

NYU
LAW



ENGELBERG
C E N T E R
ON INNOVATION LAW & POLICY

2018



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ABOUT THE ENGELBERG CENTER

The Engelberg Center provides a unique environment where scholars and policymakers examine the law and policy that best support innovation. The center has attracted legal scholars and practitioners, government officials, economists, physical scientists, engineers, historians, industry experts, and others who study—theoretically and empirically—the incentives that motivate innovators, how those incentives vary among different types of creative endeavor, and the laws and policies that help or hinder them. The Engelberg Center facilitates programming, publications, and other interactions that refine our understanding of the legal and policy implications of this research and that communicate those implications to stakeholders and decision makers, both nationally and internationally.

In addition to the world-class faculty and scholars it attracts, the Engelberg Center draws on the diversity of New York City, which is a center for creativity in advertising, art, cuisine, entertainment, fashion, financial services, graphic design, law, life sciences, literature, marketing, music, and technology, among other fields. We seek to enhance the ecosystem that supports close connections between legal scholars and the innovator community in and around the city.

Alfred B. Engelberg '65 generously endowed the Engelberg Center on Innovation Law & Policy in 1994. He has enjoyed an unusually varied career in the field of intellectual property, having served as a patent examiner, a patent agent, a patent attorney in the Department of Justice, a member of a law firm, a representative for the generic pharmaceutical industry, and a principal negotiator during the legislative process that led to the Patent Term Restoration Act of 1984 (the “Hatch-Waxman Act”).

FACULTY CO-DIRECTORS



BARTON BEEBE

John M. Desmarais Professor of Intellectual Property Law

Barton Beebe specializes in the doctrinal, empirical, and cultural analysis of intellectual property law. He has been the Anne Urowsky Visiting Professor of Law at Yale Law School, a visiting professor of law at Stanford Law School, and a Visiting Research Fellow at Merton College, Oxford. He has also taught courses at Hebrew University, Jerusalem, the Center for International Intellectual Property Studies at the Université de Strasbourg, the Munich Intellectual Property Law Center, the State Intellectual Property Office of the People's Republic of China, and the Hanken School of Economics in Helsinki. He is the author of *Trademark Law: An Open-Source Casebook*, which is a free online trademark casebook now in use in over 40 law schools around the world. Professor Beebe received his JD from Yale Law School, his PhD in English Literature from Princeton University, and his BA from the University of Chicago. He clerked for Judge Denise Cote of the United States District Court for the Southern District of New York.

Recent Publications

Empirical Studies of Trademark Law, in *Research Handbook on the Economics of Intellectual Property Law: Volume II. Analytical Methods* (forthcoming)

“*Star Athletica* and the Problem of Panaestheticism”, 9 *UC Irvine Law Review* (forthcoming 2019)

“Testing for Trademark Dilution in Court and the Lab,” 86 *University of Chicago Law Review* (forthcoming 2019) (with Roy Germano, Christopher Jon Sprigman and Joel Steckel)

“Are We Running Out of Trademarks? An Empirical Study of Trademark Depletion and Congestion,” 131 *Harvard Law Review* 945 (2018) (with Jeanne C. Fromer)

Trademark Law: An Open-Source Casebook (2018)

Design Protection, in *The Oxford Handbook of Intellectual Property Law* 572 (Rochelle Dreyfuss and Justine Pila, eds., Oxford University Press, 2018)

“*Bleistein*, the Problem of Aesthetic Progress, and the Making of American Copyright Law,” 117 *Columbia Law Review* 319 (2017)

“The Scope of Strong Marks: Should Trademark Law Protect the Strong More Than the Weak?,” 92 *N.Y.U. Law Review* 1339 (2017) (with C. Scott Hemphill)



ROCHELLE DREYFUSS

Pauline Newman Professor of Law

A trained research chemist, Rochelle Cooper Dreyfuss focuses her research and writing on the intersection between patents and science and examines the implications of technological change on patent law and policy. Her other interests include procedural issues arising in intellectual property litigation, particularly in the international context. After graduating from Columbia Law School, she clerked for Chief Judge Wilfred Feinberg (Second Circuit) and Chief Justice Warren Burger (U.S. Supreme Court). A member of the American Law Institute, Professor Dreyfuss was the Reporter for its project on Intellectual Property: Principles Governing Jurisdiction, choice of Law and Judgments in Transnational Disputes. She is currently an adviser on the ALI's Restatement Third of Conflicts of Laws project. She has been a consultant to the Federal Courts Study Committee, the Presidential Commission on Catastrophic Nuclear Accidents, and the Federal Trade Commission. She has served on committees of the National Academies of Science and the Department of Health & Human Services. She is a past chair of the Intellectual Property Section of the American Association of Law Schools. In addition to articles in her specialty areas, Professor Dreyfuss has co-authored books on intellectual property law and international intellectual property law.

Recent Publications

The Oxford Handbook of Intellectual Property Law (Oxford University Press, 2018) (ed. with Justine Pila)

"Brexit and IP: The Great Unraveling?" 39 *Cardozo Law Review* 967 (2018) (with Graeme B. Dinwoodie)

"On Aiding Technological Development: The Max Planck Declaration on Patent Protection," 6 *UC Irvine Law Review* 321 (2017) (with Esteban Donoso)

"Trade Secret Enforcement: The Reach of Extraterritoriality and Its Alternatives," 8 *Cybaris Intellectual Property Law Review* 181 (2017)

"Reconsidering Experimental Use," 50 *Akron Law Review* 699 (2017)



JEANNE FROMER

Professor of Law

Jeanne Fromer specializes in intellectual property, including copyright, patent, trademark, trade secret, and design protection laws. In 2011, she was awarded the American Law Institute's inaugural Young Scholars Medal for her scholarship in intellectual property. Professor Fromer was a visiting professor at Harvard Law School and also previously taught at Fordham Law School. She was a law clerk to Justice David H. Souter (U.S. Supreme Court) and Judge Robert D. Sack (Second Circuit). After working at Hale and Dorr (now WilmerHale) in intellectual property, she was an Alexander Fellow with the NYU School of Law and a Resident Fellow with Yale Law School's Information Society Project. She earned her BA summa cum laude in computer science from Barnard College and her SM in electrical engineering and computer science from MIT for research in artificial intelligence and computational linguistics, and worked at AT&T (Bell) Laboratories in those same areas. She received her JD magna cum laude from Harvard Law School, serving as Articles and Commentaries Editor of the *Harvard Law Review* and Editor of the *Harvard Journal of Law and Technology*.

Recent Publications

"Playful Innovation" (forthcoming) (with Mark Lemley)

"A Theory of Legal Protection for Industrial Design" (forthcoming) (with Christopher Sprigman)

"Overhauling Trademark Distinctiveness" (forthcoming)

"Machines as the New Oompa Loompas: Trade Secrecy, the Cloud, Artificial Intelligence, and Automation" (forthcoming)

"Taking Intellectual Property into Their Own Hands," 107 *California Law Review* (forthcoming 2019) (with Amy Adler)

Copyright Law: Cases and Materials v. 1.0 (forthcoming 2018) (with Christopher Sprigman)

"Claiming Design," 167 *University of Pennsylvania Law Review* (forthcoming 2018) (with Mark McKenna)

"Are We Running Out of Trademarks? An Empirical Study of Trademark Depletion and Congestion," 131 *Harvard Law Review* 945 (2018) (with Barton Beebe)

"Fashion's Function in Intellectual Property Law," 93 *Notre Dame Law Review* 51 (2017) (with Christopher Buccafusco)

"Forgetting Functionality," 166 *University of Pennsylvania Law Review Online* 119 (2017) (with Christopher Buccafusco)

"The Unregulated Certification Mark(et)," 69 *Stanford Law Review* 121 (2017)



SCOTT HEMPHILL

Professor of Law

Scott Hemphill teaches and writes about antitrust, intellectual property, and regulation of industry. He holds a JD and PhD in economics from Stanford, an AB from Harvard, and an MS in economics from the London School of Economics, where he studied as a Fulbright Scholar. He served as Antitrust Bureau Chief for the New York Attorney General and clerked for Judge Richard Posner on the US Court of Appeals for the Seventh Circuit, and Justice Antonin Scalia on the United States Supreme Court. Hemphill joined NYU from Columbia Law School, where he was a professor of law. Hemphill's research focuses on the law and economics of competition and innovation. His scholarship ranges broadly, from drug patents to net neutrality to fashion and intellectual property. Recent work examines the antitrust problem of parallel exclusion in concentrated industries and anticompetitive settlements of patent litigation by drug makers. His scholarship has been cited by the United States Supreme Court and California Supreme Court, among others, and formed the basis for congressional testimony on matters of regulatory policy. His writing has appeared in law reviews, peer-reviewed journals, and the popular press, including the *Yale Law Journal*, *Science*, and the *Wall Street Journal*.

Recent Publications

"A Study of Exclusionary Coalitions: The Canadian Sugar Coalition, 1888-1889," *Antitrust Law Journal* (forthcoming 2018) (with John Asker)

The Coca-Cola Bottle, in *A History of Intellectual Property in 50 Objects* (Dan Hunter & Claudy Op Den Kamp, eds., Cambridge University Press, forthcoming 2018) (with Jacob Gersen)

"Beyond Brooke Group: Bringing Reality to the Law of Predatory Pricing," *127 Yale Law Journal* 2048 (2018) (with Philip J. Weiser)

"Mergers that Harm Sellers," *127 Yale Law Journal* 2078 (2018) (with Nancy L. Rose)

Intellectual Property and Competition Law, in *The Oxford Handbook of Intellectual Property Law* 872 (Rochelle Dreyfuss and Justine Pila, eds., Oxford University Press) (2018)

"The Scope of Strong Marks: Should Trademark Law Protect the Strong More Than the Weak?" *92 N.Y.U. Law Review* 1339 (2017) (with Barton Beebe)



JASON SCHULTZ

Professor of Clinical Law

Jason M. Schultz is a Professor of Clinical Law, Director of NYU's Technology Law & Policy Clinic, and Area Lead in Law & Policy for the AI Now Institute. His clinical projects, research, and writing primarily focus on practical frameworks and policy options to help traditional areas of law such as intellectual property, privacy, consumer protection, and civil rights adapt in light of new technologies and the challenges they pose. His most recent work focuses on the social and legal implications of machine learning, artificial intelligence, and the Internet of Things.

