ed. 2007) and in **Critical Concepts in Intellectual Property Law** (Richard S. Gruner ed. 2013)

Trademarks and Consumer Search Costs on the Internet, 41 **Houston Law Review** 777 (2004), with Stacey L. Dogan, reprinted in **Critical Concepts in Intellectual Property Law** (Robert P. Merges ed. 2013)

Valuable Patents, 92 **Georgetown Law Journal** 435 (2004), with John R. Allison, Kimberly A. Moore & Derek Trunkey, reprinted in 37 **Intellectual Property Law Review** (2005)

Law Review Articles and Book Chapters continued

Reducing Digital Copyright Infringement Without Restricting Innovation, 56 **Stanford Law Review** 1345 (2004), with R. Anthony Reese

Ex Ante Versus Ex Post Justifications for Intellectual Property, 71 **University of Chicago Law Review** 129 (2004), reprinted in **The Political Economy of Intellectual Property Rights** (Edward Elgar 2011)

Ending Abuse of Patent Continuations, 84 **Boston University Law Review** 63 (2004), with Kimberly A. Moore

Balancing Ease and Accuracy in Assessing Pharmaceutical Exclusion Payments, 88 **Minnesota Law Review** 712 (2004), with Herbert Hovenkamp & Mark D. Janis

Are the United States Patent Priority Rules Really Necessary?, 54 **Hastings Law Journal** 1299 (2003), with Colleen Chien; reprinted in 36 **Intellectual Property Law Review** 3 (2004)

ICANN and Antitrust 2003 **University of Illinois Law Review** 1, with A. Michael Froomkin

Anticompetitive Settlement of Intellectual Property Disputes, 87 **Minnesota Law Review** 1719 (2003), with Herbert Hovenkamp & Mark Janis, reprinted in Chinese translation

Place and Cyberspace, 91 **California Law Review** 521 (2003), reprinted in Steven Wildman ed., **Rethinking Rights and Regulations: Institutional Responses to New Communication Technologies** (MIT Press 2003), and reprinted in **Rights in the Digital Era: Freedom of Speech and Intellectual Property** (2005) (Italian translation)

Policy Levers in Patent Law, 89 **Virginia Law Review** 1575 (2003), with Dan L. Burk, reprinted in 14 **Intellectual Property Law and Policy Journal** 45 (2007) and 15 **Intellectual Property Law and Policy Journal** 53 (2007) (Japanese and Chinese translations), in **Policy Comment on Intellectual Property Rights** (2009) (Chinese translation), and in **Biotechnology and Software Patent Law: A Comparative Review on New Developments** (2011) (abridged version)

Biotechnology's Uncertainty Principle, in 50 **Advances in Genetics: Perspectives on Properties of the Human Genome Project** 305 (2003), with Dan L. Burk, reprinted in 54 **Case Western Reserve Law Review** 691 (2004) and in **Biotechnology and Software Patent Law** (Edward Elgar 2012)

Ending Patent Law's Willfulness Game, 18 **Berkeley Technology Law Journal** 1085 (2003), with Ragesh K. Tangri

Intellectual Property Rights and Standard-Setting Organizations, 90 **California Law Review** 1889 (2002), reprinted in **Critical Concepts in Intellectual Property Law** (Edward Elgar 2011)

The Growing Complexity of the Patent System, 82 **Boston University Law Review** 77 (2002), with John Allison

Is Patent Law Technology-Specific?, 17 **Berkeley Technology Law Journal** 1155 (2002), with Dan L. Burk, reprinted in **Intellectual Property and Biotechnology** (Arti Rai ed. forthcoming 2011)

Foreseeability in Patent Law, 16 **Berkeley Technology Law Journal** 1045 (2001), with Matthew J. Conigliaro & Andrew C. Greenberg

Rational Ignorance at the Patent Office, 95 **Northwestern University Law Review** 1495 (2001)

Law Review Articles and Book Chapters continued

The End of End-to-End: Preserving the Architecture of the Internet in the Broadband Era, 48 **UCLA Law Review** 925 (2001), with Lawrence Lessig, reprinted in Mark N. Cooper ed., **Open Architecture as Communications Policy** (2004)

Patent Scope and Innovation in the Software Industry, 89 **California Law Review** 1 (2001), with Julie E. Cohen

Who's Patenting What? An Empirical Exploration of Patent Prosecution, 53 **Vanderbilt Law Review** 2099 (2000), with John Allison

Private Property, 52 **Stanford Law Review** 1545 (2000)

How Federal Circuit Judges Vote in Patent Validity Cases, 29 **Florida State University Law Review** 745 (2000), with John Allison; reprinted at 10 **Federal Circuit Bar Journal** 435 (2001)

The Constitutionalization of Technology Law, 15 **Berkeley Technology Law Journal** 529 (2000)

Reconceiving Patents in the Age of Venture Capital, 4 **Journal of Small and Emerging Business Law** 137 (2000) (reprinted in **China's Invention and Patent** (2004) (Chinese translation))

Standardizing Government Standard-Setting Policy for Electronic Commerce, 14 **Berkeley Technology Law Journal** 745 (1999)

The Modern Lanham Act and the Death of Common Sense, 108 **Yale Law Journal** 1687 (1999), reprinted in **Intellectual Property and Business** (Stephen E. Margolis & Craig M. Newmark eds. 2009)

Beyond Preemption: The Law and Policy of Intellectual Property Licensing, 87 **California Law Review** 111 (1999)

The Law and Economics of Internet Norms, 73 **Chicago-Kent Law Review** 1257 (1998)

Freedom of Speech and Injunctions in Intellectual Property Cases, 48 **Duke Law Journal** 147 (1998), with Eugene Volokh

Legal Implications of Network Economic Effects, 86 **California Law Review** 479 (1998), with David McGowan

