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Fall 2011

## Intellectual Property Perspectives: Fall 2011

IP Law Program  
*George Washington University*

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# INTELLECTUAL PROPERTY PERSPECTIVES

NEWS AND CURRENT ISSUES



[ CONFERENCES AND SYMPOSIA ]

## IP PROGRAM VISITS SAN FRANCISCO

Last March, GW Law's Intellectual Property program traveled to the West Coast to hold a series of events in San Francisco.



CHIEF JUDGE RANDALL RADER (J.D. '78) AND ASSOCIATE DEAN JOHN WHEALAN CATCH UP WITH GW IP ALUMNI AND FRIENDS AT THE RECEPTION IN SAN FRANCISCO.

On Thursday, March 17, GW Law held a reception for alumni and newly admitted students, which allowed attendees to discuss the decision to attend the Law School and what the experience would be like. The event was well attended, and Interim Dean Gregory Maggs

provided remarks about the state of the Law School.

The following day, the IP program hosted a symposium on timely IP topics. The opening panel, "IP in the Modern Boardroom," was a somewhat unprecedented panel consisting of five general counsels from high-tech

companies, including David Anderman (Lucasfilm Ltd.), Mark Chandler (CISCO), Michael Jacobson (eBay), Bruce Sewell (Apple), and Matthew Zinn (TIVO), and was moderated by Professor Scott Kieff. The panelists discussed how IP issues have grown in importance to their companies

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★ ★ ★

FALL 2011

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[ FACULTY ]

## SARAH RAJEC REJOINS FACULTY



SARAH RAJEC

GW Law is happy to welcome Sarah R. Wasserman Rajec back to the faculty for the 2011-12 academic year as the Frank H. Marks Visiting Associate Professor of Law. Professor Rajec holds a Sc.B. from Brown

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## THIRD ANNUAL GW IP SYMPOSIUM A SUCCESS



PICTURED LEFT: ALAN GRIMALDI (STANDING) MODERATES A PANEL THAT INCLUDES JUDGE THEODORE ESSEX, JUDGE ANDREW GUILFORD, AND JUDGE MARY PAT THYNGE. PICTURED RIGHT: PROFESSOR ROBERT BRAUNEIS PARTICIPATES IN A PANEL ON TRADE SECRETS.

GW Law, along with Mayer Brown and Cornerstone Research, was proud to present the third annual GW Symposium on Intellectual Property Law on May 3 at the Law School. The symposium brought together colleagues from private practice, the judiciary, government, economic consulting groups, and academia to address current issues and recent developments in IP law.

After introductory remarks by Interim Dean Gregory Maggs and Alan Grimaldi, co-chair of the IP practice at Mayer Brown, the Hon. Robert Stoll, commissioner of patents for the U.S. Patent and Trademark Office (USPTO), delivered the opening keynote address on the state of the USPTO.

The opening panel followed, during which current issues related to damages in patent

cases were discussed. Andy Pincus, a partner at Mayer Brown and former general counsel of the U.S. Department of Commerce, served as moderator. The panel included Q. Todd Dickinson, executive director of AIPLA and former undersecretary of commerce for IP and director of the USPTO; Michael Keeley, senior vice president, Cornerstone Research; and Professor Scott Kieff.

The second panel focused on tips and trends for litigating in the busiest patent forums in the country and was moderated by Alan Grimaldi of Mayer Brown. The panel included three judges who preside over a heavy case load of patent cases: The Hon. Theodore R. Essex, U.S. administrative law judge, U.S. International Trade

Commission; the Hon. Andrew J. Guilford, U.S. district judge, Central District of California; and the Hon. Mary Pat Thyng, U.S. magistrate judge, District of Delaware. The panel provided comments on effective techniques for presenting patent cases to the bench or to the jury.

One afternoon panel addressed trade secrets and how a company can protect its confidential information and was moderated by A. John P. Mancini, partner, Mayer Brown. That panel consisted of Professor Robert Brauneis, co-director of the IP program; Joseph V. DeMarco, partner, DeVore & DeMarco LLP and former head of the Cyber Crimes Unit, U.S. Attorney's Office, Southern District of New York; and Carmine R. Zarlenga, partner, Mayer Brown.

The last panel of the day addressed the challenges faced in multi-defense patent litigation cases and was moderated by Brian A. Rosenthal, partner, Mayer Brown. The panel included in-house litigation counsel from three high-tech companies: Tina Chappell (Intel), Karen Robinson (Google), and Jack Slobod (Philips).

The Hon. Randall R. Rader (J.D. '78), chief judge of the U.S. Court of Appeals for the Federal Circuit, gave the luncheon address in which he provided valuable insight on some major challenges the patent system currently faces and offered his thoughts on possible near-term solutions.

The 2012 GW IP Symposium will be held in early May.

## GW Co-Hosts EXPERT ROUNDTABLE ON INNOVATION AND CHINA

On June 28, the IP program co-hosted a roundtable discussion on innovation and China at the Dolly Madison House adjacent to the U.S. Court of Appeals for the Federal

Circuit. Chief Judge Randall R. Rader (J.D. '78) chaired the event.

Since many government entities, corporations, and law firms are working on China IP issues individually, the goal of the

meeting was to put a representative group from these organizations together in the same room to discuss the issues collectively.