During the 2016-2017 academic year, Professor Schultz was on leave to work at the White House Office of Science and Technology Policy, where he served as Senior Advisor on Innovation and Intellectual Property to U.S. Chief Technology Officer Megan Smith.

With Aaron Perzanowski, he is the author of *The End of Ownership: Personal Property in the Digital Economy* (MIT Press 2016), which argues for retaining consumer property rights in a marketplace that increasingly threatens them.

Recent Publications

Algorithmic Impact Assessments: A Practical Framework for Public Agency Accountability (AI Now Institute 2018) (with Dillon Reisman, Kate Crawford, and Meredith Whittaker)

"Limitless Worker Surveillance," *105 California Law Review* 735 (2017) (with Ifeoma Ajunwa and Kate Crawford)

Is Patent Reform via Private Ordering Anticompetitive? An Analysis of Open Patent Agreements, in *Patent Pledges: Global Perspectives on Patent Law's Private Ordering Frontier* 151 (Jorge L. Contreras and Meredith Jacob, eds., Edward Elgar Publishing, 2017)

The End of Ownership: Personal Property in the Digital Economy (MIT Press, 2016) (with Aaron Perzanowski)

Prior to joining NYU, Professor Schultz was an Assistant Clinical Professor of Law and Director of the Samuelson Law, Technology & Public Policy Clinic at the UC Berkeley School of Law (Boalt Hall). Before joining Boalt Hall, he was a Senior Staff Attorney at the Electronic Frontier Foundation (EFF), one of the leading digital rights groups in the world, and before that practiced intellectual property law at the firm of Fish & Richardson, PC. He also served as a clerk to the Honorable D. Lowell Jensen of the Northern District of California. He is a member of the American Law Institute.



CHRISTOPHER SPRIGMAN

Professor of Law

Chris Sprigman teaches intellectual property law, antitrust law, competition policy, and comparative constitutional law. His scholarship focuses on how legal rules affect innovation and the deployment of new technologies. He is the author of numerous articles both in law reviews and in the popular press, as well as a book, *The Knockoff Economy: How Imitation Sparks Innovation* (Oxford 2012), co-authored with Kal Raustiala of the UCLA School of Law. He also serves as the Reporter for the American Law Institute's Restatement of Law: Copyright. Sprigman received his BA with honors from the University of Pennsylvania in 1988. He attended the University of Chicago Law School, serving as a comment editor of the *University of Chicago Law Review* and graduating with honors in 1993. Following graduation, Sprigman clerked for Judge Stephen Reinhardt of the US Court of Appeals for the Ninth Circuit, and for Justice Lourens H. W. Ackermann of the Constitutional Court of South Africa. Sprigman also taught at the law school of the University of the Witwatersrand, in Johannesburg, South Africa. From 1999 to 2001, Sprigman served as appellate counsel in the Antitrust Division of the US Department of Justice, where he worked on *US v. Microsoft*, among other matters. Sprigman then joined the Washington, D.C., office of King & Spalding, where he was elected a partner. In 2003, he left law practice to become a Residential Fellow at the Center for Internet and Society at Stanford Law School. He joined the University of Virginia faculty in 2005 and moved from UVA to NYU School of Law in 2013.

Recent Publications

When are IP Rights Necessary? Evidence from Innovation in IP's Negative Space, in *Research Handbook on the Economics of Intellectual Property Law (Vol. I—Theory)* (Peter Menell and Ben Depoorter, eds., Edward Elgar Publishing, forthcoming) (with Kal Raustiala)

Experiments in Intellectual Property, in *Research Handbook on the Economics of Intellectual Property Law (Vol. II—Analytical Methods)* (Peter Menell and David Schwartz, eds., Edward Elgar Publishing, forthcoming) (with Christopher Buccafusco)

"A Theory of Legal Protection for Industrial Design" (forthcoming) (with Jeanne Fromer)

"Testing for Trademark Dilution in Court and in the Lab," 86 *University of Chicago Law Review* (forthcoming 2019) (with Barton Beebe, Roy Germano, and Joel Steckel)

Copyright Law: Cases and Materials v. 1.0 (forthcoming 2018) (with Jeanne Fromer)

"Rethinking Post-Sale Confusion," 108 *Trademark Reporter* 881 (2018) (with Kal Raustiala)

Conclusion: Some Positive Thoughts About IP's Negative Space, in *Creativity Without Law: Challenging the Assumptions of Intellectual Property* 249 (Kate Darling and Aaron Perzanowski, eds., New York University Press) (2017)

"Copyright and Creative Incentives: What We Know (and Don't)," 55 *Houston Law Review* 451 (2017)



KATHERINE STRANDBURG

Alfred E. Engelberg Professor of Law

Katherine Strandburg concentrates her teaching and research in the areas of patent law and innovation policy and information privacy law. Her scholarship considers how the law in these areas should reflect the importance of collaboration and social interactions and respond to technological change. Her legal analysis is informed by studies of user innovation and of knowledge commons governance. She is also the faculty director of the interdisciplinary NYU Information Law Institute.

Professor Strandburg obtained her law degree from the University of Chicago Law School with high honors in 1995 and served as a law clerk to the Honorable Richard D. Cudahy of the US Court of Appeals for the Seventh Circuit. She is an experienced litigator, is licensed to practice before the United States Patent and Trademark Office, and has authored several amicus briefs to the Supreme Court and federal appellate courts dealing with patent law and privacy issues.

Prior to her legal career, Professor Strandburg was a research physicist at Argonne National Laboratory, having received her PhD from Cornell University in 1984 and conducted postdoctoral research at Carnegie Mellon. She was a visiting faculty member of the physics department at Northwestern University from 1990 to 1992.

Recent Publications

Knowledge Commons, in *Handbook of the Commons* (Blake Hudson, Jonathan Rosenbloom, and Daniel H Cole, eds., Routledge, forthcoming) (with Michael J. Madison and Brett M. Frischmann)

Users, Patents and Innovation Policy, in *The Oxford Handbook of Intellectual Property* 725 (Rochelle Dreyfuss and Justine Pila, eds., Oxford University Press, 2018)

"Privacy as Commons: Case Evaluation through the Governing Knowledge Commons Framework," 8 *Journal of Information Policy* 116 (2018) (with Madelyn Sanfilippo and Brett Frischmann)

Governing Medical Knowledge Commons (Katherine J. Strandburg, Brett M. Frischmann, and Michael J. Madison, eds., Cambridge University Press, 2017)

"Fostering Reproducibility in Industry-Academia Research," 357 *Science* 759 (2017) (with B.R. Jasny, et al.)

Derogatory to Professional Character? The Evolution of Physician Anti-Patenting Norms, in *Creativity Without Law: Challenging the Assumptions of Intellectual Property* 63 (Kate Darling and Aaron Perzanowski, eds., New York University Press, 2017)

The Consortium of Eosinophilic Gastrointestinal Disease Researchers (CEGIR): An Emerging Knowledge Commons, in *Governing Medical Knowledge Commons* 390 (Katherine J. Strandburg, Brett M. Frischmann, and Michael J. Madison, eds., Cambridge University Press, 2017) (with Stefan Bechtold)

The Knowledge Commons Framework, in *Governing Medical Knowledge Commons* 9 (Katherine J. Strandburg, Brett M. Frischmann, and Michael J. Madison, eds., Cambridge University Press, 2017) (with Brett M. Frischmann and Michael J. Madison)

The North American Mitochondrial Disease Consortium: A Developing Knowledge Commons, in *Governing Medical Knowledge Commons* 348 (Katherine J. Strandburg, Brett M. Frischmann, and Michael J. Madison, eds., Cambridge University Press, 2017) (with Brett M. Frischmann)

ADVISORY BOARD

The Engelberg Center is proud to announce its new Advisory Board. The Advisory Board brings together a corps of accomplished and insightful people from industry, law firms, government, and the non-profit sectors, and from every part of the innovation community. The Engelberg Center will be working closely with the Advisory Board to connect our academic work to real-world knowledge, practice, and wisdom.

Thanks to three key people who made the Advisory Board possible: **John Desmarais '88**, **Claudia Ray '92**, and **Bruce Wexler '92**. They led the effort of bringing the Engelberg Center's Advisory Board together, and we are immensely grateful for their work and dedication.

BOARD MEMBERS

Judges

Judge Raymond Chen, U.S. Court of Appeals for the Federal Circuit '94

Judge Denise Cote, U.S. District Court for the Southern District of New York

Judge Pierre Leval, U.S. Court of Appeals for the Second Circuit

Judge Pauline Newman, U.S. Court of Appeals for the Federal Circuit '58

Chief Judge Leonard Stark, U.S. District Court for the District of Delaware

Law Firm Lawyers

Doug Cawley, Principal, McKool Smith

John Desmarais, Founding Partner, Desmarais LLP '88

Mark Ferguson, Partner, Bartlit Beck Herman Palenchar & Scott LLP

Robert Gunther, Jr., Partner, WilmerHale

Keith Hummel, Partner, Cravath, Swaine & Moore LLP

Benjamin Marks, Partner, Weil, Gotshal & Manges LLP '97

Joseph Petersen, Partner, Kilpatrick Townsend

Ashok Ramani, Partner, Davis Polk & Wardwell LLP

Claudia Ray, Partner, Kirkland & Ellis LLP '92

Melanie Rupert, Partner, Paul Hastings LLP '01

Bruce Wexler, Partner, Paul Hastings LLP '92



John Desmarais



Claudia Ray



Bruce Wexler

In-House Lawyers

Stephen Coates, Senior Counsel, Trademarks and Domain Names, Amazon

Ayala Deutsch, Executive Vice President & Deputy General Counsel, NBA Properties, Inc. '89

Vladimir Elgort, Vice President, IP Counsel, Sony Corporation of America

Henry Hadad, Senior Vice President and Deputy General Counsel, Bristol-Myers Squibb

Terry Ilardi, Senior Counsel, IP Law Policy, IBM

Noreen Krall, Vice President and Chief Litigation Counsel, Apple Inc.

