

American University Washington College of Law

## Digital Commons @ American University Washington College of Law

---

Presentations

Public Discourse

---

2-21-2021

### Brand New World (Parallel Session 1.B. - Trademarks)

Christine Farley

Follow this and additional works at: [https://digitalcommons.wcl.american.edu/pub\\_disc\\_presentations](https://digitalcommons.wcl.american.edu/pub_disc_presentations)



Part of the Intellectual Property Law Commons

---

**WIPIP 2021 ONLINE  
CONFERENCE PROGRAM**

**DAY 1: Thursday, February 11, 2021**

**3:30 - 4:00 p.m. EST: OPENING — *Welcome and Instructions***

Irene Calboli, Texas A&M University School of Law

Jorge Contreras, S.J. Quinney College of Law, University of Utah

Christine Haight Farley, American University Washington College of Law

J. Glynn Lunney, Texas A&M University School of Law

**GROUP PICTURE**

**4:00 - 6:00 p.m. EST: PLENARY SESSION 1 — *Race, Gender, and IP***

Dan Burk, University of California, Irvine School of Law

*Racial Bias in Algorithmic IP*

Ann Bartow, University of New Hampshire Franklin Pierce School of Law

*Ruth Bader Ginsburg's Copyright Jurisprudence* (with Ryan Vacca)

Dalindyabo Shabalala, University of Dayton School of Law

*Solomon Linda Traditional Knowledge Pirate? Mbube, "The Lion Sleeps Tonight" and Traditional Knowledge*

Bitá Amani, Queen's University Faculty of Law

*Law, Race, and Alchemy: Exclusion(s), Existential Crises, and the Transformative Possibilities of Intellectual Properties*

Carys Craig, Osgoode Hall Law School, York University (with Anupriya Dhonchak)

*A Feminist Theory of Moral Rights: Creative Agency and Voices from the Margin*

Moderator: J. Glynn Lunney, Texas A&M University School of Law

\*\*\*

**DAY 2: Friday, February 12, 2021**

**12:00 - 2:00 p.m. EST: PARALLEL SESSION 1**

**SESSION 1.A. — *Patents***

Dean Alderucci, Carnegie Mellon University, Center for AI and Patent Analysis,

*On the Complex Automation of Patent Scope*

Luz Sanchez Garcia, University of Murcia

*Can an Artificial Agent Be Considered an Inventor*

Keith Robinson, SMU Dedman School of Law

*Enabling Artificial Intelligence*

Jeremy Bock, Tulane University Law School

*Widening the Channel between Patents and Trade Secrets*

Dennis Crouch, School of Law, University of Missouri

*Moving Toward Corporate Inventions*

**SESSION 1.B. — *Trademarks***

Christine Farley, American University Washington College of Law

*Brand New World*

Ed Timberlake, Trademark Attorney, Adjunct Professor

*Searching for Understanding in Trademark Law*

Lisa Ramsey, University of San Diego School of Law

*Trademarks, Free Speech, and Expressive Merchandise*

Peter Karol, New England Law

*Albrecht Durer and the Aesthetic Roots of Trademark Law*

Betsy Rosenblatt, University of Tulsa College of Law

*Legendary Houses: Voguing, Trademarks, and Transformation*

**2:00 - 3:00 p.m. EST: LUNCH BREAK**

**3:00 - 4:15 p.m. EST: PLENARY SESSION 2 — *The Impact of “Impact” in IP Scholarship: Citations, Downloads and Why We (Should/Don’t) Care***

Gregory N. Mandel, Temple University Beasley School of Law

Leah Chan Grinvald, Suffolk University Law School

Kimberlee Weatherall, The University of Sydney Law School

Paul Heald, University of Illinois College of Law

Moderator: Christine Haight Farley, American University Washington College of Law

**4:15 - 4:30 p.m. EST: BREAK**

**4:30 - 6:30 p.m. EST: PARALLEL SESSION 2**

**SESSION 2.A. — *IP Theory/Innovation***

Ryan Vacca, University of New Hampshire School of Law & Peter Menell, School of Law, University of California, Berkeley

*Improving Intellectual Property Percolation*

Rachel Sachs, Washington University in St. Louis School of Law

*The Accidental Innovation Policymakers*

Brian Frye, University of Kentucky. Rosenberg College of Law

*Everything You Always Wanted to Know About Conceptual Law, But Were Afraid to Ask*

Brenda Simon, California Western School of Law

*Preserving the Fruits of Labor: Impediments to University Inventor Mobility*

Christopher Seaman, Washington and Lee University School of Law (with Thuan Tran)