IP Advisory Board Associate Dean for Intellectual Property

Studies John Whealan and Mark Cohen acted as co-moderators for the meeting. More than 30 attendees were present, including Alex Rogers, Andrew Baluch, Audrey Winter, Becky Fraser,

*continued on next page*



Christopher Wong, Conor Harrington, Daniel Korn, David Drinkard, Doug Grob, Elaine Gin, Elaine Wu, Grey Slater, H. Stephen Harris, Jr., Hope Shimabuku, James Brookshire, Janice Wingo, Jasemine Chambers, Jennifer Osika, Jeremie Waterman, Jim E. McGinness, June Dea, Kathy Linton, Lawrence T. Welch, Matt Galan, Meredith Miller, Michael C. Collins, Sharon Barner, Sherry



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MORE THAN 30 ATTENDEES PARTICIPATED IN THE ROUNDTABLE DISCUSSION ON INNOVATION AND CHINA.

## ROUNDTABLE DISCUSSION ASKS: CAN THE GOOGLE BOOKS SETTLEMENT BE FIXED?



ASSOCIATE DEAN ALAN MORRISON (CENTER LEFT) AND PROFESSOR ROBERT BRAUNEIS (CENTER RIGHT) MODERATED THE ROUNDTABLE DISCUSSION.

On June 15, 2011, GW Law held a roundtable discussion cutting across different areas of legal expertise regarding the Google Books settlement.

In March 2011, a district court judge in New York rejected the proposed amended settlement of the class action copyright infringement action that writers and publishers brought against Google for its book search

scanning and display activities. The opinion contained many reasons why the court was troubled by the settlement, and its conclusion suggested that the court might look more favorably at an opt-in deal, instead of the opt-out arrangement that the parties had negotiated.

The GW-led roundtable discussion examined various settlement options and

considered which, if any, might overcome the court's principal objections while providing the contemplated benefits to the parties and the public.

After Interim Dean Gregory Maggs gave welcoming remarks, Lerner Family Associate Dean for Public Interest and Public Service Law Alan Morrison provided a background summary of the case, the issues involved,

and the district court decision rejecting the proposed settlement agreement.

Associate Dean Morrison and Professor Robert Brauneis then co-moderated a multi-hour discussion covering the following major issues:

- Can there be a deal covering the conduct resolved by the settlement agreement?

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## GW HOLDS CONFERENCE ON E-DISCOVERY AT THE ITC



PICTURED (TOP): PANELISTS TINA CHAPPELL OF INTEL (LEFT) AND NOREEN KRALL OF GOOGLE (RIGHT) DISCUSS PROBLEMS CORPORATIONS FACE WHEN DEALING WITH E-DISCOVERY REQUESTS. PICTURED (BOTTOM): ALEX ROGERS OF QUALCOMM (LEFT) AND PETER ROOSSIEEN OF FREESCALE (RIGHT) PRESENT IN-HOUSE COUNSEL PERSPECTIVES ON E-DISCOVERY.

The IP program hosted an exploration of current challenges and possible improvements regarding e-discovery at the U.S. International Trade Commission (ITC) during a July 18 conference at the Law School. The program was co-sponsored by GW Law, the ITC's Trial Lawyers Association, and the ITC Committee of the ABA.

After brief opening remarks were given by IP Advisory Board Associate Dean for Intellectual Property Studies John Whealan, Chief Judge Randall R. Rader (J.D. '78) of the U.S. Court of Appeals for the Federal Circuit and Edward Reines, partner at Weil, Gotshal & Manges LLP, each provided keynote addresses. Chief Judge Rader discussed the

need for reining in discovery so broad that it may result in its own form of injustice. Reines then provided suggestions for focusing discovery on the core questions of any patent dispute. Three panels followed to discuss possible solutions to the growing problem of e-discovery.

The first panel focused on in-house counsel perspectives on

e-discovery and was moderated by G. Brian Busey, partner, Morrison & Foerster. The panelists included Alex Rogers, senior vice president and legal counsel, Qualcomm; Peter Roossien, director of litigation, Freescale; Tina Chappell, senior litigation counsel, Intel; and Noreen Krall, senior director of IP law and litigation, Apple.

The second panel compared and contrasted how e-discovery is conducted and handled in patent cases in federal district courts and the ITC. Moderated by Monisha Deka, associate, International Trade Group, White & Case, the panel included Magistrate Judge Elizabeth D. Laporte, U.S. District Court for the Northern District of California; Steven E. Adkins, partner, Orrick LLP; and Mark Whitaker, partner, Baker Botts LLP.

In the final panel, participants discussed ways of improving e-discovery at the ITC and possible solutions. Kim Parke, an associate in Dickstein Shapiro's IP group, served as moderator. The panelists included Jamie D. Underwood, partner, Adduci, Mastriani & Schaumberg; Linda Odom, counsel, Bryan Cave; Eric J. Fues, partner, Finnegan; and Tony Pezzano, partner, Cadwalader Wickersham & Taft.

Several officials from the ITC were in attendance including, Chairman Deanna Tanner Okun, Commissioner Daniel Pearson, Chief Judge Paul Luckern, Judge Theodore Essex, and Judge Robert Rogers.

Associate Dean Whealan commented, "This was a perfect example of how strong and informative co-sponsored conferences like this can be. I want to especially thank Brian Busey and Tony Pezzano for all their help in putting on this conference."