Erin Mehta, Counsel, Litigation & Patents, Hulu

Donna Meuth, Associate General Counsel Intellectual Property, Eisai

Douglas Norman, Vice President and General Patent Counsel, Eli Lilly and Company

Benjamin Ostapuk, Vice President and Director of Patent Litigation, Intel Corporation

Mark Rachlin, Senior Patent Litigation Counsel, GlaxoSmithKline

Laura Sheridan, Senior Patent Counsel, Google

Jule Sigall, Associate General Counsel, IP Policy & Strategy, Microsoft

Jennifer Yokoyama, Associate General Counsel, IP Litigation, Microsoft

Non-Profit, Government, and Policy Lawyers

Alfred Engelberg, Trustee, The Engelberg Foundation '65

Judit Rius Sanjuan, Access and Innovation to Health Technologies, Bureau for Policy and Programme Support, United Nations Development Program

Gigi Sohn, Distinguished Fellow, Georgetown Law Institute for Technology Law & Policy

STAFF



MICHAEL WEINBERG
Executive Director

Before joining NYU, Michael Weinberg served as General Counsel at Shapeways, a 3D printing marketplace and service company, where he also oversaw strategic partnerships. He is the author of a number of white papers that examine the intersection of 3D printing and intellectual property law. Before Shapeways, Weinberg was Vice President at Public Knowledge, a nonprofit public interest advocacy organization dedicated to representing consumers in technology policy debates in Washington, DC. Weinberg regularly discusses 3D printing law and policy issues with the media and at public events and founded 3D/DC, an annual 3D printing policy event in Washington, DC. He is also the president of the board of the Open Source Hardware Association, where he oversees the open source hardware certification project. Weinberg holds a BA in government and history from Claremont McKenna College and a JD from The George Washington University Law School.



NICOLE ARZT
Program Coordinator

Nicole Arzt has overseen the daily operations of the Engelberg Center on Innovation Law & Policy since 2000 and coordinates the Center's various programs. Arzt recently received NYU's Give-A-Violet Award, which annually recognizes NYU staff who perform above and beyond the normal scope of their responsibilities. She holds a B.A. in fashion merchandising with a minor in business from the University of Maryland.

Special thanks to **ANNE HASSETT**, who served as Executive Director of the Engelberg Center (2015-18) following a distinguished 30-year career as a trial lawyer in complex business litigation, in particular intellectual property litigation. She co-taught Life Sciences Patent Law and the Innovation Externships Seminar at NYU School of Law, both in Spring 2018.

FELLOWS



MALA CHATTERJEE '18
JD/PhD Candidate, Philosophy, New York University

Mala Chatterjee is a joint-JD/PhD candidate in philosophy at New York University. Her research interests, both legally and philosophically, concern information. This includes intellectual property (copyright, trademark, patent, trade secrets, right of publicity); freedom of speech; aesthetics (art, music, expression); defamation; privacy; and technology (applied ethics, bioethics, information privacy, artificial intelligence). She is writing a dissertation on the philosophical foundations of intellectual property under the supervision of Liam Murphy and Jeremy Waldron. She received her JD from NYU School of Law in 2018, where she was a Furman Academic Scholar and Executive Editor of the *NYU Law Review*. Chatterjee earned the Maurice Goodman Memorial Prize for outstanding academic achievement and scholarship, the John Bruce Moore Award for highest excellence in Law & Philosophy, and the Bradley Fellowship for scholarly work in free speech. She was a Pomeroy Scholar and a Butler Scholar (awarded to the top 10 students after 1L and 2L years respectively) and elected to the Order of the Coif. She will clerk for the honorable Judge Robert Sack on the U.S. Court of Appeals for the Second Circuit in the 2019-20 term.



AMANDA LEVENDOWSKI '14
Clinical Teaching Fellow, NYU Technology Law and Policy Clinic

Amanda Levendowski is a Clinical Teaching Fellow with the NYU Technology Law and Policy Clinic. Her clinical projects and research address how we can develop practical approaches to digital problems. Currently, she is examining how copyright law channels artificial intelligence in a biased direction. She is also developing a novel framework called conflict modeling, which adapts threat modeling methodologies to identifying, analyzing, and mitigating the risks of online conflict. Next year, she will be joining the faculty of Georgetown University Law Center, where she will be starting Georgetown's new intellectual property clinic. Levendowski previously practiced copyright, trademark, internet, and privacy law at Kirkland & Ellis and Cooley LLP. Levendowski received her JD from NYU Law, where she was elected to the Order of the Barristers and received the Walter J. Derenberg Prize for copyright law.



JACOB VICTOR
Acting Assistant Professor of Law

Jacob Victor's research focuses on how intellectual property regimes adapt to accommodate new forms of technology, as well as the role of property as a regulatory tool in addressing the policy concerns of the digital age. Prior to joining NYU, Victor was an associate in the intellectual property litigation group at Kirkland & Ellis LLP, where he litigated copyright, trademark, and trade secret cases and advised clients on legal issues related to entertainment, art, technology, and advertising. Before that, he served as a law clerk for Judge Pierre N. Leval on the U.S. Court of Appeals for the Second Circuit. Victor graduated from Yale Law School in 2014, where he was an Essays Editor of the *Yale Law Journal*, a Coker Fellow, a member of the Media Freedom and Information Access Clinic, and a fellow at the Yale Information Society Project.

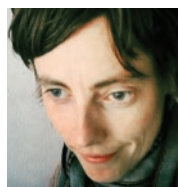
AFFILIATED FACULTY



AMY ADLER

Emily Kempin Professor of Law

A leading scholar of art law, Adler specializes in the legal regulation of artistic expression, sexuality, and free speech. Her recent scholarship addresses an array of issues such as the First Amendment treatment of visual images, the misfit between copyright law and the art market, the legal regulation of pornography, and the moral rights of artists.



JANE ANDERSON

Associate Professor, Anthropology and Museum Studies, NYU

Jane Anderson's research focuses on the intersection of indigenous knowledge with intellectual property law and the complicated legal and social justice problems that this intersection presents. She is also an expert consultant for the World Intellectual Property Organization on a number of policy proposals for the protection of traditional knowledge and cultural expressions.



RICHARD EPSTEIN

Laurence A. Tisch Professor of Law

Considered one of the most influential thinkers in legal academia, Richard Epstein is known for his research and writings on a broad range of constitutional, economic, historical, and philosophical subjects.



HARRY FIRST

Charles L. Denison Professor of Law

Harry First is Co-Director of the Competition, Innovation and Information Law Program and a specialist in antitrust and business crime. First's scholarly work has focused on various aspects of antitrust enforcement and theory.



ELEANOR FOX LLB '61

Walter J. Derenberg Professor of Trade Regulation

Eleanor Fox LLB '61 is a prominent antitrust and comparative competition law scholar. She has a special interest in developing countries, poverty, and inequality, and explores how opening markets and attacking privilege, corruption, and cronyism can alleviate marginalization and open paths to economic opportunity and inclusive development.



DEEPAK HEGDE

Associate Professor of Management and Organizations, NYU Stern School of Business

Deepak Hegde's research focuses on the unique challenges posed by innovation to business strategy and public policy (principally the production and commercialization of new ideas). He studies high-tech industries including biomedical and information and communication technologies.



MYLES JACKSON

Gallatin Research Excellence Professor, NYU Gallatin School of Individualized Study

Myles Jackson is a Professor of History of the Faculty of Arts and Science at NYU, as well as a professor in the Division of Medical Bioethics at the NYU Langone School of Medicine. His research interests include the history of science; the history of physics in 19th-century Germany; intellectual property, gene patenting, race, and genomics; and humans, machines, and aesthetic theories.



DANIEL KEVLES

Interdisciplinary Fellow, NYU School of Law; Stanley Woodward Professor Emeritus of History, History of Medicine & American Studies, Yale University; Adjunct Professor, Yale Law School

Daniel Kevles' research and writing encompass the interplay of science, technology, and society past and present with a focus on the United States. His particular research interests include the history of physics, biology, scientific fraud and misconduct, plant and animal breeding, biotechnology, intellectual property, and science, arms, and the state.



BENEDICT KINGSBURY

Vice Dean and Murry and Ida Becker Professor of Law; Director, Institute for International Law and Justice; Faculty Director, Guarini Institute for Global Legal Studies, NYU School of Law

Kingsbury's major current projects focus on large-scale global ordering such as TPP and the Belt and Road Initiative (MegaReg); physical, digital, and informational infrastructure (InfraReg, with Sally Merry); and global data/tech law.



HILA LIFSHITZ-ASSAF

Assistant Professor of Information, Operations and Management Sciences, NYU Stern School of Business

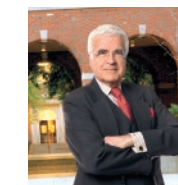
Hila Lifshitz-Assaf's research focuses on developing an in-depth empirical and theoretical understanding of the micro-foundations of scientific and technological innovation and knowledge creation processes in the digital age. She explores how the ability to innovate is being transformed, as well as the challenges and opportunities the transformation means for R&D organizations, professionals, and their work.



