

## ACADEMIC APPOINTMENTS

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### BRIGHAM YOUNG UNIVERSITY LAW SCHOOL, Provo, UT

*Associate Dean for Research and Academic Affairs, 2024-Present*

*Terry L. Crapo Professor of Law, 2022-Present*

*Professor of Law, 2019-2022*

*Woodruff J. Deem Professor of Law, 2018-2019*

*Associate Professor of Law, 2014-2019*

**Courses:** Antitrust, Contracts, Copyright, Information Privacy, IP/Entrepreneurship Law Colloquium, IP Survey, Patents

**Committees:** Academe (2019-2021), Accreditation (2021-2022), Adaptability (2020), Appointments (2018-19), Career Services (2014-15), Curriculum (2016-18, Chair, 2019-2021), Dean Search (2022-2023), External Speakers (2018-19), Faculty Advisory Council (2021-present), Graduation (2015-17), Law School Self-Reporting (2022-2024), Post-Tenure Review (2020), Rank & Status (Chair, 2021-2023), Self-Study (2017-19), Technology (2014-16)

### PENNSYLVANIA STATE UNIVERSITY DICKINSON SCHOOL OF LAW, University Park, PA

*Visiting Assistant Professor, Shughart Scholar, 2012-2014*

## SCHOLARSHIP

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### Articles and Essays

*An Evidence-Based Approach to Fair Use*, 60 *GEORGIA LAW REVIEW* (forthcoming 2026) (with Cree Jones, Cassidy McCleary, and Stephanie Plamondon)

*Copyright Law at the Federal Circuit*, 72 *JOURNAL OF THE COPYRIGHT SOCIETY* 1167 (2025) (peer-reviewed, with Dan Ankenman)

*Extra-Legal Uses of TM*, 14 *NYU JOURNAL OF INTELLECTUAL PROPERTY & ENTERTAINMENT LAW* 120 (2025) (with LaReina Hingson and Stephanie Plamondon)

Selected for inclusion in the 2025 edition of the *ENTERTAINMENT, PUBLISHING, AND THE ARTS HANDBOOK*, an anthology published annually by Thomson Reuters (West) of the best law review articles related to entertainment, publishing, and the arts within the last year

*An Empirical Study of the DMCA's Anticircumvention Provisions* 51 *FLORIDA STATE UNIVERSITY LAW REVIEW* 703 (2024)

*An Empirical Study of Copyright's Substantial Similarity Test*, 13 *UC IRVINE LAW REVIEW* 35 (2022)

*Innovation in Adversity*, 49 *FLORIDA STATE UNIVERSITY LAW REVIEW* 825 (2022) (with Stephanie Plamondon)

*Rethinking Copyright Harmonization*, 96 *INDIANA LAW JOURNAL* 1005 (2021)

*Is Transformative Use Eating the World?*, 61 *BOSTON COLLEGE LAW REVIEW* 905 (2020) (with Arielle Sloan and Dean Sobczak)

*Artificial Stupidity*, 61 *WILLIAM & MARY LAW REVIEW* 1187 (2020)

*Patent Schisms*, 104 *IOWA LAW REVIEW* 45 (2018)

*Saving Software's Fair Use Future*, 31 *HARVARD JOURNAL OF LAW & TECHNOLOGY* 535 (2018) (with Pamela Samuelson)

*Patenting Elasticities*, 91 *SOUTHERN CALIFORNIA LAW REVIEW* 1 (2017)

*Patent Pacifism*, 85 *GEORGE WASHINGTON LAW REVIEW* 101 (2017)

*Transformative Use in Software*, 69 *STANFORD LAW REVIEW ONLINE* (2017)

*Software's Copyright Anticommons*, 66 *EMORY LAW JOURNAL* 265 (2017)

*The Informational Value of Patents*, 31 *BERKELEY TECHNOLOGY LAW JOURNAL* 259 (2016)

