

DOUGLAS GARY LICHTMAN

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Experience

Professor of Law, UCLA School of Law
July 2007 through present
with a joint appointment in the School of Engineering and Applied Science

Professor of Law, The University of Chicago
July 2002 through June 2007 (full professor)
June 1998 through June 2002 (assistant professor)

Editor, The Journal of Law & Economics
October 2003 through July 2007

Education

Yale Law School, J.D. 1997

- Yale Law Journal
- Admitted in Illinois (1997)

Duke University, B.S.E. Electrical Engineering / Computer Science 1994

- Graduated 1st in Class

Scholarship / Publications

Cashing Out Children's Television, 27 UCLA ENTERTAINMENT LAW REVIEW 1 (2020)
(also excerpted in Regulation Magazine (Vol. 42, Winter 2020)).

Naughty Bits: An Empirical Study of What Consumers Would Mute and Excise from Hollywood Fare if Only They Could, 66 JOURNAL OF THE COPYRIGHT SOCIETY OF THE USA 401 (2019) (with Benjamin Nyblade) (peer reviewed) (selected for presentation as part of the Theodore Eisenberg Poster Session at the 13th Annual Conference on Empirical Legal Studies, November 9, 2018).

The Perspiration Principle, 18 JOHN MARSHALL REVIEW OF INTELLECTUAL PROPERTY LAW 463 (2019).

The Central Assumptions of Patent Law, 65 UCLA LAW REVIEW 1268 (2018).

Patient Patents: Can Certain Types of Patent Litigation be Beneficially Delayed, 46 J LEGAL STUDIES 427 (2017).

THE TECH PATENT WARS: WHAT EVERY INVESTOR NEEDS TO KNOW, CLSA University Blue Book (2012).

A Patently Obvious Problem, The New York Times (April 16, 2011).

Google Book Search in the Gridlock Economy, 53 ARIZONA LAW REVIEW 131 (2011) (symposium in honor of Michael Heller).

Understanding the RAND Commitment, 47 HOUSTON LAW REVIEW 1023 (2010) (Baker Botts Annual Lecture).

Brief of Amici Curiae Five Law Professors in Support of Defendants-Appellants' Petition for Rehearing En Banc, TiVo, Inc. v. EchoStar Corporation, No. 2009-1374 (Federal Circuit, filed April 21, 2010).

Copyright as Innovation Policy: Google Book Search from a Law and Economics Perspective, in 9 Innovation Policy and the Economy (National Bureau of Economic Research, Volume 9, Josh Lerner & Scott Stern, eds. 2009).

YouTube's Future—and Yes, It Has One, in pamphlet form by the Progress & Freedom Foundation (December 2007)

Viacom v. YouTube, IP MAGAZINE (Summer 2007).

Rethinking the Presumption of Patent Validity, 60 STANFORD LAW REVIEW 45 (2007) (with Mark Lemley) (republished as *Presume Nothing*, in Regulating Innovation: Competition Policy and Patent Law Under Uncertainty (Oxford University Press, 2010, G Manne & J Wright, eds.).

The Case Against YouTube, The Los Angeles Times (March 20, 2007).

Irreparable Benefits, 116 YALE LAW JOURNAL 1285 (2007).

Aligning Patent Presumptions with the Reality of Patent Review, published and distributed by the Hamilton Foundation (December 2006).

TELECOMMUNICATIONS LAW AND POLICY (2nd edition, 2006) (casebook written with Stuart Benjamin, Howard Shelanski & Philip Weiser).

Patent Holdouts and the Standard-Setting Process, Academic Advisory Council Bulletin 1.3, Progress & Freedom Foundation (May 2006).

What to do about Bad Patents, in Regulation Magazine (Vol. 28, Winter 2005) (with Mark Lemley & Bhaven Sampat) (reprinted in IP Law & Business (December 2005)).

Substitutes for the Doctrine of Equivalents, 93 GEORGETOWN LAW JOURNAL 2013 (2005).

Brief of Kenneth J. Arrow, Ian Ayres, Gary Becker, William M. Landes, Steven Levitt, Douglas Lichtman, Kevin Murphy, Randal Picker, Andrew Rosenfield, and Steven Shavell, as Amici Curiae in Support of Petitioners, MGM Studios, Inc. v. Grokster Ltd., No. 04-480 (U.S. Sup. Ct., filed January 24, 2005).

