

MARK A. LEMLEY

Stanford Law School
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Stanford, CA 94305

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CURRENT EMPLOYMENT

Stanford Law School, Palo Alto, California

William H. Neukom Professor of Law; Director, Program in Law, Science and
Technology; Director, LLM Program in Law, Science and Technology May 2004 - present
Visiting Professor Fall 2003
Courses: Patent Law; Intellectual Property and Antitrust; Introduction to Intellectual
Property; Advanced Topics in Patents
Research Interests: antitrust; intellectual property; computer and Internet law; electronic
commerce

Keker & Van Nest, San Francisco, California

Of counsel 2001 - present
Litigation, dispute resolution and client counseling in all aspects of intellectual property,
antitrust, and Internet law. Representative clients include Comcast, Genentech, Google,
Grokster, Hummer Winblad, Intel, NetFlix, TiVo, and the University of Colorado
Foundation.

EMPLOYMENT EXPERIENCE

Boalt Hall School of Law, University of California, Berkeley, California

Elizabeth Josslyn Boalt Chair in Law July 2003 – June 2004
Professor of Law; co-Director, Berkeley Center for Law and Technology Jan. 2000 – June 2003
Visiting Professor Fall 1998
Lecturer 1993 - 1994
Courses: Introduction to Intellectual Property; Electronic Commerce; Computer Law;
Intellectual Property and Antitrust; Patent Law; IP Scholarship Seminar

University of Texas School of Law, Austin, Texas

Marrs McLean Professor of Law 1999 - 2000
Professor 1998 - 1999
Assistant Professor 1994 - 1998
Courses: Antitrust Law; Computer Law; Intellectual Property and Antitrust Law; Introduction to
Intellectual Property; Law of the Internet; Patent Law; Regulated Industries

Fish & Richardson, Menlo Park, California & Austin, Texas

Of Counsel 1995 - 2001
Attorney 1993 - 1994
Litigated, provided expert testimony, counseled clients and served as an arbitrator and
mediator in patent, trade secret, copyright, trademark and antitrust cases in the fields of
computer software and hardware, telecommunications, biotechnology, and physics.
Appellate practice in patent law, trade secrets, contract and software copyright before
the Fifth, Seventh, Ninth and Federal U.S. Circuit Courts of Appeals. Representative
clients included Amicus Communications, Ansel Communications, Genentech, Mentor
Graphics, 3M, Mobil Oil, Nassda, NeoForma, Thermolase, Valentis and Varian

EMPLOYMENT EXPERIENCE CONTINUED

- Brown & Bain, Palo Alto, California 1992 - 1993
Attorney
Litigated and counseled clients regarding patent and trade secret law in the fields of telecommunications, semiconductors, and medical devices. Representative clients included EP Technologies and National Semiconductor
- United States Court of Appeals, Ninth Circuit, Pasadena, California 1991 - 1992
Law Clerk to Judge Dorothy W. Nelson

EDUCATION

- Boalt Hall School of Law, University of California at Berkeley
J.D., 1991. California Law Review (Articles Editor); Order of the Coif; Industrial Relations Law Journal; Moot Court Board
- Stanford University
A.B. with distinction, Economics and Political Science, 1988.

PROFESSIONAL ASSOCIATIONS AND COMMUNITY SERVICE

- Member, Boalt Hall Alumni Association Board of Directors, 2007 – present
Chair, Association of American Law Schools Section on Antitrust and Economic Regulation, 2006
Member, California Blue Ribbon Task Force on Nanotechnology, 2004 – 2005
Advisor, American Law Institute “Principles of the Law of Software Contracts” Project, 2004 - present
Master, San Francisco Bay Area Intellectual Property Inns of Court
Member, Northern District of California Working Committee on Model Patent Jury Instructions, 2000 – present
Moderator, "CyberProf" Internet listserv
Peer reviewer (occasional), American Law and Economics Review; BE Press; California Business Review; Journal of Law, Economics and Organization; Journal of Legal Studies; Jurimetrics Journal; MIT Press; the National Science Foundation; Nature; and Science
Member, Advisory Board, Nanotechnology Law and Business
Member, Program Committee, 2005 Standardisation & Innovation in Information Technology conference
Member, Program Committee, 2001 and 2002 Telecommunications Policy Research Conferences
ICANN domain name dispute arbitrator (disputes.org/eresolution.ca), 1999-2001
Member, Advisory Board, Electronic Frontier Foundation, 2004-present
Member, Board of Directors, University Cooperative Society (\$25 million private non-profit college bookstore), 1995-1999
Member, Panel of Academic Advisors, American Committee for Interoperable Systems, 1995-1999
Member, Board of Editors, American Intellectual Property Law Association Quarterly Journal, 1994-2000
Chair, Association of American Law Schools Section on Law and Computers, 1997
Admitted to practice in California, before the United States Supreme Court, and the Second, Seventh, Ninth and Federal Circuit Courts of Appeals as well as numerous federal district courts