FLORENCIA MAROTTA-WURGLER '01

Professor of Law Faculty Director, NYU Law in Buenos Aires

Florencia Marotta-Wurgler '01 is an expert in online and standard form contracting. Her teaching and research interests are contracts, consumer privacy, electronic commerce, and law and economics. Her published research has addressed various problems associated with standard form contracts online, such as the effectiveness of disclosure regimes and whether people read the fine print. She is currently working on a large empirical project on consumer privacy policies online and on the effectiveness of the Federal Trade Commission's privacy enforcement actions.



ARTHUR MILLER

University Professor

Arthur Miller, CBE, is one of the nation's most distinguished legal scholars in the areas of civil litigation, copyright, unfair competition, and privacy. A renowned commentator on law and society, he won an Emmy for his work on PBS's *The Constitution: That Delicate Balance* and served for two decades as the legal editor for ABC's *Good Morning America*.



PETRA MOSER
 Associate Professor of Economics
 Jules I. Backman Faculty Fellow, NYU
 Stern School of Business

Professor Moser's research combines methods from empirical microeconomics and economic history to examine the determinants of creativity and innovation. She uses historical variation in patent and copyright laws to examine the effects of intellectual property on science, technological innovation, and artistic creativity.



JOEL STECKEL
 Professor of Marketing, Vice Dean
 for Doctoral Education, NYU Stern
 School of Business

Joel Steckel's primary research areas of interest include marketing research, marketing and branding strategy, approaches for one-to-one marketing, managerial decision processes, and methodologies for measuring consumer performance and behavior. Among other accomplishments, Professor Steckel was the founding president of the INFORMS Society for Marketing Science.



DIANE ZIMMERMAN
 Samuel Tilden Professor of Law
 Emerita

An award-winning reporter for *Newsweek* and the *New York Daily News*, Diane Zimmerman joined the faculty of NYU School of Law in 1977. Her specialties include freedom of speech and press and intellectual property.



VISITING SCHOLARS



SÉVERINE DUSOLLIER
 Professor, Institut d'Études Politiques (Sciences Po Paris)

Séverine Dusollier's current research relates to copyright, intellectual property limitations and exceptions, European copyright and information technology regulations, the notion of the author, contractual protection of authors and creators, and the public domain and the commons. Her research project while at NYU was on the concept of inclusive rights (as opposed to the concept of exclusive rights) as a means to enforce and sustain intellectual commons.



MARTIN SENFTLEBEN
 Professor of Intellectual Property, Vrije Universiteit
 Amsterdam Faculty of Law

Martin Senftleben specializes in intellectual property law and information law with a focus on the inner consistency of the intellectual property system, the cumulation and strategic use of intellectual property rights, and the balance between exclusive rights and limitations serving social, cultural, and economic needs. Current research activities concern cultural aspects of the protection of intellectual property, such as the influence of copyright law on individual and collaborative processes of creation, particularly in the participative web 2.0; the role of (well-known) trademarks and transnational trademark registration systems in the exchange of cultural values; the use of protection mechanisms of intellectual property law with regard to the preservation of traditional cultural expressions; and the evolution of competition culture and the protection against unfair competition in former centrally-planned economies. His research project at NYU was on *Protecting Mickey Mouse and the Mona Lisa in Perpetuity? How to Prevent Trademark Rights From Impeding Cyclic Cultural Innovation*.



THEODOSIA STAVROULAKI
 PhD Researcher, Department of Law
 European University Institute

As a Fulbright Scholar at NYU, Stavroulaki examined how competition law and regulation should be applied in the higher-education sector so that the multiple public policy objectives this sector aims to achieve are considered as a whole. Her research addressed this research question by examining the marketization of the higher-education sector in the United Kingdom and in the United States.

ADJUNCT FACULTY



NICHOLAS GROOMBRIDGE
Partner, Paul, Weiss, Rifkind,
Wharton & Garrison LLP



BRETT MAX KAUFMAN
Adjunct Professor of
Clinical Law, NYU School
of Law



IRA RUBINSTEIN
Research Fellow,
Information Law
Institute, NYU
School of Law



JODI BALSAM '86
Associate Professor of
Clinical Law, Director of
Externship Programs,
Brooklyn Law School



DOUGLAS HAND '97
Partner, Hand Baldachin
& Amburgey LLP



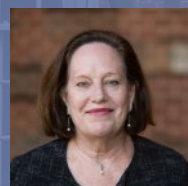
DAY KROLIK '73
Adjunct Professor of Law,
NYU School of Law



ROSE SCHWARTZ '80
Partner, Franklin,
Weinrib, Rudell &
Vassallo, PC



DAVID H. BERNSTEIN
Partner, Debevoise &
Plimpton



ANNE HASSETT
Executive Director,
Engelberg Center
on Innovation Law &
Policy, NYU School of
Law



RANDAL MILCH '85
Executive Vice President,
Strategic Policy Advisor
to the Chair and CEO of
Verizon Communications
(retired)



ERIC STONE '97
Partner, Paul,
Weiss, Rifkind,
Wharton &
Garrison LLP



MITCH ENGLER '90, LLM '91
Professor of Law, Cardozo
Law School



VINAY JAIN '09
Vice President and
Senior Counsel for
Technology & IP,
American Express
Global Business Travel



JEFFREY PARNASS
Vice President & Assistant
General Counsel, News
Corp/Dow Jones



THOMAS STREINZ LLM '15
Adjunct Professor of Law
and Research Scholar,
NYU School of Law



ZACHARY GOLDMAN '09
Senior Associate,
WilmerHale



MICHAEL KASDAN '01
Partner, Wiggin and
Dana LLP



DAVID PASHMAN '97
General Counsel,
Meetup, Inc.



BRUCE WEXLER '92
Partner, Paul
Hastings LLP



ENGELBERG CENTER EVENTS

NYU MICROSOFT IP ACADEMIC ROUNDTABLE

September 15, 2017

In an invitation-only session, thought leaders at Microsoft and select academics met for a day of discussion on cutting-edge issues in intellectual property and innovation law and policy. Among the topics of the day were the Patent Trial and Appeal Board and district court litigation, the interplay of courts and Congress in evolving patent policy, design patents, and artificial intelligence. Microsoft and Professor **Jeanne Fromer** organized this program.

THE PATENTABILITY OF LIFE SCIENCES INVENTIONS IN EUROPE VERSUS THE UNITED STATES

September 28, 2017

The U.S. Supreme Court decisions in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), and *Alice Corp. v. CLS Bank International*, 134 S. Ct. 2347 (2014), have spurred uncertainty concerning the patentability of life sciences inventions in the United States. A growing perception is that the European Patent Office is treating more favorably European equivalents of life



sciences inventions that are unable to secure patent protection in the United States. Such an outcome would undermine the global integration of patent standards and would increase the cost and complexity of obtaining global patent family protection in the life sciences. This state of affairs calls for assessing patentability requirements at an international level.

Our panel compared and contrasted the standards applied to life sciences invention at the European Patent Office and the United States Patent and Trademark Office, and explained, for hypothetical inventions, how the result could differ under each regime. The panel included Klaus-Peter Döpfer (Director, European Patent Office, Biotechnology), Thomas Kowalski (Partner, Duane Morris LLP (formerly of Vedder Price)), Oskar Lechner (Director, European Patent Office, Biotechnology), Teresa Stanek Rea (Partner, Crowell Moring; Former Acting Under Secretary of Commerce for Intellectual Property and Former Acting Director of the United States Patent and Trademark Office), and Daniel Sullivan (Director, TC Biotechnology and Organic Chemistry, United States Patent and Trademark Office). **Anne Hassett** organized this program.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT SESSION AT NYU LAW

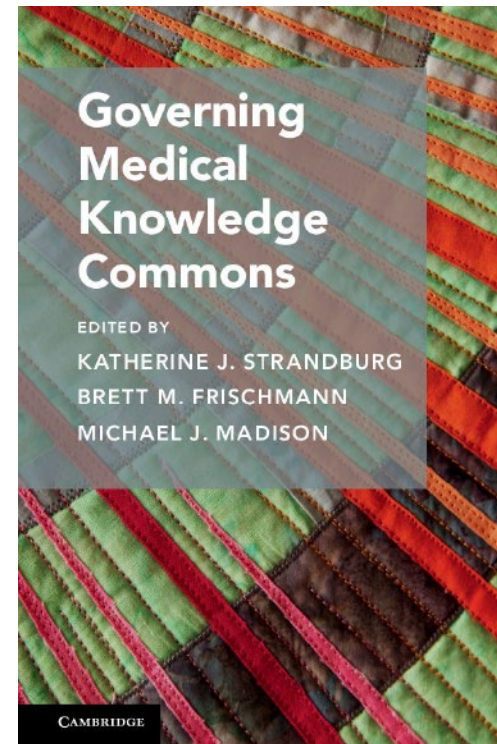
October 4, 2017

The United States Court of Appeals for the Federal Circuit convened for its October 4 afternoon session at NYU Law to hear oral arguments in four cases: *In Re Openings* (16-2307), *Securiforce International v. Microdea, Inc.* (16-2589), *R+L Carriers, Inc. v. Microdea, Inc.* (16-2688), and *Industrial Models, Inc. v. SNF, Inc.* (17-1172). Following the arguments, **Katherine Strandburg** moderated a question and answer session with the panel judges, Judges Timothy Dyk, Kathleen O'Malley, and Evan Wallach.

BOOK TALK: GOVERNING MEDICAL KNOWLEDGE COMMONS

October 26, 2017

The Engelberg Center celebrated the launch of *Governing Medical Knowledge Commons*, a book edited by **Katherine Strandburg**, Brett Frischmann, and Michael Madison (Cambridge University Press). **Michael Burstein '04**, Professor of Law at Cardozo Law, provided commentary. Building on the editors' prior work, *Governing Medical Knowledge Commons* provides 15 new case studies of knowledge commons in which researchers, medical professionals, and patients generate, improve, and share innovations, offering readers a practical introduction to the knowledge commons framework and a synthesis of conclusions and lessons.