*Intellectual Property and Tabletop Gaming: A Case Study in Innovation*

**SESSION 2.B. — Copyrights**

Cathay Smith, University of Montana Blewett School of Law

*Weaponizing Copyright*

Xiyin Tang, UCLA School of Law

*The Third Enclosure Movement and Restricting Access by License*

Andrew Gilden, Willamette University College of Law

*Capacity and Copyright*

Sean O'Connor, George Mason University, Antonin Scalia Law School

*Copyright, Science, and Federalism*

Graham Reynolds, Peter A. Allard School of Law, University of British Columbia

*Copyright as (Progressive) Property*

\*\*\*

**DAY 3: Saturday, February 13, 2021**

**12:00 - 2:00 p.m. EST: PARALLEL SESSION 3**

**SESSION 3.A. — Health Law**

Lisa Ouellette, Stanford Law School (with Daniel Hemel)

*Valuing the Vaccine*

Ajoy Jose, Indian Institute of Technology Kharagpur (with Padmavathi M.)

*Traditional Medicinal Knowledge Protection under Biological Diversity Legislation  
in India*

David Simon, George Washington University Law School

*Off Label Innovation*

Bhupinder Singh, Christ (Deemed to be University) Delhi NCR

*TRIPS Regime and Public Healthcare: A Comparative Analysis*

Laura Pedraza-Farina, Northwestern University, Pritzker School of Law

*The Intellectual Property Turn in Global Health*

**SESSION 3.B. — *Trade Secrets and Employee Restrictions***

Orly Lobel, University of San Diego School of Law

*The Contract Thicket*

Camilla Hrdy, University of Akron School of Law

*The Value in Secrecy*

David Levine, Elon University School of Law

*Compulsory Trade Secret Licenses*

Christopher Morten, NYU School of Law

*Regulatory Whistleblowers: A Case for Reviving Federal Regulators' Power to Disclose Corporate Secrets*

Sharon Sandeen, Mitchell Hamline School of Law & Tanya Aplin, Dickson Poon School of Law, King's College London

*Trade Secrets as Barriers to Data Access in the U.S. and EU*

**2:00 - 3:00 p.m. EST: LUNCH BREAK**

**3:00 - 5:00 p.m. EST: PARALLEL SESSION 4**

**SESSION 4.A. — *Digital Law and Copyright***

Peter Mezei, University of Szeged

*Criminal Copyright Liability and Music 'Piracy': Capitol Records v. Thomas-Rasset*

Hannah Bloch-Wehba, Texas A&M University School of Law

*Content Moderation as Surveillance*

Jacob Victor, Albany Law School

*Copyright's Law of Dissemination*

Joanna Banasiuk, University of Bialystok

*Towards a Modern, More European Copyright Framework: How the European Union Creates Itself as a Leader in Copyright in the Digital Environment*

Rebecca Curtin, Professor of Law, Suffolk University Law School

*The Art (History) of Bleistein v. Donaldson Lithographing Co.*

**SESSION 4.B. — Patents**

Paul Gugliuzza, Temple University Beasley School of Law & Jonas Anderson, American University Washington College of Law

*Federal Judge Seeks Patent Cases*

Karen Sandrik, Willamette University College of Law

*An Empirical Study: How District Courts Adjudicate Willful Infringement and Enhanced Damages*

Amy Semet, University at Buffalo School of Law

*An Empirical Study Comparing Patent Validity Challenges at the Patent Trial and Appeal Board vs. the Federal District Courts*

James Hicks, UC Berkeley School of Law

*Informative Patents? Predicting Invalidation Decisions with the Text of Claims*

Jason Rantanen, Iowa College of Law

*Who Appeals Patent Cases*

**5.00 - 5.15 p.m. EST: BREAK**

**GAME NIGHT 1**

**5:30 - 6:45 p.m. EST: ESCAPE FROM WIPIP CASTLE — ROUND ONE**

**7:00 - 8:15 p.m. EST: ESCAPE FROM WIPIP CASTLE — ROUND TWO**

\*\*\*

**END OF THE FIRST WEEK OF THE CONFERENCE**

**DAY 4: Thursday, February 18, 2021**

**12:00 - 2:00 p.m. EST: PARALLEL SESSION 5**

**SESSION 5.A. — *Copyrights***

Ned Snow, University of South Carolina School of Law

*The Tension Between Science and Creativity in the Copyright Clause*

Stefania Fusco, University of Notre Dame Law School

*The Enduring Value of the International Copyright Harmonization: A Response to Professor Asay*