How the Law Responds to Self-Help, 1 JOURNAL OF LAW, ECONOMICS, AND PUBLIC POLICY 215 (2005) (excerpted as *Captive Audiences and the First Amendment* in THE UNIVERSITY OF CHICAGO LAW SCHOOL RECORD (Spring 2005)) (modified and republished as *Defusing DRM* in IP Law & Business (February 2006)).

Holding Internet Services Providers Accountable, in THE LAW & ECONOMICS OF CYBERSECURITY (Mark Grady & Francesco Parisi, eds., Cambridge University Press 2006) (with Eric Posner) (edited version published in Regulation Magazine (January/February 2005)) (republished under the same name in 14 SUPREME COURT ECONOMIC REVIEW 221 (2006)).

Rethinking Prosecution History Estoppel, 71 UNIVERSITY OF CHICAGO LAW REVIEW 151 (2004).

KaZaA and Punishment, The Wall Street Journal (September 9, 2003)

Indirect Liability in Copyright: Napster and Beyond, 17 JOURNAL OF ECONOMIC PERSPECTIVES 113 (2003) (with William Landes) (expanded version published at 16 HARVARD JOURNAL OF LAW & TECHNOLOGY 395) (reprinted internationally in law journals in India, China, and elsewhere).

Uncertainty and the Standard for Preliminary Relief, 70 UNIVERSITY OF CHICAGO LAW REVIEW 197 (2003).

Copyright as a Rule of Evidence, 52 DUKE LAW JOURNAL 683 (2003) (excerpt published in the UNIVERSITY OF CHICAGO MAGAZINE (Winter 2003)) (reprinted in full in the INTELLECTUAL PROPERTY LAW REVIEW (West 2004)).

Entry Policy in Local Telecommunications: Iowa Utilities and Verizon, 2002 SUPREME COURT REVIEW 41 (with Randal Picker).

TELECOMMUNICATIONS LAW AND POLICY (1st edition, 2001) (casebook and annual supplements, all with Stuart Benjamin & Howard Shelanski).

Strategic Disclosure in the Patent System, 53 VANDERBILT LAW REVIEW 2175 (2000) (with Scott Baker & Kate Kraus).

Anonymity a Double-Edged Sword for Pirates Online, Chicago Tribune (April 13, 2000) (with David Jacobson).

Property Rights in Emerging Platform Technologies, 29 JOURNAL OF LEGAL STUDIES 615 (2000) (reprinted in THE INTERNET UPHEAVAL (MIT Press) and FOUNDATIONS IN INTELLECTUAL PROPERTY LAW (Foundation Press 2004)).

Shared Information Goods, 42 JOURNAL OF LAW AND ECONOMICS 117 (1999) (with Yannis Bakos and Erik Brynjolfsson) (featured research in HARVARD BUSINESS REVIEW, July/August 1999, pp. 23-25).

The Economics of Innovation: Protecting Unpatentable Goods, 81 MINNESOTA LAW REVIEW 693 (1997).

Pricing Prozac: Why the Government Should Subsidize the Purchase of Patented Pharmaceuticals, 11 HARVARD JOURNAL OF LAW & TECHNOLOGY 123 (1997).

The Deliberative Lottery: A Thought Experiment in Jury Reform, 34 AMERICAN CRIMINAL LAW REVIEW 133 (1996).

Selected Presentations

“Dinosaur Bones in the Patent Law,” at the Fifth Annual Law & Corpus Linguistics Conference (February 9, 2020) (keynote address).

“Challenges and Opportunities Facing the Content Industry,” as part of the conference, “The Future of Content Protection” (October 24, 2019) (panelist).

“Should Copyright Owners and Creators Distribute Cleaned Versions of Their Films,” as part of the Loeb & Loeb IP/Entertainment Law Annual MCLE Conference (September 12, 2019) (along with Guillermo del Toro, Marc Weinstock & Jonathan Zavin).

“Fireside Chat with PTO Commissioner Andrei Iancu,” at the UCLA School of Law (February 2, 2019).

“Filtering Films: An Empirical Study of What Consumers Would Mute and Excise from Hollywood Fare if Only They Could,” Los Angeles Copyright Society (October 10, 2018).

“Intermediaries,” as part of the Loeb & Loeb IP/Entertainment Law Annual MCLE Conference (Sept 13, 2018) (panelist)

“Patent Reform: Promises and Failures,” at the LAIPLA Annual Retreat, Ojai Valley Inn & Spa (May 4, 2018).