Empirical Evidence on the Validity of Litigated Patents, 26 **American Intellectual Property Law Association Quarterly Journal*** 185 (1998), with John Allison, excerpted in **Foundations of Intellectual Property** 257 (Robert Merges & Jane Ginsburg eds. 2012)

Could Java Change Everything? The Competitive Proprietary of a Proprietary Standard, 43 **Antitrust Bulletin*** 715 (1998), with David McGowan, reprinted in 3 **Journal of Internet Law*** 19 (March 1999)

Recent Developments in Patent Law, 6 **Texas Intellectual Property Law Journal** 103 (1997)

Understanding the Economic Espionage Act of 1996, 5 **Texas Intellectual Property Law Journal** 177 (1997), with James H.A. Pooley and Peter J. Toren

Dealing With Overlapping Copyrights on the Internet, 22 **University of Dayton Law Review** 547 (1997)

Law Review Articles and Book Chapters continued

The Economics of Improvement in Intellectual Property Law, 75 **Texas Law Review** 989 (1997), reprinted as monograph (Lambert Academic Publishing, Saarbrucken, Germany 2010), and excerpted in **Foundations of Intellectual Property** 371 (Robert Merges & Jane Ginsburg eds. 2012)

Encouraging Software Reuse, 49 **Stanford Law Review** 255 (1997), with David O'Brien

Romantic Authorship and the Rhetoric of Property, 75 **Texas Law Review** 873 (1997) (review of James Boyle, Shamans, Software and Spleens: Law and the Construction of the Information Society), reprinted in Peter Drahos ed., **Intellectual Property** (2000)

Antitrust and the Internet Standardization Problem, 28 **Connecticut Law Review** 1041 (1996)

Intellectual Property and Shrinkwrap Licenses, 68 **Southern California Law Review** 1239 (1995)

An Empirical Study of the Twenty-Year Patent Term, 22 **American Intellectual Property Law Association Quarterly Journal**^{*} 369 (1995), reprinted in IV Ruth Towse & Rudi Holzhauer eds., **The Economics of Intellectual Property** (Edward Elgar Publishing 2002)

Convergence in the Law of Software Copyright?, 10 **High Technology Law Journal** 1 (1995)

Rights of Attribution and Integrity in Online Communications, 1995 **Journal of Online Law**^{*} art. 2 (May 1995) (<http://www.wm.edu/law/publications/jol>), reprinted in Gary Gumpert, ed., **Real Law @ Virtual Space: Regulation in Cyberspace** (Hampton Press 1999)

Shrinkwraps in Cyberspace, 35 **Jurimetrics Journal**^{*} 311 (1995)

Antitrust Counterclaims in Patent and Copyright Infringement Cases, 3 **Texas Intellectual Property Law Journal** 1 (1994)

Antitrust Immunity: State Action and Federalism, Petitioning and the First Amendment, 17 **Harvard Journal of Law and Public Policy** 293 (1994), with David McGowan

The Antitrust Liability of Labor Unions for Anticompetitive Litigation, 80 **California Law Review** 757 (1992), with Daralyn J. Durie

Summary Judgment in Antitrust Cases: Understanding Monsanto and Matsushita, 36 **Antitrust Bulletin**^{*} 271 (1991), with Thomas M. Jorde

The Economic Irrationality of the Patent Misuse Doctrine, 78 **California Law Review** 1599 (1990)

United States v. Syufy, 20:3 **Antitrust Law and Economics Review**^{*} 9 (1989)

SELECTED SHORTER PAPERS, PRESENTATIONS, AND ACTIVITIES

Other Papers and Published Speeches

Anticompetitive Acquiescence in AI Licensing, **ProMarket** (forthcoming 2025)

Competition Law Won't Break Up Big Tech, **Financial Times**, September 9, 2025

As July 4 Approaches, Supreme Court Signs Away American Democracy, **San Jose Mercury-News**, July 2, 2025

Other Papers and Published Speeches continued

Overlapping Directors as a Competition Problem, Harvard Law School Forum on Corporate Governance,<https://corpgov.law.harvard.edu/2025/08/29/overlapping-directors-as-a-competition-problem/> (2025)

How Big Tech is Killing Innovation, New York Times, June 13, 2024,
<https://www.nytimes.com/2024/06/13/opinion/big-tech-ftc-ai.html>, with Matthew Wansley,
reprinted in 96 **Vanguardia Dossier** 49 (2025) (Spanish translation)

Discrimination and the Human Algorithm, in **Yale Journal of Regulation** (2023),
<https://www.yalejreg.com/nc/discrimination-and-the-human-algorithm-by-mark-lemley/> (reviewing Orly Lobel, *The Equality Machine*)

Banning Noncompetes is Good for Innovation, Harvard Business Review, February 6, 2023,
<https://hbr.org/2023/02/banning-noncompetes-is-good-for-innovation>, with Orly Lobel

How Venture Capital's "Exit Strategy" Drives Tech Industry Concentration, Concurrentialiste (October 2020), with Andrew McCreary

Creative Destruction and Concentration, American Conservative (October 2020), with Andrew McCreary

When Generic Companies Play Both Sides, STAT, March 2020, with Michael A. Carrier and Shawn Miller

Silicon Valley Needs to Build Out, Not Cash Out, Fortune, March 2020, with Andrew McCreary

The Facts Show That Qualcomm's No-License, No-Chips Policy Was a Successful Policy, Not an Empty Threat, Truth on the Market blog colloquy, <https://truthorthemarket.com/2020/01/22/the-facts-show-that-no-license-no-chips-was-a-successful-policy-not-an-empty-threat-a-reply-to-manne-and-auers-new-argument/> (January 22, 2020), with A. Douglas Melamed & Stephen Salop

Trump Justice Department's 'Investigation' of California's Deal With Car Makers is an Antitrust Abuse of Power, CalMatters, <https://calmatters.org/commentary/auto-investigation/> (October 20, 2019), with David McGowan