San Francisco continued from page 1



TIMOTHY SEAN KELLY (J.D. '11) POSES A QUESTION TO THE PANEL IN SAN FRANCISCO.

such that they are now regularly discussed by top management.

IP Advisory Board (IPAB) Associate Dean for Intellectual Property Studies John Whealan moderated the second panel, "Intellectual Property in the Courtroom: Issues District Judges Face with Significant IP Dockets," which included four esteemed judges from the U.S. District Court for the Northern District of California: The Hon. James C. Ware, chief judge; The Hon. Lucy H. Koh, district judge; The Hon. Ronald M. Whyte, senior district judge; and The Hon. Claudia Wilken, district judge. The panelists discussed many of the issues faced by their court, which regularly has among the most patent suit filings of any district court in the country.

The symposium concluded with a luncheon keynote address by U.S. Court of Appeals for the Federal Circuit Chief Judge Randall R. Rader (J.D. '78). Chief Judge Rader addressed the relationship between the Federal Circuit

and the U.S. Supreme Court and how the two courts can best work together to resolve complex issues of patent law.

Later that day, many of the IPAB members traveled to San Jose to honor Judge Whyte in a large ceremony celebrating his service and accomplishments. Judge Whyte's portrait was unveiled and presented to the court, and a reception followed.

In addition to the symposium, the IPAB held its spring meeting in San Francisco. IPAB President Larry O'Rourke and his wife Joi hosted the board. Attendance was excellent, and festivities included a meeting on Friday morning, a dinner Friday night, and a wine-tasting tour on Saturday that allowed the IPAB members and their guests to visit several of the superior vineyards in Napa Valley.

The conference and board activities were so well received that the IP program may plan a return visit to Northern California in the near future.

## [UPCOMING EVENTS]

### FALL 2011 IP SPEAKER SERIES ANNOUNCED

GW Law's Dean Dinwoodey Center for Intellectual Property Studies will present four luncheon lectures by IP scholars from around the world. Each speaker will offer a presentation and discussion of his or her current research.

#### TUESDAY, SEPTEMBER 13, 1:30 P.M.

Tasher Great Room, Burns Library, First Floor  
Lisa Larrimore Ouellette, Yale Law School, J.D. '11  
"Do Patents Disclose Useful Information?"

#### WEDNESDAY, SEPTEMBER 28, 1:30 P.M.

Tasher Great Room, Burns Library, First Floor  
Alka Chawla, University of Delhi Faculty of Law  
"Copyright Law Enforcement: The Scenario in India"

#### TUESDAY, OCTOBER 18, 1:30 P.M.

Faculty Conference Center, Burns Library, Fifth Floor  
Adam Mossoff, George Mason University School of Law  
"What Hath Taney Wrought? Re-evaluating the Famous Patent Case of O'Reilly v. Morse"

#### TUESDAY, NOVEMBER 1, 1:30 P.M.

Faculty Conference Center, Burns Library, Fifth Floor  
C. Scott Hemphill, Columbia Law School  
Title: TBA

#### THURSDAY, NOVEMBER 10, 1:30 P.M.

Tasher Great Room, Burns Library, First Floor  
Sean Seymore, Vanderbilt University School of Law  
"The Presumption of Patentability"

All are welcome to these lunch presentations, which are generously made possible by a gift from the Bureau of National Affairs. Details for future lunches (including how to R.S.V.P.) can be found at: [www.law.gwu.edu/ipevents](http://www.law.gwu.edu/ipevents).

### IP PROGRAM HOSTS RECEPTION AT AIPLA

On Thursday, October 20, the IP Program will host a reception during the 2011 AIPLA Annual Meeting in DC at Stone's Throw Restaurant, Marriott Wardman Park, from 5:30-7:30 p.m. We hope to see you there.

## STUDENTS EXCEL IN NATIONAL IP MOOT COURT COMPETITION



RECENT GRADUATE ALEXANDER VAROND (FAR LEFT) AND NOW 3L THOMAS YEH (FAR RIGHT) WITH FEDERAL CIRCUIT JUDGES DYK, LOURIE, AND BRYSON (LEFT TO RIGHT) AFTER THE 2011 GILES SUTHERLAND RICH IP MOOT COURT NATIONAL CHAMPIONSHIP IN WHICH THEY FINISHED SECOND OVERALL.

The GW Law community celebrates the accomplishments of Alexander Varond (J.D. '11) and Thomas Yeh (a rising 3L), who were finalists and finished second overall to Harvard in the 2011 Giles Sutherland Rich Intellectual Property Moot Court National Championship in Washington, DC. The final argument was held at the U.S. Court of Appeals for the Federal

Circuit on April 15. The team advanced to the last stage of the competition through victories in several rounds of competition, including the finals of the Western Regional in Silicon Valley, CA.

"What Alex and Thomas did was amazing. They argued the same IP case 13 times in three different competitions before about 39 judges, at least five of whom were sitting jurists on federal courts of appeals," said David Johnson, assistant dean for public interest and public service law and director of advocacy programs. "In each of the competitions, they made it to the finals, which is unheard of. More importantly, they got better throughout. Their advocacy became more refined and their arguments more concise. These are two of the best that GW Law has to offer."