“Fireside Chat with FCC Commissioner Michael O’Rielly,” at the 42nd Annual UCLA Entertainment Symposium (March 24, 2018).

“Copyright & Wrong,” Keynote, Lightspark Media Summit, University of Utah (March 2, 2018).

“The Central Assumptions of Patent Law,” UCLA Law Review Scholar Forum (October 23, 2017).

“Year in Review,” Loeb & Loeb Annual IP Symposium (September 14, 2017).

“Where Lawyers Fail,” Lightspark Media Summit, University of Utah (March 3, 2017).

“Panel Discussion with Judge Alex Kozinski,” Los Angeles Intellectual Property Law Association (March 1, 2017).

“Patient Patents,” Law & Economics Workshop, University of California, Berkeley (March 20, 2017).

“A Discussion of BMG v. Cox,” Ziffren Salon Series (June 4, 2016) (panel discussion).

“Patient Patents,” at the NYU Innovation Policy Colloquium (March 24, 2016); and also at the UCLA Law Faculty Workshop (November 13, 2015).

“Still Broken,” 40th Annual UCLA Entertainment Law Symposium (March 12, 2016), and also for the National Academy of Sciences Annual Meeting (San Diego, California) (March 11, 2016).

“Not Just Cases,” Los Angeles Copyright Society (December 14, 2015).

“Borrowing without Permission,” Paul Brach Visiting Artist Lecture, California Institute of the Arts (October 22, 2015)

“Year in Review,” Loeb & Loeb Annual IP Symposium (September 18, 2015) (panel discussion).

“The Year in Copyright Law and Entertainment Litigation,” at the 39th Annual UCLA Entertainment Symposium (March 14, 2015).

“Without Further Delay: Petrella, Aereo and More,” as part of the Loeb & Loeb IP/Entertainment Law MCLE Conference (Sept 18, 2014) (with Neil Netanel and Jonathan Zavin).

“The First-Sale Doctrine in a Digitized World,” for the Los Angeles Intellectual Property Law Association (April 22, 2014) (with Ronald Wheeler and Bryant Yang).

“Streaming via the Public Aereo-Waves: A New Technology Goes Old School,” for the Los Angeles Copyright Society (Nov 13, 2013) (with Paul Smith).

“The Patent Playbook: Understanding the Patent War Between Apple, Google, and Samsung,” presentations at the CLSA Technology Forums in San Francisco (March 4, 2012), Philadelphia (May 1, 2012), New York (May 2, 2012), Ft. Lauderdale (May 4, 2012), Tokyo (June 21, 2012), Hong Kong (June 23, 2012) and Singapore (June 27, 2012).

“Patent Trends and Problems,” presentation at the Sterling Partners Futures Retreat, Baltimore MD (May 21, 2012).

“Anti-Piracy Today,” a conversation with Allison Vivas as part of XBIZ LA (Jan 12, 2012).

“The Future of Content: IP in the Cloud,” at the High-Tech General Counsel Forum (with Microsoft General Counsel Brad Smith) (April 5, 2011).

“The Federal Trade Commission Patent Report,” discussion at the Federal Trade Commission (March 15, 2011) (with Suzanne Michel and William Cohen).

“Ownership in the Age of Mash-Up,” Pomona College (February 9, 2011) (with Jonathan Lethem).

“More than a Game,” State Bar of California, Intellectual Property Law Section (October 28, 2010) (with the chief legal officers from Electronic Arts, Activision-Blizzard, and Take-Two Interactive).

“The First Sale Doctrine,” testimony before a joint task force from the United States Department of Justice and the United States Copyright Office (June 21, 2010) (via video conference).

“Copyright Termination,” at the Los Angeles Intellectual Property Law Association (June 15, 2010) (with David Nimmer and Peter Menell).

“Copyright Law and Advocacy,” at the Time-Warner Annual Legal Retreat and Meeting (June 10, 2010).

“Shoot the Messenger,” at the Los Angeles Copyright Society Annual Year-End Meeting (June 9, 2010).

“The Google Book Search Settlement: Good Deal or Bad and for Whom?” as part of the Intellectual Property Institute, USC Gould School of Law (March 23, 2010).

“Pricing Patents: The RAND Commitment,” the University of Houston Law Center, as the Annual Baker Botts Distinguished Lecture (February 25, 2010).