Who's to Blame for Bad Things on the Internet?, Legal Aggregate blog,
<https://law.stanford.edu/2019/07/15/whos-to-blame-for-bad-things-on-the-internet/?linkId=70563986> (2019)

Please Reject me: An Open Letter to the Harvard Law Review, 22 **Green Bag 2d** 235 (2019)

"Characteristic of a Pirate": Willfulness and Treble Damages (with Michael Feldman), **Daily Journal**, July 2016, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2811773

Judging Judge Persky (op-ed), **San Jose Mercury-News**, June 24, 2016, available at http://www.mercurynews.com/opinion/ci_30052022/lemley-recall-persky-over-brock-turner-stanford-case

Why Notice-and-Takedown is a Big of Copyright Law Worth Saving (op-ed), **L.A. Times**, June 21, 2016, available at <http://www.latimes.com/opinion/op-ed/la-oe-sprigman-lemley-notice-and-takedown-dmca-20160621-snap-story.html>, with Christopher Sprigman

Taking Functional Claiming Seriously, submission to PTO Patent Quality Initiative, April 21, 2015, reprinted in **Berkeley Technology Law Journal Commentaries** (2016), available at <http://btlj.org/2016/03/taking-functional-claiming-seriously/>

Other Papers and Published Speeches continued

IP and Other Regulations, Balkinization, March 27, 2015, available at <http://balkin.blogspot.com/2015/03/ip-and-other-regulations.html>

IP Attitudes Must Adapt to a World Without Scarcity (op-ed), **Bangkok Post**, April 5, 2014, available at <http://www.bangkokpost.com/opinion/opinion/403527/ip-attitudes-must-adapt-to-a-world-without-scarcity>

Did the Federal Circuit Just Adopt Functional Claiming Through the Back Door?, **Patently-O**, June 25, 2013, available at <http://www.patentlyo.com/patent/2013/06/did-the-federal-circuit-just-adopt-functional-claiming-through-the-back-door.html>

Let's Go Back to Patenting the Solution, Not the Problem (op-ed), **Wired**, October 30, 2012

Why the Fed Should Buy Munis, Not Mortgages (op-ed), **New York Times**, October 24, 2012, with Joe Grundfest and George Triantis

Patents, Smartphones, and the Public Interest (op-ed), **New York Times**, December 13, 2011

Protect Innovators, Not Copyright Lawyers (op-ed), **National Law Journal**, October 19, 2011

If AT&T Marries T-Mobile, All of Us Will Lose (op-ed), **Sacramento Bee**, August 9, 2011

An Antitrust Analysis of the Google Book Search Settlement, 2010-2 **amic Tijdschrift voor Auteurs-, Media- & Informatierecht** 55, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1431555 (2010)

Don't Tailor-Make Patent Law, **National Law Journal**, May 11, 2009 (op-ed), with Dan L. Burk

Time for Congress to innovate, reform abused patent system, **San Jose Mercury-News**, June 15, 2006, at 20A (op-ed)

End to End: The Architectural Principle of Open Access, 22 **Whittier Law Review** 3 (2000), with Lawrence Lessig (reprint of declaration filed in the AT&T – Media One merger case)

Rank, 3 **Green Bag 2d** 457 (2000)

Will the Internet Remake Antitrust Law?, in Kraig M. Hill et al., eds., **Globalization of Intellectual Property in the 21st Century** (Center for Advanced Study and Research on Intellectual Property 1999) (speech); reprinted in Christopher Marsden ed., **Regulating the Global Information Society** (Routledge 2000)

Submarine Patents, and What to Do About Them, 2 **Initiate!!** 8 (1996)

Theft of Trade Secrets, paper for ALI/ABA CLE conference, Pittsburgh, PA, September 1995 (with James H.A. Pooley) (http://www.fr.com/publis/f_paper7.html)

Amicus Briefs

Co-author, Brief Amici Curiae of ACLU and CDT, *Cox Comm's v. Sony Music Ent.* (U.S. 2025)

Co-author, Brief Amici Curiae of Former Judges and Government Officials in support of Plaintiffs, *V.O.S. v. Trump* (Fed. Cir. 2025) (en banc)

Amicus Briefs continued

Co-author, Brief Amici Curiae of 775 Law Professor in support of Plaintiffs, *Susman Godfrey v. Trump; Jenner & Block v. Trump; Wilmer Hale v. Trump; Perkins Coie v. Trump* (D.D.C. 2025)

Co-author, Brief Amici Curiae of Intellectual Property Professors, *JJ Deltona Transformer Corp. v. The Noco Co.* (11th Cir. 2025)

Lead counsel and co-author, Brief Amici Curiae of 52 Professors in Support of Respondents, *Teva Pharm. v. Amneal Corp.* (Fed. Cir. 2024)

Co-author, Brief Amici Curiae of Law Professors in Support of the FTC, *Ryan v. FTC* (E.D. Pa. 2024)

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Rehearing, *Whyte Monkee Productions v. Netflix, Inc.* (10th Cir 2024)

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Appellant, *In re Xencor, Inc.* (Fed. Cir. 2023)

Lead counsel and co-author, Brief Amici Curiae Automatic Inc. in Support of Respondents, *Gonzalez v. Google* (U.S. 2023)

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Respondents, *Jack Daniels v. VIP Products* (U.S. 2023)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of Petitioners, *Amgen v. Sanofi* (U.S. 2022)

Lead counsel and co-author, Brief Amici Curiae of Intellectual Property Professors in support of reversal, *Martinez v. ZoomInfo* (9th Cir. 2022)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of reversal, *Vans v. MSCHF* (2d Cir. 2022)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of rehearing en banc, *Dyfan, LLC v. Target* (Fed. Cir. 2022)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of certiorari, *Amgen v. Sanofi* (U.S. 2022)