Intellectual Property Advisory Board Associate Dean for Intellectual Property Studies John Whealan coached the team throughout the process, which began with an on-campus competition using the same

problem as the one argued in the finals.

The team said they relied not only on one another during the months of preparation and competition to succeed, but the larger GW Law community as well. This support was especially appreciated because of the high-profile judges the team appeared before throughout the process.

"Arguing before three Federal Circuit judges was definitely not something I thought I'd have the opportunity to do while in law school," Yeh said. What made the high-stakes pressure more bearable, he continued, was the support of his classmates, instructors, and the Moot Court Board. "I especially want to express my gratitude to all the past Giles Rich winners, friends, and alumni who mooted with us, and to Dean Johnson, who made everything happen," Yeh said. "I also appreciated the coaching from Dean Whealan, and we definitely would not have gotten as far as we did without all his help."

Yeh said the support of his girlfriend, Mary, who traveled from Boston to Washington, DC,

and to California for different stages of the competition, also brought the team luck.

The team was additionally supported by a generous gift from the Rothwell Family Foundation, which sponsored the annual GW Giles Sutherland Rich Memorial Moot Court Competition in the name of Rothwell, Figg, Ernst & Manbeck, P.C. The firm was co-founded by G. Franklin Rothwell (J.D. '56), who serves as chairman and member of the firm and has long been a friend and supporter of GW Law.

Varond said the experience is one he will take with him long after his time in law school. "I was impressed by the diversity of judging and helpful advice we picked up along the way. These experiences helped me develop tremendously as an advocate and gave me a much more nuanced understanding of how law works—from briefs, to oral arguments, to decision," Varond said. "The Giles Rich Moot Court experience has given me a new sense of confidence as I prepare to begin my legal career."

Beginning this fall, Varond will be working with Hyman, Phelps & McNamara's food and drug law group. Yeh is a rising 3L who spent his last summer as an associate at Latham & Watkins.

"This was a perfect example of how GW IP students can learn outside, as well as inside, the classroom. Alex and Thomas had the initiative, the drive, and put in the countless extra hours to achieve this memorable accomplishment," Associate Dean Whealan said. "It is not every day two current GW IP law students argue before three Federal Circuit judges at the Federal Circuit. They deserve all the credit, and it was fun to be along for the ride."



### IP PERSPECTIVES

*IP Perspectives* is published by the Intellectual Property Law Program at The George Washington University Law School.

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## SIPLA THRIVES AT GW LAW



The Student Intellectual Property Law Association (SIPLA) is a group of students interested in all facets of intellectual property law. Through SIPLA events, students have the opportunity to network with one another and with IP law practitioners. SIPLA regularly hosts happy hours and sponsors a mentor-mentee program to facilitate networking. In addition

to hosting events, SIPLA helps educate students about IP-related events hosted by various GW Law departments and offices. The 2011–12 SIPLA officers are: Thara Russell, president; Kiri Lee, vice president; Allard Chu, treasurer; Asami Naka, secretary; Joshua Kresh, programming chair; and Nicholas Kunz, mentoring chair.

PROFESSOR ROGER SCHECHTER GIVES A PRESENTATION ON WINE AND TRADEMARK LAW AT A SIPLA-SPONSORED EVENT. SIPLA OFFERS VARIOUS EVENTS EACH YEAR TO THE GW LAW COMMUNITY.

## IP PROGRAM HOSTS RECEPTION AT BIO IN DC

The IP program co-hosted an alumni and friends reception at Zengo in Washington's Chinatown on June 28. The reception was held in conjunction with the BIO annual meeting in Washington,

DC. GW Law's co-hosts included BIO's IP Counsel's Committee (Hans Sauer) and Steptoe & Johnson (Tim Bickham).

Approximately 80 guests enjoyed cocktails, hors d'oeuvres,

and giveaways. Attendees included Chief Judge Randall R. Rader (J.D. '78) of the U.S. Court of Appeals for the Federal Circuit, Director David Kappos of the U.S. Patent and Trademark

Office (USPTO), Solicitor Ray Chen of the USPTO, and Intellectual Property Advisory Board Associate Dean for Intellectual Property Studies John Whealan.

## FIVE NEW IP BENEFACTORS ADDED

This year, five additional IP companies and law firms became IP Benefactors—Google, Mayer Brown, McKool Smith, Pillsbury, and Qualcomm—as another way of strengthening their ongoing relationships with GW Law. Michelle Lee will serve as Google's Intellectual Property Advisory Board (IPAB) representative, Alan Grimaldi will represent Mayer Brown, Robert Auchter (J.D. '89) will represent McKool, Jack Barufka (LL.M. '96) will represent Pillsbury, and Alex Rogers will represent Qualcomm.

The IP Benefactors program includes IP corporations and law

firms. Each benefactor designates a member to serve on the IPAB, which provides counsel to the school on how to coordinate the IP program.

The current list of IP Benefactors (in alphabetical order) now includes:

- Apple Inc.
- Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
- Fish & Richardson
- Google
- Intel Corp.
- Kenyon & Kenyon LLP
- Kramer & Amado, P.C.

- Latham & Watkins LLP
- Lee & Hayes
- Mayer Brown
- McKool Smith
- Microsoft Corp.
- Perkins Coie
- Pillsbury
- Qualcomm
- Ropes & Gray LLP
- Rothwell, Figg, Ernst & Manbeck, P.C.
- Sterne, Kessler, Goldstein & Fox P.L.L.C.
- The Bureau of National Affairs, Inc.

