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Introduction

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INTRODUCTION

ANDREW CHIN*

Recent proposals to amend the Patent Act¹ and the legal academy's growing interest in empirical methods² have made the policy analysis of patent law a timely topic for colloquia³ and symposia.⁴ Empirical scholarship plays a vital role in these discussions, as it tests the theories, hypotheses, and characterizations that underlie legal rules and institutions, as well as proposals for their reform.

Patent scholars tend to have backgrounds and interests that coincide with the skill set required for empirical scholarship, and so it is not surprising that many patent scholars have turned to empirical methods in recent years. Many of their projects have been highly ambitious, taking advantage of the massive body of information generated by the patent system. In recent years, research scientists and other stakeholders in the technological fields affected by the patent system have contributed their perspectives and insights to this work. Today, empirical scholarship in patent law draws its data gathering and analytical methodologies not only from the social sciences, statistics, business, and economics, but also from computer science, the natural sciences, and engineering.

On October 23–24, 2008, the University of North Carolina School of Law community had the honor of welcoming a group of leading scholars whose work reflects the diverse interdisciplinary

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1. See Patent Reform Act of 2009, H.R. 1260, 111th Cong. (2009); Patent Reform Act of 2009, S. 515, 111th Cong. (2009); see also Patent Reform Act of 2007, H.R. 1908, 110th Cong. (2007); Patent Reform Act of 2007, S. 1145, 110th Cong. (2007).

2. See, e.g., Association of American Law Schools, Association of American Law Schools Annual Meeting, <http://www.aals.org/am2006/program.html> (announcing the 2006 conference's theme as "Empirical Scholarship: What Should We Study and How Should We Study It?").

3. See, e.g., Engelberg Center on Innovation Law and Policy, Colloquium on Innovation Policy, <http://www1.law.nyu.edu/engelbergcenter/colloquia/index.html> (announcing the 2008 colloquium's theme as "The Interrelation of Intellectual Property and Science Policy: Tailoring Innovation Regimes to Innovation Enterprises").

4. See, e.g., Symposium, *James Bessen and Michael J. Meurer's Patent Failure: How Judges, Bureaucrats, and Lawyers Put Innovators at Risk*, 16 J. INTEL. PROP. L. 1 (2008); Symposium, *Nonobviousness: The Shape of Things to Come*, 12 LEWIS & CLARK L. REV. 323 (2008).

activities that are extending the frontiers of empirical patent law scholarship. Four participants in particular exemplified this emergent interdisciplinarity: Mark Calcagno, Senior Information Scientist at Procter & Gamble; Martin Campbell-Kelley, Professor of Computer Science at the University of Warwick; Xin Li, Ph.D. student in Management Information Systems at the University of Arizona; and Jon F. Merz, Associate Professor of Medical Ethics at the University of Pennsylvania.

Our keynote speaker, Judge Jay S. Plager of the U.S. Court of Appeals for the Federal Circuit, and our presenting sponsor Red Hat, Inc.'s vice president and assistant general counsel, Rob Tiller, highlighted a dinner welcoming an extraordinary collection of patent law scholars, gathered in the same spirit in which the nation's first patent commissioner famously was said to have dined alone.⁵ This was followed by a full day of panel presentations on patent litigation and policy, patents and information technology, patents and laboratory research, and patent examination and prior art. All four sessions were well attended and followed by provocative and thoughtful exchanges. I would like to thank Red Hat, Inc., and our program sponsors, the law firm of Kenyon & Kenyon LLP, the UNC Graduate and Professional Student Federation, and the law firm of Jenkins, Wilson, Taylor & Hunt, P.A., for their generous support of these proceedings.

Just as the symposium was getting underway, *Flash of Genius*—very likely Hollywood's first major movie to center on a patent infringement trial—was closing its three-week run nationally. The \$16 million production grossed just over \$4.5 million worldwide,⁶ a gentle reminder to our distinguished guests that fame in the world of patent law is an esoteric phenomenon. As data sets age, interest in particular empirical findings tends to be fleeting as well. Still, in years to come, I hope these proceedings will come to be seen as a harbinger of a broader and deeper interdisciplinary engagement in the modes and methods of jurisprudence.

5. See President John F. Kennedy, Remarks at a Dinner Honoring Nobel Prize Winners of the Western Hemisphere (Apr. 29, 1962), available at <http://www.presidency.ucsb.edu/ws/index.php?pid=8623> ("I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone.").

6. See Box Office Mojo, *Flash of Genius* (2008), <http://www.boxofficemojo.com/movies/?id=flashofgenius.htm> (last visited Apr. 30, 2009) (reporting a worldwide lifetime gross of \$4,626,050).