Co-author, Briefs Amici Curiae of Art Law Professors in support of certiorari and in support of reversal, *Andy Warhol Foundation v. Goldsmith* (U.S. 2021, 2022)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of rehearing en banc, *Amgen v. Sanofi* (Fed. Cir. 2021)

Co-author, Brief Amici Curiae of Art Law Professors in support of rehearing en banc, *Andy Warhol Foundation v. Goldsmith* (2d Cir. 2021)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of certiorari, *Minerva, Inc. v. Hologic Techs., Inc.*, (U.S. 2020)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in support of certiorari, *Cochlear Tech. v. Alfred Mann Found.* (U.S. 2020)

Amicus Briefs continued

Lead counsel and co-author, Brief Amici Curiae of Intellectual Property Professors in support of certiorari, *Idenix v. Gilead Sci. Corp.* (U.S. 2020)

Co-author, Brief Amici Curiae of 46 Law and Economics Professors in Support of Rehearing en banc, *Federal Trade Commission v. Qualcomm Corp.* (9th Cir. 2020)

Lead counsel and co-author, Brief of Amici Curiae Technology Companies in Support of Petitioner, *Van Buren v. United States* (U.S. 2020)

Lead counsel and principal author, Brief Amici Curiae of 20 Legal Scholars, *TCL v. Ericsson* (U.S. 2020)

Lead counsel and principal author, Brief Amici Curiae of 26 Intellectual Property Professors, *Hologic Techs. v. Minerva, Inc.* (Fed. Cir. 2020)

Co-author, Brief Amici Curiae of Intellectual Property Professors, *Romag v. Fossil* (U.S. 2019)

Co-author, Brief Amici Curiae of 40 Law and Economics Professors, *Federal Trade Commission v. Qualcomm Corp.* (9th Cir. 2019)

Lead counsel and co-author, Brief Amici Curiae of 29 Intellectual Property Professors, *1-800 Contacts v. Federal Trade Commission* (2d Cir. 2019)

Lead counsel, Brief Amici Curiae of 19 Intellectual Property Professors, *Skidmore v. Led Zeppelin* (9th Cir. en banc 2019)

Lead counsel and co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Appellees, *Regents of the University of Minnesota v. Ericsson Inc.* (Fed. Cir. 2018)

Lead counsel and co-author, Brief Amici Curiae of 37 Intellectual Property Law Professors in Support of Appellee' Petition for Panel Rehearing and Rehearing En Banc, *Gordon v. Drape Creative, Inc.* (9th Cir. 2018)

Lead counsel and co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Certiorari, *Mentor Graphics v. EVE-USA, Inc.* (U.S. 2017)

Lead counsel and co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Respondent, *Oil States v. Greene's Energy* (U.S. 2017)

Lead counsel and co-author, Brief Amici Curiae of 61 Intellectual Property Professors in Support of Petitioner, *TC Heartland v. Kraft Foods* (U.S. 2017)

Lead counsel and principal author, Brief Amici Curiae of Automattic, Dropbox, eBay, Facebook, Google, Medium, Pinterest, Twitter, Vimeo, Yahoo!, and the Internet Association in Support of Rehearing en banc, *EMI Christian Music Group v. MP3Tunes.com* (2d Cir. en banc 2016)

Lead counsel and principal author, Brief Amici Curiae of Dykes on Bikes Women's Motorcycle Continent in support of Appellee, *Lee v. Tam* (U.S. 2016)

Lead counsel and co-author, Brief Amici Curiae of 56 Intellectual Property Professors in Support of Certiorari, *TC Heartland v. Kraft Foods* (U.S. 2016)

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Certiorari, *Impression Products v. Lexmark* (U.S. 2016)

Amicus Briefs continued

Lead counsel and principal author, Brief Amici Curiae of 50 Intellectual Property Professors in Support of Petitioner, *Samsung Electronics v. Apple Inc.* (U.S. 2016).

Lead counsel and co-author, Brief Amici Curiae of 40 Intellectual Property Professors in Support of Appellant, *Helsinn v. Teva* (Fed. Cir. 2016)

Lead counsel and principal author, Brief Amici Curiae of Internet Companies, *Halo v. Pulse* (U.S. 2016)

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in Support of Appellant and in Support of Rehearing En Banc and Certiorari, *Apple Inc. v. Samsung Electronics* (Fed. Cir. 2014 & 2015; U.S. 2015).

Lead counsel and principal author, Brief Amici Curiae of Intellectual Property Professors in Support of Rehearing En Banc, *Williamson Trust v. Citrix Online* (Fed. Cir. 2014)

Lead counsel and principal author, Brief Amici Curiae of Netflix Corp. et al. in Support of Respondent, *Alice Pty v. CLS Bank, Inc.* (U.S. 2014)

Lead counsel and principal author, Brief Amici Curiae of Computer and Communications Industry Association et al. in Support of Petitioner, *Octane Health and Fitness v. ICON Inc.* (U.S. 2013)

Lead counsel and principal author, Brief Amici Curiae of Checkpoint Software et al. in Support of Certiorari, *WildTangent v. Ultramercial* (U.S. 2013)

Lead counsel and co-author, Brief Amici Curiae of 118 Professors and the American Antitrust Institute in Support of Petitioners, *Federal Trade Commission v. Activis* (U.S. 2013)

Lead counsel and author, Brief Amici Curiae of Software Companies in Support of Rehearing En Banc, *Kinetic Concepts, Inc. v. Smith & Nephew* (Fed. Cir. 2012)

Lead counsel and co-author, Brief Amici Curiae of Bookstores in Support of Petitioner, *Kirtsaeng v. John Wiley & Sons* (U.S. 2012)

Lead counsel and author, Brief Amici Curiae of 37 Law, Economics, and Business Professors in Support of Petitioner, *Microsoft Corp. v. i4i Ltd.* (U.S. 2011)

Lead counsel and author, Brief Amici Curiae of 86 Law, Economics, Business, and Public Policy Professors in Support of Certiorari, *Louisiana Wholesale Drug Co. v. Bayer AG* (U.S. 2011)