IP Benefactors receive numerous benefits, including:

1. Membership on the IPAB
2. Complimentary firm lunch or reception for students
3. Complimentary participation in GW Law's annual IP Networking Fair
4. Invitations to IP events
5. Use of GW Law facilities
6. Acknowledgement as an IP Benefactor

Further information about the IP Benefactors program can be found on the school's web page or by contacting Associate Dean John Whealan at 202.994.2195.



## MICHAEL COLLINS JOINS GW AS IP DEVELOPMENT SPECIALIST



MICHAEL COLLINS

Michael Collins joined the Law School as associate director of development. He specializes in supporting GW's IP programs and works closely with Intellectual Property Advisory Board Associate Dean for

Intellectual Property Studies John Whealan, Professor Robert Brauneis, and the IP Advisory Board. He is also responsible for major gift development in Washington, DC; Chicago; Atlanta; and Seattle.

After graduating from the University of California at Berkeley and attending law school, Collins had a long career of senior roles in management and marketing, including 10 years in Silicon Valley working with early technology pioneers. More recently, he spent 13 years at St. Bartholomew's Church in New York developing fundraising programs.

## JOIN "GW IP" GROUP ON LINKEDIN



Are you a member of LinkedIn? The IP program at GW Law has established a LinkedIn group, designated "GW IP" for the George Washington University Law School Intellectual Property Community. This group allows alumni and friends of GW's IP program to network and learn about upcoming events. Future GW IP events will be announced to the group. If you

would like to join, just indicate to Professor Robert Brauneis, the group manager, your affiliation with the IP program. Alumni should indicate the year they graduated, and other friends of the IP program should indicate the GW Law faculty member who invited them to join the group. The GW IP group can be found at [www.linkedin.com/groups?gid=90887](http://www.linkedin.com/groups?gid=90887).

## DON DUNNER DELIVERS SPRING KATZ LECTURE



DON DUNNER

Don Dunner, a named partner in the well-known IP firm Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, gave the 2011 Spring A. Sidney Katz Lecture at GW Law. The event took place on the evening of April 14, 2011. Dunner's lecture, "The Evolution of Patent Appellate Jurisprudence: From the CCPA to the Battle Over a Specialized Court to the Federal Circuit and Beyond," explored the origins and accomplishments of the Federal Circuit over the past three decades. The lecture was especially insightful because Dunner was significantly involved in the creation of the Federal Circuit. In addition, he has argued more patent appeals (more than 100) before the Federal Circuit than any other attorney currently practicing before the court.

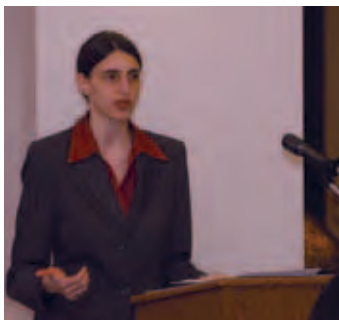
A good friend of the IP program, Dunner serves on the IP Advisory Board and has been an adjunct faculty member during the past four decades. He currently teaches the course "Patent Appellate Practice."

The lecture was attended by approximately 75 people, and a reception followed where students, faculty, and guests of GW Law were able to mingle and talk in an informal setting.

The A. Sidney Katz Lecture is generously endowed by A. Sidney Katz (J.D. '66). The endowment allows the IP program to hold one major IP lecture per semester.

For information on future Katz lectures or other IP-related events, visit our website at [www.law.gwu.edu/ipevents](http://www.law.gwu.edu/ipevents).

## SPRING 2011 IP SPEAKER SERIES WELCOMES LEADING PROFESSORS



FROM TOP LEFT CLOCKWISE: IRINA MANTA, CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW; GIDEON PARCHOMOVSKY, UNIVERSITY OF PENNSYLVANIA LAW SCHOOL; ERIC CLAEYS, GEORGE MASON UNIVERSITY SCHOOL OF LAW; JOSHUA WALKER, STANFORD LAW SCHOOL

The Spring 2011 IP Speaker Series brought five leading IP professors to the Law School. The luncheon meetings featured presentations by the speakers followed by question and answer discussions.

Irina D. Manta, a professor from Case Western Reserve University School of Law, launched the spring series on January 20 with her talk "The Puzzle of Criminal Sanctions for Intellectual Property Infringement." She discussed and compared the types of criminal sanctions available for different areas of IP law (i.e., copyright, trademark, and patent).

On February 3, Eric R. Claey's, a professor from George Mason University School of Law, presented the lecture "Intellectual Property and John Locke's Theory of Labor." Estelle Derclaye of the

University of Nottingham followed on March 7 with her lecture "In Search of Rules Regulating IP Overlaps." On March 9, Joshua Walker from Stanford Law School presented "The Four Questions: Empirical Performance Measures for the Patent System." Gideon Parchomovsky from the University of Pennsylvania Law School concluded the series on March 30 with the lecture "The Best Available Technology Standard."

## [ CURRICULUM ]

## FCBJ Welcomes New Leadership and Staff



*The Federal Circuit Bar Journal* (FCBJ) welcomes Editor-in-Chief Rachel Greenleaf and Executive Editor Samantha Basso, along with the rest of the new editorial board and junior staff members for the 2011-12 academic year.

