

# Phillip R. Malone

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## **PROFESSIONAL EXPERIENCE**

**Stanford**

**Law School**, Stanford, CA

*Associate Dean for Clinical Education; Director, Mills Legal Clinic*

- Oversee and direct umbrella organization for all eleven clinics in SLS's Mills Legal Clinic

*Professor of Law/Founding Director, Juelsgaard Intellectual Property & Innovation Clinic (2013 – present):*

- Founded and direct one of the nation's leading IP, innovation and technology policy clinics
- *Research interests:* IP and innovation; antitrust, IP and competition; AI regulation; privacy; regulation of online intermediaries and online speech; AI in legal practice and teaching
- *Service:* Past Chair, SLS Public Interest Committee; member, SLS clinical committee; Chair, task force on assessing SLS engagement with technological innovation in the delivery of legal services; Member, SLS Curriculum Committee and AI at SLS Committee

**Stanford University**, Stanford, CA

*Resident Fellow*, Otero House (July 2013 – July 2017). Resident in all-freshman dorm overseeing student staff and residents.

*Service:* Member, Committee on Residential Life; past member, RES-X Task Force (redesigning residential education at Stanford), Stanford Committee on Libraries

**Harvard Law School and Berkman Center for Internet & Society**

*Clinical Professor of Law* (July 2008-June 2013), *Director, Cyberlaw Clinic* (September 2004-June 2013), *Lecturer on Law* (2005-2008):

- *Clinic:* Transformed small program into a major clinic with 40 students per year and cases across a range of substantive and practice areas; focus on intellectual property, online innovation and speech.
- *Non-Clinic Teaching:* Also developed and teach HLS seminars on Antitrust, Technology & Innovation Practical Lawyering in Cyberspace; Cybercrime (2010-12); and 1L reading groups on online speech, and privacy and technology; and seminar Cyberspace in Court: Law of the Internet in Harvard College Freshman Seminar Program.
- *Service:* HLS representative to Harvard Innovation Lab; HLS Clinical Committee; Clinical Practice and Technology Standards Taskforce; HLS Financial Conflict of Interest Implementation Committee; Heymann Fellowship Program selection.
- *Berkman Center:* Faculty Director (one of group of faculty from across University that sets vision and direction for the Center); Selection Committee for annual Berkman Fellow program; day to day adviser to Berkman management and staff on strategic and operational issues.

*Victor H. Kramer Fellow at HLS*, 2001-2003 (on leave from DOJ). Research and writing regarding policy and legal approaches to innovation in high-tech industries; the intersection of intellectual property, antitrust laws & policy and innovation; and evolving competition law and policy in dynamic, innovative industries.

## **United States Department of Justice, Antitrust Division**

*Trial Attorney*, 1984-August, 2004, *Senior Attorney*, 2000-2003. Extensive experience as lead counsel in numerous civil and criminal antitrust investigations and prosecutions, including civil and criminal trials, including *US v. Microsoft* (DDC) and *US v. Oracle* (NDCal.).

### **PRESENTATIONS AND PANELS**

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*Technology and the Courts: Ensuring Fairness and Due Process While Increasing Access and Efficiency*, Peking-Oxford-Stanford Internet Law and Policy Conference, University of Oxford (November 2015)

*Internet Access for the Next Four Billion: The Promise and the Challenges of Facebook Satellites, Google Balloons, Internet.org, Zero Rating, and Net Neutrality*, Oxford-Stanford Internet Law and Policy Conference, University of Oxford (November 2015)

*Providing Access to Justice for All Through Open Judiciary: The United States Experience*, Open Government Partnership Global Summit, Mexico City (October 2015)

*Opening and closing remarks*, Standard Essential Patents, FRAND and Competition Law Workshop, Stanford Law School, Stanford CA (October 2015)

*Do Patents Really Promote Innovation*, ABA-Stanford Antitrust and Intellectual Property Conference, (debate moderator) Stanford, CA (September 2015)