FIRESIDE CHAT WITH JUDGE PIERRE LEVEL OF THE SECOND CIRCUIT

February 13, 2018

In collaboration with the Engelberg Center, The *NYU Journal of Intellectual Property & Entertainment Law* (JIPEL) hosted Judge Pierre Leval of the United States Court of Appeals for the Second Circuit for a fireside chat on the development of fair use law in copyright over the last thirty years. The discussion was moderated by **Christopher Sprigman**.





2017 IP INSTITUTE

November 30, 2017

The 2017 IP Institute, co-hosted by the Engelberg Center and Cravath, Swaine & Moore LLP, brought together leading judges, scholars, business people, and lawyers in the field to discuss developments across a range of intellectual property topics. Professor **Rochelle Dreyfuss** and **David J. Kappos**, Partner, Cravath, Swaine & Moore LLP, organized the program.

The day-long event, which began with introductory remarks by the **Honorable Katherine B. Forrest** (U.S. District Court for the Southern District of New York) and featured a demonstration of IBM's Watson technology, included the following presentations and panel discussions:

Keynote Address

Richard Plepler, *Chairman and CEO of HBO*

Reflections on Innovation

David J. Kappos, *Cravath, Swaine & Moore LLP*

GC Perspectives

Allison Lucas, *BuzzFeed*

Lita Nelsen, *MIT Licensing Office (Former Director)*

Brian Roman, *Mylan*

David R. Marriott, *Cravath, Swaine & Moore LLP (moderator)*

Patent Eye from a VC Guy

Gary Lauder, *Lauder Partners*

IP Under the New Administration: Legislative Perspectives

Jon Ferro, *Counsel at U.S. House of Representatives*

Noah Phillips, *Chief Counsel at U.S. Senate Judiciary Committee*

Chris Randle, *Counsel at U.S. House of Representatives*

Jamie Simpson, *Counsel Detailee at U.S. Senate Judiciary Committee*

David J. Kappos, *Cravath, Swaine & Moore LLP (moderator)*



Standard Essential Patents: A Year in Review

Ronald A. Antush, *Nokia USA Inc.*

Professor Stuart Graham, *Georgia Institute of Technology; U.S. Patent and Trademark Office (Former)*

Professor Daniel Rubinfeld, *NYU School of Law*

Gary A. Bornstein, *Cravath, Swaine & Moore LLP (moderator)*

Complex Issues in M&A Including Antitrust Clearance and IP Due Diligence

Robert DeBerardine, *Johnson & Johnson*

Professor Harry First, *NYU School of Law*

Scott Yu, *Zhong Lun Law Firm*

Margaret Segall D'Amico, *Cravath, Swaine & Moore LLP (moderator)*

Copyright

Stephanie Abrutyn, *HBO*

Susan C. Genco, *Global Music Rights*

Professor Jessica M. Silbey, *Northeastern University School of Law*

Damaris Hernández, *Cravath, Swaine & Moore LLP (moderator)*

International Enforcement Including Comity & Extraterritoriality

Professor Mark Cohen, *UC Berkeley School of Law*

Professor F. Scott Kieff, *George Washington University Law School; U.S. International Trade Commission (Former)*

Professor Linda J. Silberman, *NYU School of Law*

Mark Snyder, *Qualcomm*

Professor Rochelle C. Dreyfuss, *NYU School of Law (moderator)*

Major Developments in Trademark Law

Melanie Bradley, *Colgate-Palmolive*

Jeremy Roe, *Anheuser-Busch InBev*

Edward Weiss, *Fenway Sports Group*

Darin P. McAtee, *Cravath, Swaine & Moore LLP (moderator)*

Biologics/Biosimilars

David Greenwald, *Cravath, Swaine & Moore LLP*

Michael B. Johannesen, *AveXis*

Gonzalo Merino, *Regeneron Pharmaceuticals*

T. Scott Johnson, *The Medicines Company (moderator)*

International Perspectives on the Role of IP in Deals

Tommaso Faelli, *BonelliErede*

Gertjan Kuipers, *De Brauw Blackstone Westbroek*

Susie Middlemiss, *Slaughter and May*

Professor Scott Hemphill, *NYU School of Law (moderator)*

The Cloud in Action: A Technology Demonstration

Erich Andersen, *Microsoft*

Jian Ma, *Microsoft*

Cassandra Swain, *Microsoft*

Judicial Perspectives

The Honorable Rodney Gilstrap, *U.S. District Court for the Eastern District of Texas*

The Honorable Patti B. Saris, *U.S. District Court for the District of Massachusetts*

The Honorable Kara F. Stoll, *U.S. Court of Appeals for the Federal Circuit*

Evan R. Chesler, *Cravath, Swaine & Moore LLP (moderator)*

EIGHTH ANNUAL TRI-STATE REGION IP WORKSHOP

January 12, 2018

The 2018 Tri-State Region IP Workshop brought together intellectual property scholars (including professors, fellows, visitors, graduate students, and practitioners) from New York, New Jersey, Connecticut, and Philadelphia to present their works in progress for commentary in a workshop environment. The papers examined issues concerning patent law, copyright law, teaching intellectual property, and intellectual property theory.

Professors **Barton Beebe** and **Jeanne Fromer** organized the 2018 workshop, which featured the following articles, presenters, and commentators:

PATENT LAW

Christopher Beauchamp, Brooklyn Law School

Repealing Patents

Commentator: Rochelle Dreyfuss, NYU School of Law

Janet Freilich, Fordham University School of Law

Prophetic Patents

Commentator: Michael Burstein, Cardozo School of Law and McKinsey

IP AND COMPETITION

Scott Hemphill, NYU School of Law

Less Competition, Less Confusion: When Do Trademark Settlements Violate Antitrust Law?

Commentator: Jeremy Sheff, St. John's University School of Law

Christina Mulligan, Brooklyn Law School

Licenses and the Property/Contract Interface

Commentator: Jason Schultz, NYU School of Law



DESIGN PROTECTION

Christopher Buccafusco, Cardozo School of Law

Intelligent Design (with Mark Lemley, Stanford Law School, and Jonathan Masur, University of Chicago Law School)

Commentator: David Abrams, University of Pennsylvania Law School and The Wharton School

Mala Chatterjee, NYU School of Law

Conceptual Separability as Conceivability: A Philosophical Analysis of the Useful Articles Doctrine

KNOWLEDGE COMMONS

Aman Gebru, Cardozo School of Law

Intellectual Property and Bioprospecting: A Model Legal Framework

Commentator: Gaia Bernstein, Seton Hall Law School

IP THEORY

Irina Manta, Hofstra Maurice A. Deane School of Law

Explaining Criminal Sanctions in Intellectual Property Law

Commentator: Brian Lee, Brooklyn Law School

Shyam Balganes, University of Pennsylvania Law School

Excerpts from Copyright as Law

Commentator: Christopher Sprigman, NYU School of Law

TAKING STOCK: THE IMPACT AND IMPLICATIONS FOR THE MUSIC INDUSTRY OF THE WEB IV, PHONORECORDS III, AND THE SDARS III PROCEEDINGS

March 23, 2018

This half-day conference brought together industry representatives, policy experts, and distinguished academics to discuss the impact on the music industry of the rates recently set by the Copyright Royalty Board in the Web IV, Phonorecords III, and SDARS III proceedings. The program was jointly hosted by The Brattle Group, the Engelberg Center, and the NYU Steinhardt Music Business Program, in collaboration with the Music Industry Research Association (MIRA). **Larry Miller**, Steinhardt School of Music, was the master of ceremonies. **Anne Hassett**, Larry Miller, and Laurence Freed (The Brattle Group) co-organized this program.

The Honorable David R. Strickler, Copyright Royalty Board, delivered the keynote address, which was followed by two roundtable discussions led by the industry experts and practitioners noted below.

ROUNDTABLE 1:

The Economic Impact: How is the Music Industry Responding to the New Rates Set in Web IV, Phonorecords III, and the SDARS III?

Richard Assmus, Partner, Mayer Brown

Laurence Freed, Senior Consultant, The Brattle Group (moderator)

David Jacoby, SVP Business & Legal Affairs, Sony Music

Benjamin Semel, Partner, Pryor Cashman



ROUNDTABLE 2:

Implications for the Future: Could We Fashion a More Efficient and Less Costly Rate-Setting Process?

Danielle Aguirre, General Counsel, National Music Publishers Association (NMPA)

Gregory Barnes, General Counsel, VP Gov't Affairs, Digital Media Association (DiMA)

Tom Frederikse, Partner, Digital Media & Interactive Content, Clintons (UK)

David Handzo, Partner, Jenner & Block

Steve Herscovici, Principal, The Brattle Group (moderator)

Benjamin Marks, Partner, Weil Gotshal



PATENT LAW ESSENTIALS: WHAT SCIENTISTS, ENGINEERS & ENTREPRENEURS NEED TO KNOW

April 14, 2018

This half-day workshop, developed and presented by current students and recent NYU School of Law alumni with technical backgrounds, is designed to get intellectual property concepts on the radar screens of putative inventors. It covered the basics of US patent law, including the patent application process, prosecution, litigation, and licensing. The presenters—**Ryan (Hyunjong) Jin '18** and **Julian Pymonto '17**—discussed the implications of recent developments in patent law for inventors in the computer software, pharmaceutical, and other industries. The Engelberg Center sponsored this workshop.