The FCBJ is the official journal for the Federal Circuit Bar Association and the U.S. Court of Appeals for the Federal Circuit, and is charged with providing meaningful, insightful, and timely coverage of issues within the court's purview.

For more information about receiving or submitting to the journal, visit [www.law.gwu.edu/journals](http://www.law.gwu.edu/journals).

THE FCBJ EDITORIAL BOARD  
AND STAFF



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University and a J.D. from the University of Michigan Law School. Following law school, she practiced at Fish & Richardson P.C. in Boston and then clerked for now-Chief Judge Donald C. Pogue of the U.S. Court of International Trade. Professor Rajec previously held the Marks position during the 2008–09 academic year, and she returns to GW Law following a clerkship with Judge Alan D. Lourie of the U.S. Court of Appeals for the Federal Circuit.

Professor Rajec's areas of interest include patent law and international trade law and its intersection with intellectual property law. She will teach torts in the fall.

"We are all very excited to have Sarah back for the second year of her fellowship," commented Intellectual Property Advisory Board Associate Dean for Intellectual Property Law Studies John Whealan.

## GW LAW WELCOMES VISITING IP PROFESSOR



H. TOMÁS GÓMEZ-AROSTEGUI

H. Tomás Gómez-Arostegui, associate professor of law at Lewis & Clark Law School in Portland, Oregon, joins the Law School's IP faculty as a visiting professor for the 2011–12 academic year.

Professor Gómez-Arostegui earned a B.A. from University of Southern California, a J.D. from University of Southern California Law School (where he graduated Order of the Coif), and an LL.M. from the University of Oslo, Faculty of Law.

Professor Gómez-Arostegui clerked for the late Judge Edward Rafeedie of the U.S. District

Court for the Central District of California and for Judge John C. Porfilio of the U.S. Court of Appeals for the Tenth Circuit. He practiced law at O'Melveny & Myers LLP in Century City, California, and at Hogan & Hartson LLP in Denver, Colorado. Before joining Lewis & Clark, he served as a visiting researcher and lecturer at the Norwegian Research Center for Computers and Law at the University of Oslo.

His areas of expertise are international intellectual property, trademark law, copyright history, and torts. While at GW Law, he will teach torts and trademark law in the fall, and subject to faculty approval, he will teach a new course in the spring on international IP.

"We are very excited to have Tomas visiting here at GW for the year," commented IPAB Associate Dean for Intellectual Property Law Studies John Whealan.

## FINNEGAN WRITING COMPETITION AWARD WINNERS



INTERIM DEAN GREGORY MAGGS PRESENTS THE FIRST PLACE FINNEGAN AWARD TO JOSHUA MILLER.

The Marcus B. Finnegan Prize Competition, sponsored by the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, is the premier IP writing competition at GW Law. This year's Finnegan Prize winners (followed by the title of their winning papers) were:

### 1st Place

Joshua Miller, "A Unitary Progress Clause"

### 2nd Place:

Daniel Lieberman, "A Homerun for Three Strikes Law: Graduated Response and Its Bid to Save Copyright Online"

### 3rd Place

Michael Diehl, "Does ITC Review of Administrative Law Judge Determinations Add Value in Section 337 Investigations?"

To receive the Finnegan Prize, a paper must be of publishable quality and make a significant contribution to the theory and practice of intellectual property law. This year's winners were selected from a group of more than 30 papers submitted by GW Law students. The awards were presented in May, and graduating winners received their awards at the student award reception held on the Saturday before graduation.

## ALUM WINS NATIONAL WRITING COMPETITION FOR YOUNG LAWYERS

Kritika Bharadwaj, who received her LL.M. in May, won the Bureau of National Affairs and the American Bar Association of Intellectual Property Law's annual writing contest for young lawyers practicing intellectual property law. Her article "Internet Surveys in Trademark Litigation? Option A-Yes, Option B-No"

was chosen by three judges: Marybeth Peters (J.D. '71), former register of copyrights, U.S. Copyright Office; Jeffrey M. Samuels, professor, Akron University School of Law; and Paul R. Michel, former chief judge of the U.S. Court of Appeals for the Federal Circuit.



## GRADUATES RECEIVE AWARDS FOR OUTSTANDING IP ACHIEVEMENTS

At the Student Awards Ceremony, held May 14, GW Law's graduating students were recognized for their outstanding achievements. As evidence that GW Law is one of the finest law schools in the world to study intellectual property law, the Law School bestows more awards in the area of IP than in any other area of law. The 2011 graduating class award winners were as follows:

### AMERICAN BAR ASSOCIATION/BUREAU OF NATIONAL AFFAIRS AWARD

The award is given to the members of the graduating Juris Doctor class who demonstrated excellence in the study of intellectual property law. The ABA, in conjunction with publisher BNA, determined to honor six top students in intellectual property law. Recipients were selected by virtue of the number of IP courses taken and the excellence of the grades in those courses. The winners each received a certificate from the dean, a

certificate from the ABA/BNA, and a BNA treatise written by the ABA section of IP law.