Sean Flynn, American University Washington College of Law

*The Right to Research in Copyright: A Global Comparison of Statutory Limitations and Exceptions*

Akshat Agrawal, Delhi High Court

*Access to Culture Dialogues: Remodelling Copyright for "Substantive" Equality in Cultural Discourse*

Zvi Rosen, Southern Illinois University School of Law

*Examining Copyright*

**SESSION 5.B. — *Patents***

Samantha Zyontz, Stanford Law School

*Who Builds on Uncertain Patents? Innovation During the CRISPR Patent Interference Proceedings*

Michael Meurer, Boston University School of Law

*A Comparison of Life Science and Hi-Tech Patent Licenses* (with Jorge Contreras)

Samuel F. Ernst, Golden Gate University School of Law

*Literary Tropes and Rhetoric in the Supreme Court's Patent Law Opinions*

Sam Halabi, University of Missouri-Columbia School of Law

*The Coming Constitutionalization of Patentability*

Kristen Osenga, University of Richmond School of Law

*We Need a Vaccine, Not a Promise or a Pledge*



**2:00 - 3:00 p.m. EST: LUNCH BREAK**

**3:00 - 4:15 p.m. EST: PLENARY SESSION 3 — *Why American WIP'ers Should Care About International Law***

Jane Ginsburg, Columbia Law School, Columbia University

Jerome H. Reichman, Duke Law School, Duke University

Rochelle Dreyfuss, New York University School of Law

Jorge Contreras, S. J. Quinney College of Law, University of Utah

Moderator: Irene Calboli, Texas A&M University School of Law

**4:15 - 4:30 p.m. EST: BREAK**

**4:30 - 6:30 p.m. EST: PARALLEL SESSION 6**

**SESSION 6.A. — *Competition and Antitrust***

BJ Ard, University of Wisconsin Law School

*Competition With and Without IP in the Video Game Industry*

Giuseppe Colangelo, University of Basilicata & Stanford Law School

*Enforcing Copyright through Antitrust? The Strange Case of News Publishers Against Digital Platforms*

Nikolas Guggenberger, Yale Information Society Project, Yale University

*Essential Platforms*

Liza Vertinsky, Emory University School of Law

*Artificial Intelligence, Patents and Competition*

Joy Xiang, Peking University, School of Transnational Law

*IP Licensing, Antitrust Law, and Access to Essential Technologies*

**SESSION 6.B. — Copyrights**

Glynn Lunney, Texas A&M University School of Law

*The Copyright Tax*

Avishek Chakraborty, School of Law, Christ University

*To Copyright or Not to Copyright Application Programming Interfaces: A Never-Ending Tussle?*

Nina Srejovic, Georgetown University Law Center

*DNA: A Second Chance at a Logical Framework for Copyright in Information Technologies*

Mark Lemley, Stanford Law School

*Disappearing Content*

Arunima Shastri, Kalinga University, Raipur

*Analyzing the Intellectual Property Rights Framework of Visual Art with Special Reference to Graffiti and Street Art in Common Law Countries*

\*\*\*

**DAY 5: Friday, February 19, 2021**

**2:00 - 3:00 p.m. EST: PLENARY SESSION 4 — *Judicial Perspectives on Patent Jurisdiction***

Judge Alan Albright, Western District of Texas

Judge Cathy Bencivengo, Southern District of California

Chief Judge Leonard Stark, District of Delaware

Moderators: Jonas Anderson, American University Washington College of Law,

Paul Gugliuzza, Temple University Beasley School of Law & Sapna Kumar,  
University of Houston Law Center

**3:00 - 3:15 p.m. EST: BREAK**

**3:15 - 5:15 p.m. EST — PARALLEL SESSION 7**

**SESSION 7.A. — Trademarks**

Jeanne Fromer & Barton Beebe, NYU School of Law

*The Future of Trademark Depletion in a Global, Multilingual Economy: Evidence and Lessons from the European Union*

Jake Linford, Florida State University College of Law

*An Information Theory of Bad Faith Trademark Use*

Brad Biddle, Arizona State University College of Law (with Jorge Contreras & Vigdis Bronder)

*Certification (and) Marks – Understanding Usage and Practices Among Standards Organizations*

Jessica Kiser, Gonzaga University School of Law

*The Reasonably Prudent Consumer of Alcohol*

Alexandra Roberts, University of New Hampshire Franklin Pierce School of Law

*Mark Talk: Making Secondary Meaning*

**SESSION 7.B. — Patents**

Sean Tu, West Virginia University College of Law

*Patent Examination and Examiner Interviews*

Muhammad Zaheer Abbas, Faculty of Law, Queensland University of Technology

*COVID-19 Highlights Innovation Failures of the Current Patent-Based Innovation Model: What is the Way Forward?*