2018 SUMMIT ON GLOBAL DISPUTE RESOLUTION

April 26, 2018

Cravath, Swaine & Moore LLP and the Engelberg Center co-sponsored a one-day program on current issues and significant developments in the field of global dispute resolution. Program speakers included: Dr. Henry Kissinger, former U.S. Secretary of State; Judge Bernardo Sepúlveda-Amor, Mexico's former Secretary of Foreign Affairs; the Honorable Richard Berman (S.D.N.Y.); the Honorable William G. Young (D. Mass.); scholars from Columbia Law, Fordham Law, Georgetown Law, NYU Law, and Yale Law; senior in-house counsel from Fortune 500 and other multinational companies; and lawyers from some of the world's leading law firms and arbitral organizations. **Anne Hassett** was a panelist at the breakout session on IP Enforcement.



16TH INTERNATIONAL OPEN AND USER INNOVATION CONFERENCE

August 6-8, 2018

The International Open and User Innovation Conference (OUI) is the leading academic conference on open and user innovation. Around 250 top researchers from various disciplines (such as innovation management, strategic management, organization design, marketing, intellectual property, and innovation policy and entrepreneurship) meet annually, in order to exchange recent research findings and plans related to open and user innovation. Professor **Katherine Strandburg** and the Engelberg Center are co-organizers of this conference along with NYU Stern School of Business and Fubon Center for Technology, Business and Innovation.



ENGELBERG CENTER FACULTY TALKS

OCTOBER 17

Séverine Dusollier

Hauser Senior Global Research Fellow, NYU School of Law (Fall); Professor, Institut d'Études Politiques (Sciences Po Paris)
Inclusivity in Intellectual Property: A Model to Enforce and Sustain Intellectual Commons

NOVEMBER 7

Arina Gorbatyuk

PhD candidate, KU Leuven Center for IT and IP Law
The Allocation of IP Ownership in R&D Partnerships

NOVEMBER 21

Deepak Hegde

Associate Professor of Management and Organizations, NYU Stern School of Business
Patent Disclosure (with Kyle Herkenhoff and Chenqi Zhu)

NOVEMBER 28

Martin Senftleben

Hauser Senior Global Research Fellow, NYU School of Law (Fall); Professor of Intellectual Property, Vrije Universiteit Amsterdam Faculty of Law

Séverine Dusollier

Hauser Senior Global Research Fellow, NYU School of Law (Fall); Professor, Institut d'Études Politiques (Sciences Po Paris)
EU Copyright Reform

DECEMBER 5

Martin Senftleben

Hauser Senior Global Research Fellow, NYU School of Law (Fall); Professor of Intellectual Property, Vrije Universiteit Amsterdam Faculty of Law
Protecting Mickey Mouse and the Mona Lisa in Perpetuity? How to Prevent Trademark Rights from Impeding Cyclic Cultural Innovation

JANUARY 30

Yafit Lev-Aretz

Research Fellow, NYU School of Law Information Law Institute; Adjunct Professor, NYU Media, Culture, and Communications Department
Better Together: Privacy Regulation and Innovation Policy (with Katherine Strandburg)

FEBRUARY 27

Scott Hemphill

Professor, NYU School of Law
Anticompetitive Trademark Settlements

OTHER EVENTS AT NYU LAW



INFORMATION
LAW INSTITUTE

The Information Law Institute is an academic center for the study of law, policy, and social norms defining and affecting the flow of information in a digitally networked society. Its mission is to encourage and disseminate thoughtful research and commentary, welcoming the participation of faculty, students, and other researchers across the disciplinary spectrum. **Katherine Strandburg** is its Director. Florencia Marotta-Wurgler, Ira Rubinstein, and Jason Schultz are its Faculty Fellows.

PRIVACY LOCALISM: A NEW RESEARCH AGENDA November 3, 2017

Donald Trump's presidency is widely expected to bring a dramatic retreat from Obama administration support for privacy regulation at the federal level. State and local regulators, particularly those in populous "blue" states, such as New York, California, and Washington, are poised to take on an increasingly important role. Recent local initiatives include draft ordinances that require local police departments to publish surveillance impact reports describing the capabilities and safeguards of powerful new surveillance technologies as a condition of deploying them. Academic experts on administrative law, privacy, federalism, and local governance were joined by policymakers, industry representatives, and privacy advocates to present and discuss a variety of perspectives on the legal, empirical, and policy implications of this trend toward "privacy localism." Professor **Katherine Strandburg** and Adjunct Professor **Ira Rubinstein** were co-organizers of the conference.



The AI Now Institute at New York University is an interdisciplinary research center dedicated to understanding the social implications of artificial intelligence. Its work focuses on four core domains: Rights and Liberties, Labor and Automation, Bias and Inclusion, and Safety and Critical Infrastructure. Kate Crawford is a co-founder and Director of Research; Meredith Whittaker is a co-founder and Executive Director. **Jason Schultz** is the Law and Policy Area Lead for the AI Now Institute.

AI NOW 2017 SYMPOSIUM July 10, 2017

The second annual AI Now Symposium addressed four key issues in relation to artificial intelligence: Rights and Liberties, Labor and Automation, Bias and Inclusion, and Ethics and Governance. The event brought together over 100 leading experts from industry, academia, civil society, and government to share ideas for technical design, research, and policy directions. These experts spent a day in closed-door talks and discussions and then joined an evening program open to the public. Professor **Jason Schultz** and Fellow **Amanda Levendowski '14** participated in the experts workshop.





ANTITRUST IN DEVELOPING COUNTRIES: COMPETITION POLICY IN A POLITICIZED WORLD

October 27, 2017

Just as developing countries are integrating into the world economic system, the world has taken a nationalistic turn. Will antitrust become politicized, and if so how will this impact the progress of developing countries? Panels considered the new nationalism and the special problems it poses for competition systems in developing countries; pharmaceuticals and the recent spate of excessive pricing of essential drugs; and mergers, innovation and new technology issues. The conference was co-organized by Professors **Harry First** and **Eleanor Fox '61**. Professor **Scott Hemphill** moderated a roundtable and presented Professor Fox with the AALS Lifetime Achievement Award.



NEXT GENERATION OF ANTITRUST SCHOLARS CONFERENCE V

January 26, 2018

This day-long conference highlighted the latest research of antitrust/competition law professors who began their full-time professorial career in or after 2010. Established antitrust scholars, including Professor **Scott Hemphill**, and practitioners in the field commented on the papers.

LATHAM & WATKINS FORUM—ACCOUNTABILITY IN THE AGE OF ARTIFICIAL INTELLIGENCE

February 21, 2018

Worries over “black box” systems, especially those involving machine learning and artificial intelligence, have spurred renewed efforts to increase transparency and accountability for public agencies adopting new technologies. For example, the New York City Council recently passed the first general algorithmic-accountability legislation in the country, and the European Union has been moving forward on its own data accountability regime in the new General Data Protection Regulation. This program considered what it means to hold a machine accountable and how it differs from the legal methods currently used to hold humans accountable. Professor **Jason Schultz** was a panelist in this forum, which also included Justice Mariano-Florentino Cuéllar of the Supreme Court of California.



CONFERENCE ON FAIRNESS, ACCOUNTABILITY, AND TRANSPARENCY

February 23-24, 2018

The Conference on Fairness, Accountability, and Transparency (FAT*) was a first-of-its-kind international and interdisciplinary peer-reviewed conference featuring work examining the fairness, accountability, and transparency of algorithmic systems. FAT* presented research from a wide variety of disciplines, including computer science, statistics, the social sciences, and law. With Professor Jason Schultz, the Technology Law & Policy Clinic was a sponsor of the conference.

LATHAM & WATKINS FORUM—IS IT TIME FOR REGULATORS TO REIN IN BIG TECH?

March 21, 2018

Consider these stats from a recent *Wall Street Journal* article: Google drives 89% of internet search; Facebook or one of its products is used by 95% of young adults on the internet; Google and Facebook receive 63% of online ad spending; Amazon accounts for 75% of e-book sales and 44% of all online commerce; Google and Apple operating systems run on 99% of mobile phones; Apple and Microsoft supply 95% of desktop operating systems. The market dominance of these companies has prompted calls for more aggressive antitrust enforcement. At this forum, experts in competition law, consumer protection, and technology discussed whether these companies (1) are misusing their power and stifling new market entrants and innovation, and (2) present other concerns that ought to prompt government intervention, given their central role as disseminators of news (real and fake) and collectors of vast troves of personal data about users and more. The panelists included Professors **Scott Hemphill** and **Florencia Marotta-Wurgler**.

LATHAM & WATKINS FORUM—HOW COPYRIGHT LAW CRAFTS THE CONTOURS OF TECHNOLOGICAL INNOVATION AND DESIGN

April 11, 2018

When we think of the origin story for innovations and new technologies, we often imagine “eureka” moments of scientific insight or fancy startup demos pitched to venture capital funders. But more often than we’d like to admit, legal rules and restraints drive what engineers can and can’t build and which new platforms rise or fall. Professor **Jason Schultz** moderated a discussion on the ways in which copyright law has shaped Silicon Valley and Silicon Alley, and what the future holds as copyright law continues to adapt to an increasingly complex and global networked environment.

CONFERENCE ON THE EFFECTS OF DIGITIZATION, GLOBALIZATION, AND NATIONALISM ON COMPETITION LAW

June 21-23, 2018

A broad variety of technological developments, including the introduction of the Internet of Things, artificial intelligence and Big Data, and greater connectivity and storage capacities, have contributed to the digitization of markets. While digitization has enabled more markets to become truly global, enforcement is still national. In some jurisdictions, globalization has led to the promotion of an opposite trend of national self-interest. This conference sought to explore the effects on competition law of these three trends, as well as the interplay between them. The conference was co-organized by Professors **Harry First** and **Eleanor Fox '61**. Professor **Scott Hemphill** presented his paper on anticompetitive trademark settlements.