Selected for inclusion in the 2017 *INTELLECTUAL PROPERTY LAW REVIEW*, an anthology published annually by Thomson Reuters (West) of the best law review articles related to intellectual property law within the last year

*Intellectual Property Law Hybridization*, 87 *UNIVERSITY OF COLORADO LAW REVIEW* 65 (2015)

*Copyright's Technological Interdependencies*, 18 *STANFORD TECHNOLOGY LAW REVIEW* 189 (2015)

*Enabling Patentless Innovation*, 74 *MARYLAND LAW REVIEW* 431 (2015)

Reprinted in INTELLECTUAL PROPERTY AND INNOVATION (Shubha Ghosh, ed. 2017)

*Ex Post Incentives and IP in Garcia v. Google and Beyond*, 67 STANFORD LAW REVIEW ONLINE 37 (2014)

*A Case for the Public Domain*, 74 OHIO STATE LAW JOURNAL 753 (2013).

*Kirtsaeng and the First-Sale Doctrine's Digital Problem*, 66 STANFORD LAW REVIEW ONLINE 17 (2013)

*Consumer Information Privacy and the Problem(s) of Third-Party Disclosures*, 11 NORTHWESTERN JOURNAL OF TECHNOLOGY & INTELLECTUAL PROPERTY 321 (2013)

*The General Public License Version 3.0: Making or Breaking the FOSS Movement?*, 14 MICHIGAN TELECOMMUNICATIONS & TECHNOLOGY LAW REVIEW 265 (2008)

Reprinted in OPEN SOURCE SOFTWARE AND COMMON CONCERNS 73 (A.G. Aravind Reddy ed., 2009)

### **Solicited Works**

*Artificial Creators*, 2 George Washington Journal of Law and Technology (forthcoming 2026) (invited contribution to Journal's symposium on artificial intelligence and intellectual property law)

*Creative Commons Licenses*, in EDTECHNICA: THE OPEN ENCYCLOPEDIA OF EDUCATIONAL TECHNOLOGY (2023) (with Rebecca N. Nissen)

*Software's Legal Future*, in SCARCITY, ABUNDANCE, AND REGULATION (2022) (invited, peer-reviewed contribution to FRONTIERS IN RESEARCH METRICS AND ANALYTICS, RESEARCH POLICY AND STRATEGIC MANAGEMENT)

*COVID-19 and Its Impact(s) on Innovation*, 2021 UTAH LAW REVIEW 805 (2021) (invited contribution to the Law Review's symposium on the law and COVID-19) (with Stephanie Plamondon).

*Risk Taking and Rights Balancing in Intellectual Property Law*, 53 AKRON LAW REVIEW 873 (2020) (invited contribution to the Law Review's annual IP Scholar's Roundtable Symposium)

*Independent Creation in a World of AI*, 14 FLORIDA INTERNATIONAL UNIVERSITY LAW REVIEW 101 (2020) (invited contribution to the Law Review's symposium on intelligent entertainment)

*The Informational Effects of Patent Pledges*, in PATENT PLEDGES - GLOBAL PERSPECTIVES ON PATENT LAW'S PRIVATE ORDERING FRONTIER (2017) (invited contribution to book on patent pledges)

*Does Innovation Mean Patent Licensing Demands?*, 101 IOWA LAW REVIEW ONLINE 74 (2016) (invited response to Robin Feldman & Mark A. Lemley, *Do Patent Licensing Demands Mean Innovation?*, 101 IOWA LAW REVIEW 137 (2015))

*Keeping Low Sanctions Low*, 66 FLORIDA LAW REVIEW FORUM 5 (2015) (invited response to Irina D. Manta, *The High Costs of Low Sanctions*, 66 FLORIDA LAW REVIEW 157 (2015))

### **Amicus Briefs**

Oracle America, Inc. v. Google Inc., Brief of Amici Curiae 42 Intellectual Property Law Professors in Support of Defendant-Cross Appellant Google Inc. (with Pamela Samuelson)