*New Developments in Competition and Patent Law*, Fourth Annual Waseda Global Patent Strategy Conference, Waseda University, Tokyo, Japan (June 2015)

*Competition, Dominance, and Innovation Online*, Oxford-Stanford Internet Law and Policy Conference, Peking University, Beijing, China (November 2014)

*Privacy and Technology*, iLaw 2011, Harvard Law School (September 2011)

Sessions on *Technology Entrepreneurship*; *Technology and Innovation*; and *Entrepreneurial Leadership* at Aspire Academy, Poiana Brasov, Romania (program for promising Eastern European college entrepreneurs and innovators) (July 2011)

*Innovative Approaches to Understanding and Combating Cyber-Trafficking*, 2011 Human Trafficking Conference, Texas Center for the Judiciary, Austin, TX (June 2011)

*Partnering with the Courts on Technology-Based Initiatives*, National Meeting of State Access to Justice Chairs, ABA Equal Justice Conference, Las Vegas, NV (May 2011)

Retrospective on the Microsoft Final Judgment: Ten Years Later, Federalist Society, San Francisco, CA (May 2011)

*Privacy, the First Amendment and Dotrights*, Internet and the Law: Contentious Issues and Emerging Solutions conference (moderator), Boston Bar Association (April 2011)

*Transformative Technology: Best Practices for Synthesizing Technology for Teaching with Technology for Enhancing Access to Justice*, SALT Teaching Conference, Teaching in a Transformative Era: The Law School of the Future (December 2010)

*Innovative Web Content for Access to Justice*, Massachusetts Access to Justice Commission, Website and Technology Working Group (moderator and conference organizer), Harvard Law School (November 2010)

*Copyright in the Law and Legal Innovation*, Law.gov: Putting It All Together conference, Harvard Law School (June 2010)

Towards Principles and Best Practices for Operating in the Cloud workshop, Berkman Center Law Lab, Harvard Law School (May 2010)

*Perspectives on Andy Gavil's and Harry Microsoft and the Globalization of Antitrust Law: Competition Policy for the Twenty-First Century*, Loyola Antitrust Colloquium, Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law (April 2010)

*Facebook, MySpace, Twitter and More: Evidentiary Value of Social Networking Information*, New England High-Tech Crime Investigators' Association (September 2009)

*Open Licenses and other Content Innovations for Charitable Foundations*, Ford Foundation Worldwide Leadership Conference, New York, NY (September 2009)

Alternative Approaches to Open Digital Libraries in the Shadow of the Google Book Search Settlement conference (speaker and conference organizer), Harvard Law School (July 2009)

*A History of Antitrust in High-Tech Markets*, Computer & Communications Industry Association Antitrust Summit on Innovation and Competition Policy in High-Tech Markets, Washington, DC (October 2008)

*Welcome and History of the Case, United States v. Microsoft: Ten Years Later* conference (speaker and conference organizer), Harvard Law School (September 2008)

*Social Networking Sites as Evidence*, Massachusetts Committee for Public Counsel Services (May 2008)

*Anti-Spyware Liability* (moderator), Anti-Spyware Coalition conference (January 2008)

*Electronic Discovery and Recent Amendments to the Federal Rules of Civil Procedure*, National Association of Attorneys General (NAAG) Antitrust Conference (October 2006)

*Competition Policy and Innovation Priorities for the Technology Sector*, Silicon Valley Association of General Counsel (December 2003)

*Software Integration: Legal, Technological and Metaphysical Implications*, Harvard Law School, Berkman Center Luncheon Series (July 2003)

*Antitrust, Software and Innovation: Lessons from the Microsoft Case*, Harvard Law School, Internet Law Colloquium (April 2003)

*Exploiting Technology in Presenting Evidence*, ALI-ABA, Trying and Winning a Civil Antitrust Case (November 2001)

*Electronic Evidence*, NAAG Antitrust Litigation Conference (October 2000)