- Andrew Chadeayne
- Evan Frank
- Frank Gonzalez
- Colin Harrington
- Kevin McGrath
- Jonathan Meyer

### CHRIS BARTOK MEMORIAL AWARD IN PATENT LAW

The award is given to the member of the graduating Juris Doctor class who exhibited excellence in the area of patent law. It is awarded in memory of Chris Bartok, who tragically passed away while a student here. It was Chris's great desire to study patent law. Now, it is the wish of his family that his memory live on in the accomplishments of a student highly skilled in this area of the law. The student selected receives a monetary award and a dean's certificate.

This year's winner is Scott Hughes.



INTERIM DEAN GREGORY MAGGS PRESENTS THE ROSENBERG PRIZE TO ANDREW SELLARS.

### PETER D. ROSENBERG PRIZE IN PATENT AND INTELLECTUAL PROPERTY LAW

The award is presented to the member of the graduating Juris Doctor class who demonstrated excellence in patent and intellectual property law. This student received the highest grades and most accomplishments in the area of intellectual property. The winner also was nominated by the Law School for the Jan Jancin Award as the best intellectual property

student in the nation. The student selected receives a monetary award and a dean's certificate. The recipient earned more A's in IP courses than any other graduate and won the on-campus Giles Rich Intellectual Property Moot Court Competition, which allowed him to represent the Law School at the Boston Regional Competition where he made the finals and advanced to the National Championship at the Federal Circuit.

This year's winner is Andrew Sellars.

## MUNICH SUMMER PROGRAM CONTINUES TRADITION OF SUCCESS

This summer, the IP Program successfully held its eighth annual study-abroad program in Munich, Germany. The program is a collaborative effort between GW Law, the Munich Intellectual Property Law Center (MIPLC), and the Max Planck Society. During the four-week program, eight two-week courses were offered. As a result of GW Law's renowned IP

program, the Law School was able to attract star faculty to teach in the summer school.

This year, Margo Bagley, a professor at the University of Virginia School of Law, taught "International Patent Law"; Professor Robert Brauneis taught "Copyright and the Changing Role of the Copy"; Dan Burk, a professor at University of

California, Irvine School of Law, taught "Cross Border Trade"; Irina Manta, a professor at Case Western Reserve University School of Law, taught "TRIPS, Patents, and Public Health"; Rob Heverly, a professor at Albany Law School, taught "Internet Law"; Silke von Lewinski, a professor at the Max Planck Institute for Intellectual

Property, Competition, and Tax Law, taught "IP and Indigenous Heritage"; Michael Madison, a professor at the University of Pittsburgh School of Law, taught "Theoretical Foundations of Intellectual Property"; and Signe Naeve, a professor at the University of Washington School of Law, taught "Trademarks and Geographical Indications."



MUNICH STUDENTS AND PROFESSORS CHEERED THE U.S. TEAM IN THE WOMEN'S WORLD CUP SOCCER COMPETITION.

*Munich Summer Program continued from page 11*

More than 30 students attended at least one of the two-week sessions. The diverse group included students from GW Law, from other U.S. law schools, and from foreign countries including Brazil, India, and Iran. In addition to the eight courses offered in the program, the summer school provided an opportunity for students to enjoy study visits to various IP-related

entities in Munich. During the course of the four weeks, students visited Siemens AG, BMW, the European Patent Office, and Fish & Richardson P.C.'s Munich office. The study visits gave students exposure to various aspects of intellectual property law practice in Europe.

Finally, GW Law made sure that students enjoyed the social life of Munich. With the Women's World

Cup 2011 coinciding with the summer program, the Law School hosted happy hours for students in conjunction with World Cup Women's Soccer games. Students were given an opportunity to partake in the experience of following the World Cup in a country where soccer is the most popular national pastime.

In short, the summer program was a success both academically

and socially. Indeed, GW Law already has begun to receive inquiries about next year's program. We look forward to continuing our collaboration with MIPLC next year and hope to continue to grow our successful summer program.





PHOTOS (CLOCKWISE FROM TOP LEFT): MARIENPLATZ IN MUNICH; PROFESSOR DAN BURK TEACHES "CROSS BORDER TRADE"; PROFESSOR MICHAEL MADISON TEACHES "THEORETICAL FOUNDATIONS OF IP"; PROFESSOR ROBERT BRAUNEIS AND STUDENTS VISITED THE EUROPEAN PATENT OFFICE.



## IN MEMORIAM

Contributions by Harold Wegner



THE HON. GLENN L. ARCHER, JR.

**The Hon. Glenn L. Archer, Jr. (J.D. '54)**, former chief judge of the U.S. Court of Appeals for the Federal Circuit, was one of numerous luminaries in the patent field to join the legal profession through a law degree at GW Law, where he earned his J.D. with honors. Unlike most Law School graduates in the patent field, he came to patent law late in life, upon his appointment to the Federal Circuit.

As the third chief judge in the history of the Court of

Appeals, Judge Archer presided over the Federal Circuit in the mid-1990s during a time of major transition in the area of patent claiming that included the refinement of claim construction after *Markman*. He authored the still-leading case on de novo appellate review of claim construction, which was brought to the court during his tenure as chief judge but was handed down after he transitioned to senior status.

*Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448 (Fed. Cir. 1998)(*en banc*)(Archer, J.).