Brief of 44 Intellectual Property Law Scholars as Amici Curiae in SAS Institute Inc. v. World Programming Limited, No. 2021-1542 (Fed. Cir.) (with Erik Stallman, Pamela Samuelson, & Charles Duan)

### **Public Scholarship**

[Copyright Is Supposed to Help Creators: But Only the Rich Can Afford It](#), IPWATCHDOG (Aug. 11, 2025) (solicited)

[Reining in the AI Regulators](#), NATIONAL REVIEW (Nov. 27, 2024) (solicited)

[Fair Use Ruling in Dispute Over Use of iOS Should Be Upheld](#), DAILY JOURNAL (Feb. 23, 2022) (solicited)

[Technology's 'Tower of Babel'](#), THE HILL (Mar. 9, 2020)

### **EDUCATION**

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STANFORD LAW SCHOOL, J.D., 2007

UNIVERSITY OF CAMBRIDGE (DARWIN COLLEGE), M.Phil in European Studies, 2002

BRIGHAM YOUNG UNIVERSITY, B.A. in Political Science, *summa cum laude*, 2001

### **PROFESSIONAL EXPERIENCE**

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LEGAL CONSULTING, 2012-Present

- Expert witness on intellectual property law cases.
- Advise private and public clients on technology transactions, including intellectual property, open source software, licensing, privacy, and contract issues.

**AMAZON'S LAB126**, *Corporate Counsel, 2010-2012*

- Open source software legal lead for all Amazon digital products.
- Product and commercial counsel for Kindle, Fire, Fire Phone, Echo, and emerging technology teams.

**WILSON SONSINI GOODRICH & ROSATI**, *Associate, Technology Transactions Group, 2006-2010*

- Counseled clients and negotiated agreements relating to technology transactions, including intellectual property, licensing, contract, and privacy issues.
- Certified Information Privacy Professional by the International Association of Privacy Professionals.

**SELECTED PRESENTATIONS**

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*Artificial Creativity*, Foundation for American Innovation Copyright and AI Conference, Washington, D.C., Sept. 2025

*Antitrust Remedies: Trends, Challenges, and Innovations*, Future of Antitrust Webinar, BYU Law School, June 2025

*Gender, Culture, and Legal Redress*, Law and Society Annual Meeting, Chicago, Illinois, May 2025

*Exploring the Competitive Landscape in the AI Economy*, Future of Antitrust Webinar, BYU Law School, Mar. 2025

*Trends in Substantial Similarity in the Ninth and Second Circuits*, Copyright Society Annual Midwinter Meeting, Palm Springs, CA, Feb. 2023

*Tech Platforms and Online Retail in a New Age of Competition Law*, BYU Law, Washington, D.C., Oct. 21, 2022

*Copyright Under Pressure-What Phase Are We In?*, C-IP2 Annual Fall Conference, Scalia Law, Sept. 2022

*An Empirical Study of the DMCA's Anticircumvention Provisions*, IP Scholars Conference, Stanford Law School, Aug. 2022

*Social Uses of TM*, IP Scholars Conference, Stanford Law School, Aug. 2022

*Debriefing the American Innovation and Choice Online Act*, Future of Antitrust Webinar, BYU Law School, July 2022

*An Empirical Study of Copyright's Substantial Similarity Test*, Copyright Roundtable, Columbia Law School, July 2022

*Rhetoric, IP, and Cultural Property in Conversation*, Law and Society Global Meeting, Lisbon, Portugal, July 2022

*Software's Legal Future*, Scarcity, Regulation, and Abundance Conference, Stanford Law School (virtual), Apr. 2022

*An Empirical Study of Copyright's Substantial Similarity Test*, IP Scholars Conference, Cardozo Law School, Aug. 2021

