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Plenary Session 2 - The Impact of “Impact” in IP Scholarship: Citations, Downloads and Why We (Should/Don’t) Care

Christine Farley

Gregory N. Mandel

Leah Chan Grinvald

Kimberlee Weatherall

Paul Heald

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**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