**William W. Beckett (J.D. '56)**, a prominent patent attorney, graduated from the Law School with highest honors. He was a member of the Order of the Coif and patent editor of *The George Washington University Law Review*. Beckett practiced law at the boutique then known as Burns, Doane, Benedict & Irons, and he later practiced at Irons, Birch, Swindler & McKie, which after several transformations became the firm known today as Banner & Witcoff.

**John White (J.D. '58)**, a leader in the patent field, served for a generation as an adjunct professor at GW Law, where he pioneered a course on chemical patent practice and authored the leading treatise of its day, "Chemical Patent Practice"; the 1991 edition of the treatise was translated into at least one Asian language. At a time when the then-APLA met in Washington twice a year and its Chemical Practice Committee was a center for regular exchange of views by patent experts, White was one of its leading members including service as chairman and subsequently as a member on the forerunner of what is today AIPLA's board of directors. In 1969, he co-founded the firm known today as Millen, White, Zelano, & Branigan, P.C., which played

a leading role in establishing the modern patent reform movement among members of Congress, particularly through the backstage contacts of its other founding partner, Bill Millen.

**Frank Neuhauser (J.D. '40)** became a leader of the patent bar. At the end of the "Washington Office" era, he headed GE's local patent operation; at that time, most major American corporations had a local patent branch office near the U.S. Commerce Department's main building near the White House, which was the home of the Patent Office until 1967.

Well known in the patent community, where he served as president of the American Patent Law Association, Neuhauser is best known in society at large as the 1925 inaugural winner of the National Spelling Bee. The 11-year-old seventh grader is reported in the *Louisville Courier-Journal* as having "won \$500, paid in \$20 gold pieces, ... and [been] invited to the White House, where he met President Calvin Coolidge, and got to meet Washington Senators pitcher Walter Johnson.... [He played] a role in the 2002 documentary 'Spellbound,' which followed eight teenagers on their quest to win the 1999 National Spelling Bee."

*Google Books continued from page 3*

- Are there copyright-specific problems with class settlements?
- Are there intra-class conflicts requiring additional class representatives and court supervision?
- Are there other legal obstacles to this class settlement?
- If no deal is possible, what are the options?

The panel included experts in different areas of law, including copyright, class action, and antitrust. In addition, several of

the parties involved in the case were represented on the panel. Panelists included law professors, former government officials, leading attorneys, and industry representatives: Jonathan Band, principal, Jonathan Band LLC; William Cavanaugh, co-chair, Patterson Belknap and former deputy assistant attorney general of the United States for civil enforcement, Antitrust Division, U.S. Department of Justice; Daniel Goldstein, partner, Brown Goldstein Levy LLP; Michael Guzman, partner, Kellogg, Huber,

Hansen, Todd, Evans & Figel PLLC; Hadrian Katz, senior litigation partner, Arnold & Porter LLP; Daphne Keller, senior counsel, Google; Lateef Mtima, professor, Howard University School of Law; Troy McKenzie, assistant professor, New York University School of Law; the Hon. Marybeth Peters, former U.S. register of copyrights; Randal C. Picker, Paul H. and Theo Leffmann professor of commercial law, University of Chicago Law School; Professor Richard Pierce; Jule L. Sigall,

associate general counsel for copyright, Microsoft; Charles Sims, partner, Proskauer Rose LLP; Professor Roger Trangsrud; and Brian Wolfman, visiting professor, Georgetown University Law Center.

More than 75 attendees were present as audience participants. Several panelists and members of the audience commented afterwards that the conference was both informative and engaging.

*Roundtable on China continued from page 3*



CHIEF JUDGE RANDALL RADER (FAR RIGHT) AND ASSOCIATE DEAN JOHN WHEALAN (SECOND TO RIGHT) AT THE ROUNDTABLE DISCUSSION ON INNOVATION AND CHINA.

Knowles, Stephen Ezell, Stephen A. Merrill, Susan C. Schwab, Tom Moga, Vince Garlock, William O. Hennessey, and Zhengyu Yang.

Issues covered included patent trends in China, IP enforcement trends in China including damages, the

intersection of antitrust and IP Law in China, trade-related responses to innovation policy, rule of law and innovation, and dialogue and engagement opportunities with China on IP innovation. The IP program wishes to extend special thanks

to Jinrong Li, executive assistant to Chief Judge Rader, who was extremely helpful in organizing the event.

GW Law will hold a follow-up, one-day conference on China IP issues on Tuesday, December 13, 2011, at the Law School. The

conference will be open to the public. Details about this event (as well as all GW IP events) will be available this fall on our IP events web page: [www.law.gwu.edu/ipevents](http://www.law.gwu.edu/ipevents).

## {UPCOMING EVENTS}

### JUDGE LOURIE TO DELIVER FALL KATZ LECTURE



JUDGE ALAN D. LOURIE

GW Law is proud to announce that the Honorable Alan D. Lourie, circuit judge for the U.S. Court of Appeals for the Federal Circuit, will deliver this fall's A. Sidney Katz Lecture. His topic will be "The Changing Federal Circuit." The lecture will be given on Wednesday, October 19 at 6 p.m., with registration starting at

5:30 p.m. A reception will follow. The A. Sidney Katz Lecture was generously endowed by A. Sidney Katz (J.D. '66). To RSVP for this event, please send an e-mail to [iplaw@law.gwu.edu](mailto:iplaw@law.gwu.edu), subject line "Katz Lecture."

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