*Innovation in Adversity*, Utah Law Review Symposium, Utah Law, Nov. 2020

*Innovation in Adversity*, IP Scholars Conference, Stanford Law School (virtual), Aug. 2020

*Risk Taking and Rights Balancing in Intellectual Property Law*, IP Scholars Roundtable, Akron School of Law, Dec. 2019

*Independent Creation in a World of AI*, 2019 FIU Law Review Symposium, FIU College of Law, Nov. 2019

*Artificial Stupidity*, Junior Faculty Forum for Law and STEM, Stanford Law School, Sept. 2019

*Rethinking Copyright Harmonization*, 2019 IP Scholars Conference, DePaul University College of Law, Aug. 2019

*Artificial Stupidity*, BYU Deals Conference, Park City, UT, Mar. 2019

*Artificial Stupidity*, Works in Progress IP Colloquium, University of Houston Law Center, Feb. 2019

*Is Transformative Use Eating the World*, Copyright Symposium, Provo, UT, Oct. 2018

*Is Transformative Use Eating the World*, 2018 IP Scholars Conference, Berkeley Law, University of California, Aug. 2018

*Fostering Creative Expression*, 2018 SEALS Conference, Fort Lauderdale, FL, Aug. 2018

*DMCA Tug-of-War: Balancing Rightsholder, User, and ISP Interests*, Copyright Symposium, Provo, UT, Nov. 2017

*Patenting Elasticities*, George Washington Law School IP Colloquium, George Washington Law School, Oct. 2017

*Matal v. Tam*, BYU Law Supreme Court Review, Provo, UT, Sept. 2017

*Patenting Elasticities*, IP Scholars Conference, Cardozo Law School, Aug. 2017

*Open Source Software*, The Art and Science of the IP Deal Conference, University of Washington School of Law, Apr. 2017

*Patent Pacifism*, Rocky Mountain Jr. Scholars' Conference, University of Utah Law, Nov. 2016

*Patent Pacifism*, Faculty Presentation, University of Kentucky College of Law, Oct. 2016

*Patent Pacifism*, Hofstra IP Colloquium, Hofstra's Maurice A. Dean School of Law, Sept. 2016

*Patent Pacifism*, IP Scholars Conference, Stanford Law School, Aug. 2016

*Non-Assertion Entities*, Jr. IP Scholars Association Workshop, University of New Hampshire School of Law, June 2016

*Software's Copyright Anticommons*, Jr. Scholars-in-IP Workshop, Michigan State University College of Law, May 2016

*Software's Copyright Anticommons*, Works in Progress IP Colloquium, University of Washington, Feb. 2016

*The Informational Value of Patents*, CLE presentation to the Utah State Bar, Salt Lake City, UT, Aug. 2015

*The Informational Value of Patents*, IP Scholars Conference, DePaul University College of Law, Aug. 2015

*Patents as Informational Tools*, Patent Pledges Symposium, American University Washington College of Law, June 2015

*Intellectual Property Law Hybridization*, Works in Progress IP Colloquium, USPTO, Feb. 2015

*Intellectual Property Law Hybridization*, Rocky Mountain Jr. Scholars Forum, University of Utah Law, Nov. 2014

*Copyright's Technological Interdependencies*, IP Scholars Conference, Berkeley Law, University of California, Aug. 2014

*Patent Law Tailoring*, Works in Progress IP Colloquium, Santa Clara University College of Law, Feb. 2014

*Enabling Patentless Innovation*, IP Scholars Conference, Cardozo Law School, Aug. 2013

*Enabling Patentless Innovation*, Big Ten Untenured Conference, Indiana-Bloomington Law School, Aug. 2013

*A Case for the Public Domain*, Works in Progress IP Colloquium, Seton Hall University School of Law, Feb. 2013

*Consumers: The Missing Piece in a Piecemeal Approach to Privacy*, Privacy Symposium, Stanford, California, Mar. 2010