“Piracy, Anti-Piracy & the Future of the Entertainment Business,” Loyola Law School (panel discussion with Fred von Lohmann, Ron Wheeler & Frederick Huntsberry) (Nov 6, 2009).

“Fair Use Fictions,” Alumni Meeting for UCLA Law, San Francisco (Nov 5, 2009).

“Copyright Liability,” in front of the Chief Litigation Counsel Association, Annual Meeting (Oct 15, 2009).

“Google Book Search in the Gridlock Economy,” George Mason University, as part of a conference in honor of Michael Heller’s book, The Gridlock Economy (October 2, 2009).

“Copyright Advocacy,” at a special meeting of the Director’s Guild of America (Sept 8, 2009).

“Internet Law and Policy,” California Institute of Technology (May 13, 2009).

“Copyright Infringement and the Internet,” as part of the USC Annual Intellectual Property Institute, USC Gould School of Law (March 17, 2009).

“Re-Envisioning the Copyright Act’s Architecture for the Digital Age,” as part of the conference, “Reforming Copyright: Process, Policy and Politics,” Southwestern Law School (March 6, 2009).

“Google Book Search is Not Fair Use” at the Benjamin N. Cardozo School of Law, as part of the Intellectual Property Speaker Series (April 7, 2008).

“Pricing Patents” at the National Bureau of Economic Research (NBER), Innovation Policy and the Economy Conference (April 15, 2008).

“Willful Damages” at the USC Annual Intellectual Property Institute (March 18, 2008).

“Copyright in a Converged World” at the Tech Policy Summit (March 26, 2008).

“Google Book Search” at the UCLA Law & Economics Workshop (October 23, 2008).

“Rethinking the Presumption of Patent Validity,” George Mason University, School of Law, as part of the conference, “The Regulation of Innovation and Economic Growth,” (May 4, 2007).

“Defending FRAND Pricing,” at the Waldorf Astoria Hotel, as part of the LECG workshop entitled, “The Intersection of Intellectual Property Rights and Antitrust Law” (March 14, 2007).

“Aligning Patent Presumptions with the Reality of Patent Review,” at the Hamilton Foundation forum on Promoting Opportunity and Growth Through Science, Technology, and Innovation (December 5, 2006).

“Discouraging Patent Holdouts through Reciprocal Commitment,” Northwestern University School of Law, Law & Economics Colloquium (November 27, 2006).

same, UCLA Faculty Workshop (October 20, 2006).

“Irreparable Benefits,” American Law & Economics Association (ALEA) Annual Meeting, University of California at Berkeley (May 6, 2006).

“Fair Use in the Modern Age,” CCH Annual Retreat, Chicago IL (April 24, 2006) (conversation with Association of American Publishers Vice President Alan Adler, eBay Deputy General Counsel Jay Monahan, and Microsoft Associate General Counsel Tom Rubin).

“Google Book Search: A Debate,” American Enterprise Institute, Washington D.C. (February 25, 2006) (debate with Berkeley Professor Hal Varian).

“Search Engines and Public Regulation,” at Yale Law School, as part of the conference on “Regulating Search” (December 3, 2005).

“Grokster: Implications for other Media Markets,” Harvard Law School, as part of the Harvard Conference on Intellectual Property (October 19, 2005).

“Irreparable Benefits,” UCLA Law School, Faculty Workshop (March 14, 2005).

same, University of Chicago Work-in-Progress Workshop (April 27, 2006)

“Municipal WiFi: Justifications and Misperceptions,” as part of the University of Southern California’s Telecommunications Conference in Washington D.C. (October 27, 2005).

“MGM v. Grokster: A Preview,” as part of the Copyright Office Comes to California, an event sponsored by the California State Bar Association (February 28, 2005, and again March 2, 2005).

“Patent Prosecution and the Doctrine of Equivalent,” UCLA Law School, Intellectual Property Workshop (April 1, 2005).

same, University of California at Berkeley, Faculty Workshop (March 3, 2005).

same, University of Pennsylvania, Workshop in Law & Economics (February 21, 2004).

same, University of Southern California, Faculty Workshop Series (January 28, 2005).

“Barriers to Efficient Pricing,” University of Chicago, as part of the MacLean Center Conference on Pharmaceutical Innovation (Nov. 5, 2004).