*The Effective Use of Trial Technology*, U.S. District Court of DC Bar Association (November 1999)

*Using Technology to Manage and Prosecute Complex Cases*, NAAG Antitrust Litigation Conference (October 1999)

*Electronic Discovery in Investigations and Litigation*, Joint FTC/NAAG Common Ground Conference (May 1996)

## **PROJECTS AND OTHER ACTIVITIES**

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*Co-founder and Principal Investigator*, Citizen Media Law Project, an innovative platform that provides legal assistance, training, research, and other resources for online and citizen journalists and a forum for creative research and thinking about the intersection of law and journalism on the Internet (<http://www.citmedialaw.org/>), and Online Media Law Network, the first extensive legal referral network devoted to the needs of digital media and journalists (<http://www.omln.org/>)

*Co-founder and contributor*, IPRsTrust--Patents, Standards and Antitrust, a web research platform and resource clearinghouse for scholarship and legal documents regarding standards and innovation, with an emphasis on patents and antitrust issues (<http://www.iprstrust.org/>)

*Participant*, Summit on the Use of Technology to Expand Access to Justice, US Legal Services Corporation (2012-13)

*Participant*, NSF/DARPA Study Group on Privacy and Large-Scale Data Research (January 2011-June 2013)

*Participant*, Digital Public Library of America initiative, Harvard Law School (January 2011- June 2013)

*Participant*, Berkman Center Law Lab Cloud Computing Initiative (January 2010- June 2013)

*Participant*, Educating the Digital Lawyer program, part of FutureEd 2: Making Global Lawyers for the 21st Century conference, Harvard Law School (October 2010)

*Moderator*, the *Doe* listserve, a group of advocates from EFF, ACLU, CDT and others focused on preserving online anonymity and developing proper standards for courts to employ when considering subpoenas and other attempts to unmask anonymous speakers (2004- June 2013)

*Participant*, Chilling Effects working group, an advisory committee of representatives from law school clinics, EFF and elsewhere who advise on strategic direction, operations and legal issues relating to the Chilling Effects project (2004- June 2013)

*Attended* Antitrust and Innovation Symposium, Stanford Law School (May 2010)

*Regularly attend* ABA Antitrust Section Spring Meetings, every year for many years, focusing on discussions relating to innovation, IP and high-tech competition

*Attended* Google Book Search Workshop, Berkeley Center for Law and Technology (Feb 2009)

*Attended* Conference on the Law and Economics of Innovation: The Regulation of Innovation and Economic Growth, George Mason Law School (May 2007)

*Attended* Patents and Diversity in Innovation, Michigan Law School (Sept. 2006)

*Attended* Regulating Search? Yale Law School (Dec. 2005)

## **PUBLICATIONS**

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"Antitrust Gaps, Income Inequality, and Principled Reforms: A Response to Professor Elhauge," 82 Ohio State Law Journal Online 207 (2021)

"Overcoming Barriers to Adoption of Effective Technology Strategies for Improving Access to Justice, with Linda Rexer, in "Using Technology to Enhance Access to Justice," 26 Harvard Journal of Law & Technology 1 (2012)

"Best Practices in the Use of Technology to Facilitate Access to Justice Initiatives," interim report for the Special Advisor to the Massachusetts Trial Court for Access to Justice (July 2010) (co-authored with Cyberlaw Clinic students)

"An Evaluation of Private Foundation Copyright Licensing Policies, Practices and Opportunities," prepared for the William and Flora Hewlett Foundation, The Ford Foundation and the Open Society Institute (August 2009, revised March 2011)

## **BAR MEMBERSHIPS AND DEGREES**

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Admitted to California, Massachusetts and Arizona (inactive) Bars; the US Supreme Court; the First, Second, Third, Fourth, Seventh, Ninth, Tenth, Eleventh, DC and Federal Circuits, and various federal district courts

J.D., 1984, University of Arizona College of Law

A.B., 1981, Harvard College