#### **SELECTED MEDIA MENTIONS**

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Trevor Myers, *How to Protect (and Delete) Your DNA Data After 23andMe Bankruptcy Filing*, KTVX (Apr. 1, 2025)

Scott M. Fulton III, *Closure: Is Open Source Licensing Suddenly Unsustainable?*, NEWSTACK (Oct. 25, 2023)

Pamela Samuelson, *Surprising Results of a New Study of Copyright Substantial Similarity Analyses*, JOTWELL (May 31, 2022)

Aaron J. Moss, *With Warhol, It's Time to Transform Transformative Use*, LEXOLOGY (Apr. 22, 2022)

Matt Asay, *Our Most Technical People Are Down on AI ... And That's a Good Thing*, TECHREPUBLIC (Dec. 27, 2021)

Brandon Butler, *Google-Oracle High Court Fight Threatens Fair Use Ecosystem*, LAW360 (Nov. 2019)

Brian L. Frye, *Clark Asay on Artificial Intelligence Policy*, IPSE DIXIT PODCAST (June 2019)

Michael Risch, *The Rise and Rise of Transformative Use*, WRITTEN DESCRIPTION (Mar. 2019)

Julie Rose, *Net Neutrality*, TOP OF MIND, BYU RADIO (Apr. 2018)

Eleanor Cain, *Internet Users Gamble with Information Privacy*, THE DAILY UNIVERSE (Apr. 2018).

Sean P. Means, *Utah Internet Experts Size Up Facebook Founder Mark Zuckerberg's Impending Visit to Congress*, SALT LAKE TRIBUNE (Apr. 2018)

Art Raymond, *VidAngel Fighting to Keep Wings on Its Video Filtering Service*, DESERET NEWS (July 2017)

Amanda Chase, *VidAngel Filtering Doesn't Comply with Copyright, Law Professor Says*, THE DAILY UNIVERSE (July 2017)

Lois M. Collins, *Why It's Likely Impossible to Restore Online Privacy*, DESERET NEWS (Jan. 2017)

Dexter Thomas, *VidAngel Filters Offensive Material Out of Your Favorite Movies*, VICE NEWS TONIGHT, HBO (Oct. 2016)

S. Laney Griffo, *California Court Denies Request for New Trial in Google Fair Use Case*, N. CA. RECORD (Oct. 2016)

Julie Rose, *Copyright Predicament*, TOP OF MIND, BYU RADIO (June 2015)

Denise Howell, *Charmingly Earnest, Yet Insufferable*, THIS WEEK IN LAW (May 2015)

Marcus Smith, *Legal Exposure in the Cloud*, THE MORNING SHOW, BYU RADIO (Sept. 2015)

Brian Carlson, *FCC Votes to Regulate Internet Supporting Net Neutrality*, ABC4NEWS (Feb. 2015)

Cyrus Farivar, *As US Gov't Surveillance Watchdog Group Opens for Business Questions Linger*, ARS TECHNICA (Nov. 2013)

Cyrus Farivar, *Dozens in Congress Now Ready to End Bulk Data Program*, ARS TECHNICA (Oct. 2013)

*How IP Law Helps FOSS Communities*, SLASHDOT (Sept. 2013)

Cyrus Farivar, *Obama's "Outside Experts" Surveillance Review Panel Has Deep Ties to Gov't*, ARS TECHNICA (Aug. 2013)

Mary K. Pratt, *Free (with Strings Attached): Keeping Track of Open-Source Code*, COMPUTERWORLD (May 2013)

*Patenting Open Source Software*, SLASHDOT (May 2013)

Glynn Moody, *Could Open Source Software Be Put into the Public Domain Instead?*, TECHDIRT (Mar. 2013)

Glynn Moody, *Why It's Time to Stop Using Open Source Licenses*, THE H OPEN (Feb. 2013)

*FOSS Communities Key to Managing Patent Risk*, SLASHDOT (Feb. 2013)