NYU SCHOOL OF LAW IP COURSE OFFERINGS

SURVEY

Survey of Intellectual Property (IL elective)
Survey of Intellectual Property (2L, 3L, and LLM)

ART LAW

Art Law
Advanced Topics in Art Law Seminar

COPYRIGHT LAW

Copyright Law
Advanced Copyright Law

PATENT LAW

Patent Law
Patent Licensing Seminar
Patent Litigation Seminar
Life Sciences Patent Law
Bio-Tech Patent Law

TRADEMARK LAW

Advanced Trademark and Advertising Law
Branding and the Law
Trademarks and Unfair Competition Law

TRADE SECRET LAW

Trade Secret Law

ADVANCED TOPICS IN INNOVATION LAW & POLICY

Advanced Topics in Privacy Law Seminar
Advanced Technology Law and Policy Clinic
Advanced Technology Law and Policy Clinic Seminar
ASPIRE Scholarship Seminar (Cybersecurity)
Communicating Academic Work to Policymakers Seminar
Cyber Crimes
Cybersecurity Law and Technology Seminar
Cybersecurity Scholars Workshop

Entertainment Law Seminar
Fashion Law and Business
Free Speech
Global Tech Law: Selected Topics Seminar
Guarini Colloquium: The International Law of Global Digital Corporations
Human Rights, Civil Society, and the Internet in China Seminar
ILJ Colloquium: International Law of Google
Information Privacy Law
Innovation Externship
Innovation Externship Seminar
Innovation Law and Economics
Innovation Policy Colloquium
Innovation Without IP
Intelligence Gathering and Law Enforcement: Post 9/11 Seminar
Intellectual Property and Human Rights Seminar
Intellectual Property & Traditional Knowledge: The Politics of Law, Knowledge and Culture
Intellectual Property Crimes Seminar
International Intellectual Property Law
Internet and Business Law for Technology Companies
Internet Contracts Seminar
Labor and Employment in the Entertainment Industry
Law and Policy of Big Data, AI and Machine Learning
Law and Journalism Seminar
Law and the Many Faces of Information Seminar
Mass Media Law
Property Theory Seminar
Sports Law
Taxation of Intellectual Property
Technology Law and Policy Clinic
Technology Law and Policy Clinic Seminar
The Law of the Startup Seminar
Theories of Intellectual Property Law Seminar
Topics in Museum Studies: Museums & the Law

INNOVATION EXTERNSHIP

Launched in Spring 2018, this experiential learning course explores the practice of law in the areas of intellectual property, information privacy, technology, and innovation. Designed and implemented by the Engelberg Center, the course consists of a fieldwork placement and a weekly seminar.

The fieldwork and the seminar help students develop an appreciation of the types of innovation-related legal and ethical issues that may arise and the practical skills that may be most effective in counseling clients in these settings. In 2018, the Innovation Externship was co-taught by Professor **Jason Schultz** and Adjunct Professor **Anne Hassett**.

Working under supervision, students provide legal services in various settings. In Spring 2018, the fieldwork placements included the **Council of Fashion Designers of America**, **tech:nyc**, **NYU Office of Industrial Liaison**, the **Harry Fox Agency**, and the **Solomon R. Guggenheim Museum**.

The seminar hosts a number of guest speakers with practical or academic expertise in specific topics.



GUGGENHEIM



TECHNOLOGY LAW & POLICY CLINIC

Technological advances are driving greater social, economic, and political change, including in access to information, health care, and entertainment; in impacts on the environment, education, and commerce; and by facilitating greater surveillance by law enforcement agencies. These changes mean that issues related to privacy, consumer rights, free speech, and intellectual property are becoming increasingly critical and complex.

The **Technology Law and Policy Clinic** is a semester-long, 6-credit course that focuses on the representation of individuals, nonprofits, and consumer groups that are engaged with these questions from a public interest perspective. The clinic is a mixture of fieldwork and seminar discussion, ranging from technology law and policy to the ethical challenges of representing public interest organizations. The seminar includes problem-solving workshops, guest speakers, and other components that expose students to the practice of technology law in the public interest.

Approximately one-half of the students work with the teachers of the clinic representing individuals, not-for-profits, and other public interest clients on matters primarily focused on intellectual property. Past representative matters include:

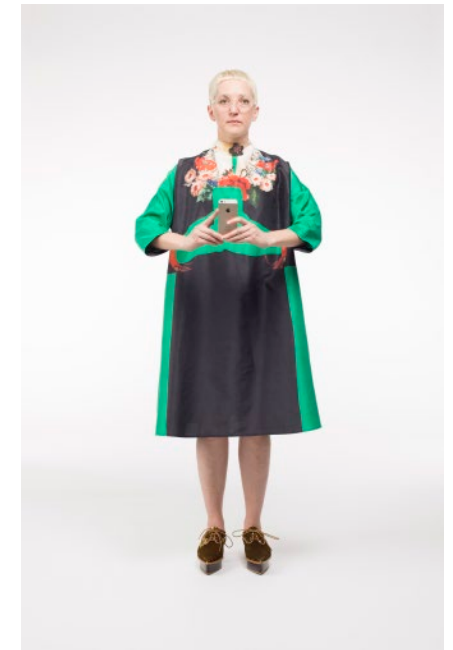
- Counseling the New York Public Library on the legal rules and risks associated with open source software production; and
- Filing amicus briefs in key copyright, patent, trademark, and other intellectual property cases.

This past year, students in the Technology Law and Policy Clinic represented artist and designer Abigail Glaum-Lathbury, whose work has appeared in the Museum of Modern Art. Glaum-Lathbury's newest project is the Genuine Unauthorized Clothing Clone Institute: she takes selfies wearing luxury garments and digitally prints her selfies onto "liberated" garments of her own making, such as the one in the photo. "Abigail was an amazing client," said 2L Evelina Yarmit. "It was a privilege working with someone who wanted to use the confines of the law as part of her art." In Fall 2017, Yarmit and 3L Kaitlin Siemering advised Glaum-Lathbury about copyright and trademark issues raised by her Genuine Unauthorized project. In Spring 2018, 2L Mariela Cisneros and 3L Nathalie Gorman continued their colleagues' work by counseling Glaum-Lathbury about the Genuine Unauthorized project website.

The other half of the students work with the American Civil Liberties Union's Speech, Privacy & Technology Project and National Security Project on issues or cases currently on the Project's docket. Representative matters include:

- Filing public-records requests and lawsuits to inform the public about government surveillance programs. For example, the ACLU has litigated Freedom of Information Act requests to force the disclosure of records regarding the warrantless tracking of the location of people's cell phones and regarding new methods and technologies for disrupting large-scale protests.
- Developing ACLU policy priorities and state legislative strategies for ensuring that new laws regulating access to digital assets after death are privacy-protective.
- Contributing to various criminal and civil cases, through direct representation or amicus support that challenge government national-security surveillance.

The Technology Law & Policy Clinic is directed by Professor **Jason Schultz** and co-taught with Adjunct Professor **Brett Max Kaufman** and Clinical Teaching Fellow **Amanda Levendowski '14**.



Technology Law and Policy Clinic client Glaum-Lathbury wearing a Genuine Unauthorized Clothing Clone Institute Garment. Photograph by Lara Kastner.

THE ENGELBERG CENTER COLLOQUIUM ON INNOVATION LAW & POLICY

Each year the Engelberg Center sponsors a Colloquium on Innovation Law & Policy that is open to students and members of the innovation community, including other faculty at NYU, faculty at other universities, law practitioners, and industry representatives. Topics are chosen on a yearly basis by those serving as the colloquium faculty for that year.

The 2018 Colloquium, which was co-taught by Professors **Barton Beebe** and **Jeanne Fromer**, examined the relation between intellectual property law and inequality. Among the topics considered were the impact of intellectual property law on public health, media policy, and distributive justice; the effects of innovation on domestic and global inequality; the availability of intellectual property rights to those of different backgrounds, classes, and geographic locations; and the ways in which intellectual property rights enhance or distort competition among innovators.

The 2019 Colloquium will examine alternative forms of intellectual property, including trade secret law, the right of publicity, design protection, data protection, geographical indications, protection of traditional knowledge, and other alternatives or supplements to patent, copyright, and trademark laws, such as government grants. It will be co-taught by Professors **Barton Beebe** and **Jeanne Fromer**.



JANUARY 25
Amy Kapczynski
Yale Law School
Towards a Theory of IP and Inequality



FEBRUARY 1
Colleen Chien
Santa Clara University School of Law
Inequality, Innovation, and Patents



FEBRUARY 8
Justin Hughes
Loyola Law School, Los Angeles
Copyright and Distributive Justice



FEBRUARY 22
Laura Pedraza-Fariña
Northwestern University Pritzker School of Law
Essential Medicines and Culture Clash: How Competition Between the WTO and WHO Shaped Global IP Regimes



MARCH 1
Camilla Hrdy
The University of Akron School of Law
Technological Un/Employment



MARCH 8
Robert Brauneis
The George Washington University Law School
An Empirical Study of the Race, Ethnicity, Gender and Age of Copyright Registrants



MARCH 22
Gordon Brown
University of Warwick Department of Psychology
Effects of Income Inequality on Preferences



MARCH 29
Ufuk Akcigit
University of Chicago Department of Economics
The Rise of American Ingenuity: Innovation and Inventors of the Golden Age



APRIL 26
Jessica Silbey
Northeastern University School of Law
Against Progress: Intellectual Property and Fundamental Values in the Internet Age

LLM PROGRAM



The LLM program in Competition, Innovation, and Information Law (CIIL) trains students by combining advanced policy and technical expertise with sophisticated legal analysis. The program aims to develop an integrated understanding of the dynamic forces that shape contemporary economic activity and innovation. Students in the CIIL LLM program choose one of two areas of principal focus—Intellectual Property and Information Law, or Antitrust and Competition Policy—while gaining an introductory foothold in the other area and exposure to other related areas of law.

The CIIL program also draws on NYU's strength in international law. The faculty includes leading experts in international and comparative aspects of competition policy and intellectual property law. Their courses and seminars enable students to understand the importance of competition policy and intellectual property law in today's global economy.