Lead counsel and co-author, Brief Amici Curiae of 41 Law, Economics, and Business Professors in Support of Petitioners, *Global Tech v. SEB* (U.S. 2010)

Lead counsel and author, Brief Amici Curiae of 78 Law, Economics, Business, and Public Policy Professors in Support of Appellants, *In re Cipro Cases* (Cal. Ct. App. 2010)

Lead counsel and co-author, Brief Amici Curiae of Altera, Cisco, the Computer and Communications Industry Association, General Motors, Google, Guidewire Software, Intuit, Microsoft, SAP, and ShoreTel in Support of Certiorari, *Applera Corp. v. Enzo Corp.* (U.S. 2010)

Lead counsel and author, Brief Amici Curiae of 36 Law, Economics, and Business Professors in Support of Certiorari, *Microsoft Corp. v. i4i Corp.* (U.S. 2010)

Lead counsel and co-author, Brief Amici Curiae of 26 Law, Economics, and Business Professors in Support of Certiorari, *PentaTech v. SEB* (U.S. 2010)

Amicus Briefs continued

Lead counsel and author, Brief Amici Curiae of 86 Law, Economics, Public Policy, and Business Professors in Support of Rehearing En Banc, *Arkansas Carpenters Health and Welfare Fund v. Bayer AG* (2d Cir. 2010)

Lead counsel and co-author, Brief Amici Curiae of 20 Law and Business Professors in Support of Neither Party, *Bilski v. Kappos* (U.S. 2009)

Lead counsel and author, Brief Amici Curiae of 54 Intellectual Property Law, Antitrust Law, Economics, and Business Professors, the American Antitrust Institute, the Public Patent Foundation, and the AARP in Support of Petitioner, *Arkansas Carpenters Health and Welfare Fund v. Bayer AG* (U.S. 2009)

Lead counsel and co-author, Brief Amici Curiae of Administrative Law and Intellectual Property Professors in Support of Appellants, *Tafas v. Dudas* (Fed. Cir. 2008)

Lead counsel and co-author, Brief Amici Curiae of 22 Law and Business Professors in Support of Appellants, *In re Bilski* (Fed. Cir. 2008) (en banc)

Lead counsel and principal author, Brief Amici Curiae of 28 Professors of Business, Economics and Law in Support of Appellant, *In re Ciprofloxacin Antitrust Litigation* (Fed. Cir. 2008)

Co-author, Brief Amici Curiae of Intellectual Property, Administrative Law and Public Health Professors in Support of Defendant's Motion for Summary Judgment, *Tafas v. Dudas* (E.D. Va. 2007)

Lead counsel and co-author, Brief Amici Curiae of 26 Professors Supporting Affirmance, *Edwards v. Arthur Andersen* (Cal. Sup. Ct. 2007)

Lead counsel and co-author, Brief Amici Curiae of 41 Professors of Economics, Business and Law in Support of Granting the Petition for Certiorari, *Joblove v. Barr Labs* (U.S. 2007)

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Reversal, *Microsoft Corp. v. AT&T Corp.* (U.S. 2006)

Lead counsel and author, Brief Amicus Curiae of Comcast Cable Communications LLC in Support of Defendants and in Support of Affirmance in *BMC Resources, Inc. v. Paymentech L.P.* (Fed. Cir. 2006)

Lead counsel and principal author, Brief Amici Curiae of the Electronic Frontier Foundation and 38 Intellectual Property Professors in Support of Appellants in *Freecycle Network v. Oey* (9th Cir. 2006)

Lead counsel and principal author, Brief Amici Curiae of Charter Communications, Inc., Comcast Cable Communications, Coxcom, Inc., and Time Warner Cable in Support of Appellants in *Freedom Wireless v. BCGI* (Fed. Cir. 2006)

Lead counsel and author, Brief Amici Curiae of 52 Intellectual Property Law Professors in Support of Petitioners in *eBay, Inc. v. MercExchange, LLC* (U.S. 2006)

Lead counsel and co-author, Brief Amici Curiae of 37 Business, Economics and Law Professors in *In re Tamoxifen Citrate Antitrust Litigation* (2d Cir. 2005) (en banc)

Lead counsel and author, Brief Amici Curiae of 35 Intellectual Property Law Professors in Support of Certiorari in *eBay, Inc. v. MercExchange, LLC* (U.S. 2005)

Amicus Briefs continued

Lead counsel and co-author, Brief Amici Curiae of Cisco Corp. and Google Inc. in *American Axle Manufacturing v. Dana Corp.* (U.S. 2004)

Lead counsel and author, Brief Amici Curiae of Intel Corp., IBM Corp, Google Inc., Microsoft Corp., and Micron Corp. in *Phillips v. AWH Corp.* (Fed. Cir. 2004) (en banc)

Lead counsel and author, Brief Amicus Curiae of Google Inc. in *1-800 Contacts v. WhenU.com* (2d Cir. 2004)

Co-author, Brief Amici Curiae of Computer Associates International, Qualcomm, LSI Logic, and 8 patent law professors in *Knorr-Bremse v. Dana* (Fed. Cir. 2004) (en banc)

Lead counsel and principal author, Brief Amicus Curiae of Intellectual Property Professors in *Moseley v. V Secret Catalogue* (U.S. 2002)

Lead counsel and principal author, Brief Amicus Curiae of Technology Law Professors in *Intel Corp. v. Hamidi* (Cal. Sup. Ct. 2002) (review petition and merits brief)

Lead counsel and principal author, Brief Amicus Curiae of Electronic Frontier Foundation, AFFECT, Digital Future Coalition, Association of Research Libraries, American Library Association, American Association of Law Libraries, Computer and Communications Industry Association, U.S. Association for Computing Machinery, and 33 intellectual property professors in *Bowers v. Baystate Technologies* (Fed. Cir. 2002)