“Empirical Evidence from Patent Prosecution,” Duke University, as part of the conference “Patent Policy: Using, Abusing, and Reforming” (Sept. 18-19, 2004).

same, presented at University of Texas Law School (November 8, 2004), Case Law School (November 15, 2004), and University of California at Berkeley (scheduled for December 3, 2004).

“How the Law Responds to Self-Help,” George Mason University, as part of the symposium, “The Economics of Self-Help & Self-Defense in Cyberspace” (Sept. 10, 2004).

“Holding Internet Service Providers Accountable,” George Mason University, as part of the symposium “The Law and Economics of CyberSecurity” (June 11, 2004).

“Irreparable Harms and Irreparable Benefits,” The Coase Lecture, The University of Chicago (January 2004)

same, Fordham University School of Law (March 2003)

“Rethinking Prosecution History Estoppel: Empirical Evidence from Patent Prosecution,” American Bar Foundation (November 2003)

same, Michigan Law School, combined meeting of the Law & Economics Workshop and the Intellectual Property Workshop (October 2003)

same, George Washington University, Faculty Workshop (September 2003)

same, Harvard Law School, Berkman Center Retreat (August 2003)

same, University of Chicago, Intellectual Property Colloquium (June 2003)

“Multi-Sided Markets: Implications for Intellectual Property,” American Enterprise Institute (June 2003)

“Copyright: Norms, Nuances, and Tradeoffs,” remarks at the Harvard Journal of Law & Technology Symposium, “Copyright and Fair Use: Present and Future Prospects” (March 2003)

“Let the Experiment Run,” Manhattan Institute for Digital Economy, as part of the Symposium, “Competition Policy in the Telecom Industry: When the Sherman Act Meets the Telecom Act, Who Wins?” (December 2002)

“Patent Reform and International Harmonization,” University of California at Berkeley, as part of the Patent Reform Symposium (March 2002).

“Copyright as a Rule of Evidence,” Stanford Law School, Law & Economics Workshop (February 2002)

same, University of California, Berkeley, Law & Economics Workshop (November 2001)

same, University of Chicago, Work in Progress Seminar (November 2001)

“Strategic Disclosure in the Patent System,” Harvard Law School, Law & Economics Workshop (May 2001)

same, American Law & Economics Association Annual Meeting, New York (May 2001)

same, Boston University Law School, Intellectual Property Speaker Series (April 2001)

same, Vanderbilt Law School’s Symposium, “Taking Stock: The Law and Economics of Intellectual Property Rights” (April 2000)

“Responding to Rapid Changes in Consumer Preferences,” remarks at the University of Michigan, as part of the conference, “Law, Policy and the Convergence of Telecommunications and Computing Technologies” (March 2001)

“Integrating Antitrust and Patent Law,” remarks at the University of California, Berkeley, as part of the conference, “Beyond Microsoft” (March 2001)

“Regulation and Antitrust in the B2B Space,” at the Industry Standard’s iB2B Conference, Chicago (October 2000).

“Open Source: A Skeptical View,” New York University (NYU), as part of the conference, “A Free Information Ecology in the Digital Environment” (April 2000)

“Property Rights in Emerging Platform Technologies,” Duke University, Faculty Workshop (December 1999)

same, at the University of Southern California (USC) as a guest fellow of the Center for Communication Law & Policy (November 1999)

same, at the University of Chicago, Law & Economics Workshop (October 1999)

same, at the 1999 Telecommunications Policy Research Conference, Washington D.C. (September 1999)

same, at the Workshop in Applied Economics, sponsored by the Social Science Research Council, Washington D.C. (August 1999)

“Copyright as a Rule of Evidence,” as part of the University of Chicago Legal Forum's Antitrust Symposium (October 1999)

“Contract and Vertical Integration in Networks Large and Small,” Yale Law School, as part of the conference, “Private Censorship/Perfect Choice” (April 1999)

“Shared Information Goods,” at the 1998 Telecommunications Policy Research Conference, Washington D.C. (October 1998)

same, at Stanford Law School's Luncheon Series in Law and Economics (February 1999)

same, at the School of Information Management & Systems, University of California, Berkeley (February 1999)

“The Copyright Implications of Small-Scale Social Sharing,” Harvard Law School, as part of the Internet and Society Seminar Series (November 1997)

same, at the Olin Summer Workshop in Law and Economics, Yale Law School (July 1997)

Media Outreach

I frequently work with the mass media and have in recent years offered commentary to news organizations including CNN, NPR, the Wall Street Journal, and the Los Angeles Times.