2017-18 COMPETITION, INNOVATION, AND INFORMATION LAW LUNCH SPEAKERS SERIES

SEPTEMBER 27

Jonathan Leibowitz

Partner, Davis Polk & Wardwell LLP; Former Chairman (2009-2013) and Commissioner (2004-2009), Federal Trade Commission
Keeping Antitrust Agencies Functioning in a Dysfunctional Washington

NOVEMBER 1

Tembinkosi Bonakele

Commissioner, South Africa Competition Commission
What Role Should Competition Policy Play in Addressing the Developmental Challenges of Poverty, Inequality, and Unemployment?

NOVEMBER 29

Ronald Coleman

Partner, Archer PC
Litigating Trademark Law

FEBRUARY 14

Ioannis Lianos

Professor of Global Competition Law and Public Policy; Director of the Centre for Law, Economics and Society, Faculty of Laws, UCL
Global Food Value Chains and Competition Law—BRICS Draft Report

MARCH 28

LLM Students Discuss How Legal Education Varies Among Their Home Countries

APRIL 25

Niva Elkin-Koren

Professor, University of Haifa Faculty of Law; Director, Haifa Center for Law and Technology

Michal Gal

Professor of Law and Director of the Forum for Law and Business, University of Haifa School of Law
Personalized Law: The Chilling Effect of Governance by Data on Data Markets

STUDENT LIFE IN NYU SCHOOL OF LAW'S INNOVATION COMMUNITY



The **Intellectual Property Entertainment and Law Society (IPELS)** of the NYU School of Law is a student-run organization that sponsors panels, events, and educational and networking opportunities that promote an understanding of entertainment, sports, fashion, information, internet, and technology law. By connecting NYU School of Law students with industry professionals, IPELS helps them obtain valuable career and academic advice. IPELS partners with the Art Law Society, Media Law Collaborative, and Sports Law Association.



The **NYU Journal of Intellectual Property & Entertainment Law (JIPEL)** is a student-run academic journal dedicated to encouraging scholarly discourse among academics, practitioners, and students interested in intellectual property and entertainment law topics. JIPEL publishes scholarly articles on timely and cutting-edge topics, along with comments and criticism of those articles by industry professionals. As NYU School of Law's first and only online journal, JIPEL provides a unique opportunity for online dialogue through comments from its readers. In keeping with its goals of open access and discourse, JIPEL makes its content available for free to anyone interested in intellectual property and entertainment law. JIPEL also sponsors academic programs and networking events that bring together members of the Intellectual Property and Entertainment Law Society, the Engelberg Center co-directors and affiliated faculty, innovators, industry and government experts, and practitioners.



The Media Law Collaborative (MLC) brings together the NYU School of Law and the arts programs of the University. It creates a space where law students can address the typical, yet significant legal issues that students face when engaged in the film, music, software, publishing, or fine art industries. Law students also have the opportunity to work directly with media students, providing legal advice to those vetted by their particular programs, under the supervision of attorneys. MLC also sponsors joint educational events, such as guest lectures and panel discussions, and social activities in conjunction with other student organizations at NYU Law as well as NYU's arts programs.

The NYU Law Art Law Society was launched in 2011. Its mission is to provide a forum at NYU Law for cutting-edge art law topics through lectures, panel presentations, gallery visits and conversations with practitioners, academics, students, and artists themselves.

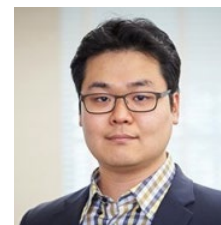


NYU Law's Sports Law Association (SLA) organizes events to educate its members and the broader NYU community about sports law and its related disciplines and to develop relations with industry-leading institutions (including law firms, leagues, players' associations, and management groups) in order to connect our members with unique career opportunities unavailable through traditional on-campus recruitment. SLA also provides a forum in which the legal issues at the forefront of the profession can be intensely debated.

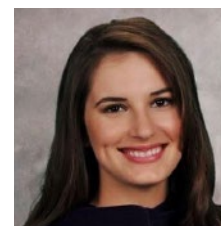
In spring 2018, SLA hosted its 7th Annual Sports Law Colloquium, once again bringing together law students, industry professionals, and leading academics from across the United States to examine the present state of the law and how it may change in the future. Over the past three years, SLA has hosted NBA Commissioner Adam Silver, New York Mets GM Sandy Alderson, leading sports attorney Jeffrey Kessler, former NCAA Division I Basketball Coach Bruce Pearl, President of the NY Yankees Randy Levine, FOX reporter Ken Rosenthal, ESPN reporter Andrew Brandt, Vice President & Deputy General Counsel of MLB's Labor Department, Paul Mifsud, and NFL Network reporter Adam Schefter, among many others.



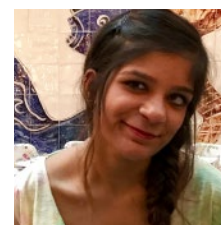
Congratulations to **Caroline Herald '18**, who was awarded the 2018 **Journal of Intellectual Property & Entertainment Law Prize** for the greatest contribution by a third-year editor.



Congratulations to **Hyunjong (Ryan) Jin '18**, who won Second Place in the New York Intellectual Property Law Association's 2018 William C. Conner Writing Competition for his note, "Indefinitely Interdisciplinary: The 'Reasonable Clarity' Standard and Challenges in Patenting Interdisciplinary Inventions," *NYIPLA Report* (forthcoming 2019). Jin received the award at NYIPLA's Annual Awards Dinner on May 15, 2018, at the Princeton Club in New York City.



Gia M. Wakil '18 won NYU School of Law's 2018 award to the graduating student who wrote the **most outstanding note for JIPEL**, "A Judicial Supplement to Advertising Law: The Fourth Circuit's GNC Decision and Policy Implications for the Dietary Supplement Industry," 7 *NYU J. INTELL. PROP. & ENT. L.* 115 (2018).



Mala Chatterjee '18 (PhD Philosophy, expected '20) was awarded the Maurice Goodman Memorial Prize for outstanding academic achievement and scholarship. She presented her note, "Conceptual Separability as Conceivability: A Philosophical Analysis of the Useful Articles Doctrine," 93 *NYU L. REV.* 558 (2018), at the Eighth Annual NYU Tri-State Region Intellectual Property Workshop and the 2018 Intellectual Property Scholars Conference at UC Berkeley.

ENGELBERG CENTER 2018-19 EVENTS

NYU LAW & TECH: THE IMPACT OF INNOVATION

October 22, 2018

This event will bring together voices from law firms, the academy, media, and the technology community for a panel discussion and subsequent break-out case studies to explore the current state of technological innovation in law, promising frontiers, and what technological change means for the practice of law, the training of lawyers, and the future of the legal profession.

CONFERENCE ON TRADE SECRETS AND ALGORITHMIC SYSTEMS

November 16-17, 2018

The Engelberg Center on Innovation Law & Policy and the Information Law Institute are co-sponsoring this conference, which will feature a cross-disciplinary group of scholars and experts who will examine trade secrecy's implications for data-driven decision-making, including in the areas of employment, health, agency decision-making, and smart cities.

2018 IP INSTITUTE

November 29, 2018

The 2018 IP Institute, co-hosted by the Engelberg Center and Cravath, Swaine & Moore LLP, will bring together leading judges, scholars, business people, and lawyers in the field to discuss developments across a range of intellectual property topics.

FEDERAL TRADE COMMISSION HEARINGS ON TECHNOLOGY REGULATION

December 5-6, 2018

NYU, together with Princeton University, will host Federal Trade Commission hearings on pressing issues of technology regulation as they relate to consumer protection and competition policy and law.

CONFERENCE ON LIMITATIONS ON TRADEMARK RIGHTS

January 7-8, 2019, University of Hong Kong

The Law and Technology Center at the University of Hong Kong Faculty of Law and the Engelberg Center on Innovation Law & Policy at New York University School of Law will co-sponsor a conference on limitations on trademark rights. The conference will bring together scholars from around the world to explore the nature and scope of those limitations from comparative and interdisciplinary perspectives. The Rt. Hon. Professor Sir Robin Jacob will deliver the conference's keynote speech.

NINTH ANNUAL TRI-STATE REGION IP WORKSHOP

January 18, 2019

The 2019 Tri-State Region IP Workshop will bring together intellectual property scholars (including professors, fellows, visitors, graduate students, and practitioners) from New York, New Jersey, Connecticut, and Philadelphia to present their works in progress for commentary in a workshop environment.

MCCARTHY INSTITUTE TRADEMARK SYMPOSIUM

February 1, 2019

This annual one-day symposium—co-sponsored with the McCarthy Institute, the International Trademark Association, and the European Union Intellectual Property Office—will bring together brand owners, trademark attorneys, and public policymakers to face off on today's most pressing issues in trademark law.

RACE + IP CONFERENCE

April 5-6, 2019

Together with Howard University's Institute for Intellectual Property and Social Justice and NYU's Local Contexts Project, this conference is an opportunity to participate in rapidly developing conversations around the topics of race and intellectual property. The conference will feature plenary sessions that develop and engage the subfield of critical race intellectual property, concurrent sessions with scholars across disciplines conducting multi-methodological research, and roundtable discussions on special topics related to race and intellectual property.

ENGELBERG CENTER ANNUAL SYMPOSIUM—PROVING IP: THE EVIDENCE WE USE AND SHOULD USE

May 16-17, 2019

This two-day symposium will cut across all areas of intellectual property to explore how, given current legal doctrines, we go about proving everything from protectability to scope to infringement to damages. When considering the range of types of evidence—including expert testimony, survey evidence, economic evidence, and evidence of practices in other jurisdictions—which are best suited to proving particular issues in intellectual property? And does this depend on the forum or audience we have in mind, whether it be a judge, a jury, an administrative examiner, or a policymaker?