Lead counsel and joint author, Brief Amicus Curiae of The Internet Archive in *Eldred v. Ashcroft* (U.S. 2001 (certiorari petition) and 2002 (merits brief))

Lead counsel and joint author, Brief Amicus Curiae of Technology Law Professors in *Ebay v. Bidder's Edge* (9th Cir. 2000)

Lead counsel and principal author, Brief Amicus Curiae of Copyright Law Professors in *Sony v. Connectix* (9th Cir. 1999)

Lead counsel and principal author, Brief Amicus Curiae of American Committee for Interoperable Systems in *ProCD v. Zeidenberg* (7th Cir. 1996)

Conferences Chaired

Patent Scholars Roundtable, Stanford, California January 25, 2025

First through Twenty-eighth Annual Advanced Patent Law Institutes, Palo Alto, California 2000-2024 and Austin, Texas, 1996-2007

Silicon Valley IP Forum, Stanford, California March 28, 2024

More Than Just a Game Conference, Stanford, California March 1, 2024

Junior Scholars Law and STEM Conference, Stanford, California September 27-28, 2019 and October 27-28, 2023

Stanford Interdisciplinary Workshop on Interoperability, Stanford, California January 28-29, 2023

The Realities of Patent Litigation, Stanford, California September 30, 2022

Conferences Chaired continued

Intellectual Property Scholars' Conference, Stanford, California August 12-13, 2022

Scarcity, Regulation, and the Abundance Society, Stanford, California May 4, 2022

The Realities of Modern Patent Litigation, Stanford, California December 2, 2021

Intellectual Property Scholars' Conference, virtual, July 15-August 22, 2020

Trademark Scholars' Roundtable, Stanford, California, February 28-29, 2020

Roundtable on Patent Damages, Stanford, California, October 4, 2019

Litigating Patents Effectively, Stanford, California September 7, 2018

IP and the Biosciences, Stanford, California April 26, 2018

We Robot, Stanford, California April 12-14, 2018

Patent Law in Global Context, Stanford, California, September 2017

The Changing Patent Landscape, Stanford, California, October 7, 2016

The Psychology and Sociology of Creativity and IP, Stanford, California, September 9-10, 2016

IP Scholars' Conference, Stanford, California, August 11-12, 2016

Chair, Stanford Conference on IP and the Biosciences, May 4, 2016

Co-chair, Stanford-ABA Conference on Innovation and Antitrust, Stanford, California October 8, 2015

Chair, The PTO and the Courts, Stanford, California April 17-18, 2015

Chair, Stanford Conference on IP and the Biosciences, May 15, 2014

Chair, Patent Trolls and Patent Reform, Stanford, California March 21-22, 2014

Co-chair, Second through Tenth Annual Ecommerce Best Practices Conference, Stanford Law School, Stanford, California 2005-2013

Chair, Design Patents in the Modern World, Stanford, California April 5-6, 2013

Convenor, Overlaps Between Patent and Copyright Law, American Law Institute, Washington, DC February 21, 2013

IP Scholars' Conference, Stanford Law School, Stanford, California August 9-10, 2012

Chair or co-chair Co-chair, Patent Institutions Summit, Stanford, California May 21, 2012

Chair, Stanford Conference on IP and the Biosciences, Stanford, California April 27, 2012

Co-chair, Stanford-ABA Conference on Innovation and Antitrust, Stanford, California October 6, 2011

Co-chair, Stanford Law School-ABA conference on Antitrust and Innovation, Stanford, California May 20-21, 2010

Conferences Chaired continued

Co-chair, Stanford Law School Conference on Intellectual Property Law and the Biosciences, Stanford, California May 8, 2009

IP Scholars' Conference, Stanford Law School, Stanford, California August 7-8, 2008

Co-chair, Stanford-Berkeley conference on STS and IP Law, St. Helena, California May 9-10, 2008

Chair, Stanford IP Seminar for Chinese Judges, August 12-21, 2007

Co-chair, Stanford Law School Conference on Intellectual Property and Biosciences, Stanford, California September 15, 2006

Co-chair, "Standardization and the Law: Finding the Golden Mean for International Trade," Stanford Law School, Stanford, California September 22-23, 2005

Co-chair, conference on "Biotechnology & Intellectual Property: Current Controversies," Stanford Law School, Stanford, California March 11, 2005

Chair, Empirical Patent Research Conference, St. Helena, California, February 4, 2005

Chair or co-chair, Eighth through Eighteenth Annual University of Texas Computer Law Conferences, San Francisco, California 2001-2002 and Austin, Texas 1995-2006

Co-chair, Patent System Reform conference, Berkeley, California April 15-16, 2004

Chair, Third Annual Intellectual Property Scholars Conference, Berkeley, California August 8-9, 2003

Chair, Patent System Reform conference, Berkeley, California March 1-2, 2002

Chair, Beyond Microsoft: Antitrust, Technology and Intellectual Property, Berkeley, California March 2-3, 2001

Co-Chair, The Legal and Policy Infrastructure for Global Electronic Commerce, Berkeley, California March 5-6, 1999

Co-chair, Intellectual Property and Contract in Digital Media: The Impact of Uniform Commercial Code Article 2B, Berkeley, California, April 27-28, 1998

Chair, 1998 Computers, Freedom and Privacy conference (CFP98), Austin, Texas, February 18-20, 1998

Congressional and Administrative Testimony and Judicial Education

Testimony before the U.S. Patent and Trademark Office on AI and Inventorship, May 8, 2023

Letter in Opposition to the Journalism Competition & Promotion Act, Senate Judiciary Committee, September 7, 2022

Testimony in Support of Connecticut SB 906, An Act Concerning Noncompetes, February 19, 2021 (with Orly Lobel)

"Patent Law and Biotechnology," presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California February 27, 2020