Mason Marks, Gonzaga University School of Law/Harvard Law School

*Returning Patent Law to Its Social Justice Roots*

Christa Laser, Cleveland-Marshall College of Law

*Patent Law's Path Dependence*

Yaniv Heled, Georgia State University College of Law (with Ana Santos Rutschman and Liza Vertinsky)

*The Need for the Tort Law Necessity Defense in Intellectual Property Law*

**SESSION 7.C. — Copyrights**

James Heller, State University of New York Empire State College

*What is the Appropriate Role of Juries in Copyright Trials?*

Thomas Cotter, University of Minnesota Law School

*Extra Territorial Damages in Copyright Law*

Dmitry Karshtedt, George Washington University Law & Sean Pager, Michigan State University College of Law

*Volition and Intent in the Law of Direct Copyright Infringement*

Emma Perot, University of the West Indies, St Augustine

*The Conflict Between the Copyright of Paparazzi and the Right of Publicity of Celebrities*

Tim McFarlin, Samford University, Cumberland School of Law

*The Rhythm of Copyright*

\*\*\*

**DAY 6: Saturday, February 20, 2021**

**12:00 - 2:00 p.m. EST: PARALLEL SESSION 8**

**SESSION 8.A. — IP Theory**

Tabrez Ebrahim, California Western School of Law

*Right to Exclude in Islamic Property Law as Applied to Western Legal Systems*

Nikola Datzov, University of North Dakota School of Law

*After Nearly a Decade of Fruitless Wandering in Wonderland: Is Alice Lost or Presumed Dead?*

Ester van Zimmeren, University of Antwerp

*Exploring Trust Building Mechanisms for Specialized Intellectual Property Courts*

Michael Carroll, American University Washington College of Law

*The Right to Research in Intellectual Property Law*

Eric Johnson, University of Oklahoma College of Law

*An Intellectual Property Fix for Platformer Sales-jacking*

**SESSION 8.B. — Patents**

Megan La Belle, Catholic University

*(Im)Partial Patent Judges*

Jonas Anderson, American University Washington College of Law

*Boundary Issues: What Real Property Can Teach Patent Law about Boundary Disputes*

Sarah Burstein, University of Oklahoma College of Law (with Saurabh Vishnubhakat)

*Design Patents Across Institutions*

Jorge Contreras, S.J. Quinney College of Law, University of Utah

*The Open COVID Pledge at One Year: Update, Analysis and Prospects*

Saurabh Vishnubhakat, Texas A&M University School of Law

*Patent Office Hierarchy and Its Discontents*

**2:00 - 3:00 p.m. EST: LUNCH BREAK**

**3:00 - 5:00 p.m. EST: PARALLEL SESSION 9**

**SESSION 9.A. — Patents**

Janet Freilich, Fordham University School of Law

*Downstream Distortion*

Andrew Michaels, University of Houston Law Center

*Benefits of the Invention in Patent Law*

Dana Beldiman, UC Hastings Law & Bucerius Law School

*The Right to Repair: Towards an Environmental Justification*

Leah Chan Grinvald, Suffolk University Law School and Ofer Tur-Sinay, One Academic College

*Repairing Medical Equipment in the Time of Pandemic*

Elizabeth Winston, Catholic University of America, Columbus School of Law

*Bargaining for Innovation*

**SESSION 9.B. — Copyrights**

Peter Lee, UC Davis School of Law

*Autonomy, Copyright, and the Structure of Creative Production*

Giovanni Maria Riccio, University of Salerno (with Federica Pezza)

*Conservation and Restoration of Street Art: Striking the Line Between Protectable  
Common Goods and Inadmissible Musealization of Urban Spaces*

Justin Koo, University of the West Indies, St Augustine

*Protecting Works of Mas – Contemplating the Protection of Carnival Costumes*

Derek Miller, Harvard University Faculty of Arts and Science

*On Typographical Copyright, with Examples from Modern Drama*

Annemarie Bridy, Google & Yale Information Society Project

*Testing the Server Test: Embedded Images and the Changing Scope of Online Public  
Display*

**5.00 - 5.15 p.m. EST: BREAK**

**GAME NIGHT 2**

**5:15 - 6:45 p.m. EST: FACULTY FEUD**

**6:45 - 8:00 p.m. EST: GAME RECAP, AWARDS, CONCLUSION**

\*\*\*

**END OF THE CONFERENCE**