Testimony and Judicial Education continued

“Patentable Subject Matter Reform,” testimony before the IP Subcommittee, Senate Committee on the Judiciary, June 4, 2019

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 24, 2019

“Patent Infringement, Defenses, and Remedies,” presentation, Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 23, 2018

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 19, 2018

“The Sharing Economy,” presentation to the National Foundation for Judicial Excellence, Chicago, Illinois July 15, 2017

“Patent Infringement, Defenses, and Remedies,” presentation, Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 17, 2017

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 20, 2017

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 16, 2016

“IP and Antitrust,” Stanford-AAI conference on the Economics of Competition, Stanford, California August 28, 2015

“Patent Infringement, Defenses, and Remedies,” presentation, Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 18, 2015

“IP and Antitrust,” Stanford-AAI conference on the Economics of Competition, Stanford, California August 15, 2014

“Patent Infringement, Defenses, and Remedies,” presentation, Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 20-21, 2014

“The Top Ten Ways Patent Law Will Change This Year,” presentation to the Northern District of California Judicial Conference, Sonoma, California January 29, 2014

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 16, 2014

“IP and Antitrust,” Stanford-AAI conference on the Economics of Competition, Stanford, California August 24, 2013

“Patent Litigation, What’s New, What’s Different, and What the Courts Can Do,” Ninth Circuit Judicial Conference, San Diego, California July 16, 2013

“Patent Infringement, Defenses, and Remedies,” presentation, and panelist, “Patentable Subject Matter,” “Design Patents,” and “Damages Issues,” Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 22-24, 2013

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 20, 2013

Testimony and Judicial Education continued

“Patent Infringement, Defenses, and Remedies,” presentation, and panelist, “Managing Patent Cases” and “Damages Issues,” Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 22-23, 2012

Panelist, “Patent Trolls,” Northern District of California Judicial Conference, Monterey, California April 28, 2012

Chair and presenter, sessions on “Patent Validity”, and “Infringement and the Doctrine of Equivalents”, Stanford IP Seminar for Chinese Judges, Stanford, California May 18-27, 2011

“Patent Infringement, Defenses, and Remedies,” presentation, and panelist, “Managing Patent Cases,” Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 21, 2011

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 21, 2011

“Patent Damages,” presentation to Federal Judicial Center Advanced Patent Workshop, Berkeley, California September 24, 2010

“Is There Life After Trinko and Credit Suisse?: The Role of Antitrust in Regulated Industries,” testimony before the Subcommittee on Courts and Competition Policy of the Committee on the Judiciary of the U.S. House of Representatives, Washington, DC June 15, 2010

“Patent Infringement, Defenses, and Remedies,” presentation, and panelist, “Managing Patent Cases,” Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 12, 2010

“Patent Law and Biotechnology,” presentation to the Federal Judicial Center program on Law and Genetics, Stanford, California January 21, 2010

“Internet Law,” panel presentation to the Fourth Circuit Judicial Conference, White Sulphur Springs, West Virginia June 25, 2009

“Patent Infringement, Defenses, and Remedies” presentation to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 27, 2009

“Patent Damages,” testimony before the Federal Trade Commission, Berkeley, California May 5, 2009

Panelist, “Hot Topics in Patent Law,” Northern District of California Judicial Conference, Yountville, CA April 18, 2009

“The Evolving IP Marketplace,” testimony before the Federal Trade Commission, Washington, DC April 17, 2009

“Patent Reform in the Courts and Congress,” testimony before the Judiciary Committee of the U.S. Senate, 111th Congress, 1st Session March 10, 2009

“Patent Infringement, Defenses, and Remedies” presentation to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 21, 2008

“Intellectual Property and Genetics,” presentation to Federal Judicial Center Law and the Biosciences Seminar, Stanford, California January 13, 2008

Testimony and Judicial Education continued

Chair and presenter, sessions on “Patents, Standards and Competition”, “Injunctive Relief After eBay”, and “IP and Antitrust”, Stanford IP Seminar for Chinese Judges, August 12-21, 2007

“Bayh-Dole: The Next 25 Years,” testimony before the Technology and Innovation subcommittee of the Science and Technology Committee of the U.S. House of Representatives, 110th Cong., 1st Sess., July 17, 2007

Chair, Intellectual Property Rights and Technology, program for judges of the Karnataka High Court, India, May 13, 2007

“Intellectual Property and Genetics,” presentation to Federal Judicial Center Law and the Biosciences Seminar, Stanford, California January 12, 2007

“Patent Infringement,” “Defenses,” and “Remedies,” presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, June 7, 2006

Testimony on “Patent Quality Enhancement in the Information-Based Economy” before the subcommittee on Courts, the Internet and Intellectual Property of the Committee on the Judiciary of the U.S. House of Representatives, Washington, DC April 5, 2006

“Intellectual Property and Genetics,” presentation to Federal Judicial Center Law and the Biosciences Seminar, Stanford, California January 13, 2006

Testimony on “Patent Reform” before the Antitrust Modernization Commission, Washington, D.C., November 8, 2005

Testimony on “Protecting Copyright and Innovation in a Post-Grokster World” before the Judiciary Committee of the U.S. Senate, 109th Cong., 1st Sess., September 28, 2005

Testimony on “Market Competitiveness: Does State Antitrust Law Need to be Updated?,” before the California Senate Judiciary Committee, Sacramento, California August 23, 2005

“Testimony on Patent System Reform: Injunctions and Remedies” before the Intellectual Property subcommittee of the Judiciary Committee of the U.S. Senate, 109th Cong., 1st Sess., June 14, 2005

“Written Description,” “Patent Infringement,” “Defenses,” and “Remedies,” presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 25, 2005

Testimony on HR 683 relating to trademark dilution before the Courts, the Internet and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 109th Cong., 1st Sess., February 17, 2005

Panelist, “Internet Law,” presentation to the Ninth Circuit Judicial Conference, San Francisco, California, February 1, 2005

“Claim Construction,” “Doctrine of Equivalents,” “Willful Infringement,” and “Trademark Dilution,” presentations to the Federal Judicial Center’s National Workshop for District Judges, Philadelphia, Pennsylvania, April 19, 2004; Chicago, Illinois, June 8, 2004; and Seattle, Washington, September 21, 2004

Written testimony on SB 1506 relating to identity of file-sharers before the California Senate Judiciary Committee, April 12, 2004

Testimony and Judicial Education continued

“Prosecution History Estoppel” and “Subpoenas Under the DMCA,” presentations to the Seventh Circuit Judicial Conference, Lake Geneva, Wisconsin, Oct. 15, 2003

“Written Description,” “Infringement,” “Remedies,” and “Scope of Waiver of Attorney-Client Privilege,” presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 28, 2003

“Geography and the Internet,” presentation to the National Symposium for Federal Appellate Judges, Federal Judicial Center, Washington, DC October 22, 2002

“Claim Construction,” “Patent Infringement” and “Patent Remedies”, presentations to the Federal Judicial Center program Intellectual Property in the New Technological Age, Berkeley, California, June 19, 2002

Written testimony regarding California SB 1814, relating to monopolization, June 14, 2002

“Intellectual Property Rights and Standard-Setting Organizations,” testimony before the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice, Washington, DC, April 18, 2002

“The Role of Patents in Innovation,” testimony before the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice, Berkeley, CA, February 26, 2002

“Internet Jurisdiction” and “Contracts and Preemption,” presentations to ABA State Appellate Judicial Conference, Vancouver, BC, July 24, 2001

“Patent Claim Construction,” “Written Description” and “Doctrine of Equivalents,” presentations to the Federal Judicial Center program Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 20-22, 2001

“Doctrine of Equivalents” and “Willful Infringement,” presentations to the Central District of California judicial retreat, Ojai, California, Feb. 2, 2001

“Intellectual Property and Sovereign Immunity,” testimony before the Courts and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 106th Cong., 2st Sess., July 27, 2000

“Patent Claim Construction,” “Contract Preemption,” and “Internet Jurisdiction,” presentations to the Federal Judicial Center program Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 21-23, 2000

“Internet Jurisdiction” and “Contract Preemption,” presentations to the Ninth Circuit Judicial Conference, San Diego, California, January 12, 2000

“Intellectual Property and the Challenges Presented by New Technology,” presentation to the Federal Judicial Center’s National Workshop for District Judges, Baltimore, Maryland, August 19, 1999 and Chicago, Illinois, September 10, 1999

Testimony before the California Senate in support of SB 1146, relating to trade secrets in auto emissions devices, June 22, 1999

Written testimony before the Texas House of Representatives regarding H.B. 22, relating to assignment of an employee's rights in an invention, April 14, 1999

Testimony and Judicial Education continued

"State Intellectual Property Law and Preemption," presentation to the Federal Judicial Center program
Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 19, 1998

Testimony before the Federal Trade Commission on the Joint Venture Guidelines Project, Washington, DC, March 20, 1998

Testimony Concerning the Need for and Effects of H.R. 359, Relating to Patent Term, before the Courts and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 104th Cong., 1st Sess., Nov. 1, 1995

More than 550 other presentations to conferences, universities, colloquia, academic business executives and bar groups on various issues related to intellectual property, antitrust, computer and Internet law, telecommunications, and electronic commerce, 1994-2025

FACULTY SERVICE

Stanford University

Department Liaison, American Association of University Professors, 2025 - present

Stanford Law School

Faculty Advisor, Stanford Law Review, 2025 - present
Member, Advisory Committee on AI at SLS, 2024 - present
Member, Career Services Committee, 2021-2022, 2023-2025, 2025-present (chair)
Member, Appointments Committee, 2005–06, 2016-17, 2019-20, 2023-24 (chair)
Member, Tenure Committee, 2009–10, 2013-14 (chair), 2016-17 (chair), 2019-20 (chair), 2021-22
Member, Admissions Committee, 2017-2019
Member, Dean Search Committee, 2012
Member, Joint Degrees/Interdisciplinary Programs Committee, 2007-08, 2011–2015
Faculty Advisor, Stanford IP Association, 2009 – present
Member, Clerkships Committee, 2008-11
Member, Committee on Honors, 2008-09
Director, Program in Law, Science and Technology, 2004 – present
Director, LLM Program in Law, Science and Technology, 2004-15
Member, International Programs Committee, 2004-05
Faculty Advisor, Stanford Law and Technology Association, 2004 – present

University of California at Berkeley

Chair, University Dean Search Committee, Haas School of Business, 2001 – 2002

Boalt Hall School of Law

Co-Director, Berkeley Center for Law and Technology, 1999 - 2004
Chair, Faculty Appointments Committee, 2002 – 2003; member, 2000 – 2001
Faculty Advisor, Berkeley Technology Law Journal, 2003 - present
Faculty Advisor, Saul Lefkowitz Trademark Moot Court team, 2000 – 2001
Member, Computer Advisory Committee, 2000

University of Texas System

Judge, UT Student Association Appellate Court, 1995 - 1999
University Hearing Officer, 1995 - 1999
Member, Computer and Information Technology Use Policies Committee, 1996 - 2000
Member, Intellectual Property Committee, 1994 – 2000

University of Texas School of Law

Member, Career Services Committee, 1995 - 2000
Member, Computer Services Committee, 1994 - 2000 (chair, 1997 and 1999)
Member, Library Committee, 1994 - 1996, 1997 - 1999 (chair, 1995 - 1996)
Coordinator, Lectures and faculty colloquia, 1999 - 2000
Faculty advisor, Texas Intellectual Property Law Journal, 1994 – 2000
Faculty advisor, Intellectual Property Law Society, 1994 - 2000
Faculty advisor, Giles S. Rich Intellectual Property Moot Court team, 1995 – 2000