AWARDS

World Economic Forum Young Global Leader, 2007
American Lawyer's Young Litigators Fab Fifty, 2007
Best Lawyers in America, 2007 (IP, antitrust)
National Law Journal 100 Most Influential Attorneys in the U.S., 2006
California Lawyer's Attorney of the Year (CLAY) Award, 2005
Lawdragon 500: New Stars, New Worlds, 2006
Lawdragon Leading Lawyers in America, 2005, 2006, 2007
Daily Journal 100 Most Influential Attorneys in California, 2004, 2005, 2006
San Francisco Magazine, Northern California Super Lawyers (IP litigation), 2004, 2005, 2006, 2007
Marquis Who's Who in America, 2004, 2005, 2006, 2007
Finalist, World Technology Network's World Technology Award for Law, 2004
Daily Journal Top 25 Intellectual Property Attorneys in California, 2003
Young Alumnus of the Year, Boalt Hall School of Law, 2002
Thelen Marrin Prize (given to the top student in each graduating class), Boalt Hall School of Law, 1991
John G. Sobieski Prize in Economics, Stanford University, 1988
Truman Scholar, 1986

PUBLICATIONS

Books

Tailoring Patent Policy for Specific Industries (University of Chicago Press forthcoming 2008), with Dan L. Burk

IP and Antitrust (Aspen Law & Business, 1st ed. 2001), with Herbert Hovenkamp & Mark Janis (two volume treatise) (1300 pages); also 2003 Supplement, 2004 Supplement, 2005 Supplement, 2006 Supplement, and 2007 Supplement (also translated into Chinese)

Software and Internet Law (Aspen Law & Business, 3d ed. 2006), with Peter S. Menell, Robert P. Merges, and Pamela Samuelson (1151 pages) (along with **Teacher's Manual**); also 2d ed. 2003 (1061 pages), with Peter S. Menell, Robert P. Merges, and Pamela Samuelson; 1st ed. 2000, with Peter S. Menell, Robert P. Merges, and Pamela Samuelson (1115 pages)

Intellectual Property in the New Technological Age (Aspen Law & Business, Revised 4th ed. 2007), with Robert P. Merges and Peter S. Menell (1239 pages) (along with **Teacher's Manual**); also 4th ed. 2006, with Robert P. Merges & Peter S. Menell (1221 pages); 3d ed. 2003, with Robert P. Merges & Peter S. Menell (1112 pages); 2d ed. 2000, with Robert P. Merges & Peter S. Menell (1224 pages); 1st ed. 1997, with Robert P. Merges, Peter S. Menell, and Thomas M. Jorde (1154 pages)

Antitrust (Gilbert's Law Summaries, 10th ed. 2005), with Christopher Leslie (255 pages). Also 9th ed. 1996, with Thomas M. Jorde and Robert H. Mnookin (193 pages)

Intellectual Property in the New Technological Age: 2006 Statutory Supplement (Aspen Law & Business 2005), with Peter S. Menell & Robert P. Merges (531 pages); also **2005 Case and Statutory Supplement** (640 pages); **2004 Case and Statutory Supplement** (570 pages); **2003 Case and Statutory Supplement** (522 pages); **2002 Case and Statutory Supplement** (544 pages); also **2001 Case and Statutory Supplement** (532 pages); **2000 Statutory Supplement** (493 pages); **1999-2000 Case and Statutory Supplement** (529 pages); **Intellectual Property: Selected Statutes** (Aspen Law & Business 1997), with Robert P. Merges, Peter S. Menell, and Thomas M. Jorde (380 pages)

Articles in Mainstream Law Reviews

A Realist Approach to the Obviousness of Inventions (in progress), with Daralyn J. Durie

The Surprising Virtues of Treating Trade Secrets as IP Rights (in progress)

Is The Patent Office A Rubber Stamp? (in draft), with Bhaven Sampat

Categorical Analysis in Antitrust Jurisprudence, 93 **Iowa Law Review** __ (forthcoming 2007), with Christopher R. Leslie

Ignoring Patents, __ **Michigan State Law Review** __ (forthcoming 2007)

Rethinking Patent Law's Presumption of Validity, __ **Stanford Law Review** __ (forthcoming 2007), with Doug Lichtman

Grounding Trademark Law Through the Trademark Use Doctrine, 92 **Iowa Law Review** 1669 (2007), with Stacey L. Dogan

Patent Holdup and Royalty Stacking, 85 **Texas Law Review** 1991 (2007), with Carl Shapiro

Reply: Patent Holdup and Royalty Stacking, 85 **Texas Law Review** 2163 (2007), with Carl Shapiro

Should Patent Infringement Require Proof of Copying?, 105 **Michigan Law Review** 1525 (2007)

The (Unnoticed) Demise of the Doctrine of Equivalents, 59 **Stanford Law Review** 955 (2007), with John R. Allison

Should Property or Liability Rules Govern Information?, 85 **Texas Law Review** 783 (2007), with Philip J. Weiser

Ten Things to Do About Patent Holdup of Standards (and One Not To), 48 **Boston College Law Review** 149 (2007), reprinted in 6 **ICFAI Journal of Intellectual Property Rights** (India) 38 (2007) and in **The Standards Edge: Golden Mean** 59 (2007)

Spillovers, 107 **Columbia Law Review** 257 (2007), with Brett M. Frischmann

Terms of Use, 91 **Minnesota Law Review** 459 (2006)

What the Right of Publicity Can Learn From Trademark Law, 58 **Stanford Law Review** 1161 (2006), with Stacey L. Dogan, reprinted in 39 **Intellectual Property Law Review** __ (forthcoming 2007)

Inherency, 47 **William & Mary Law Review** 371 (2005), with Dan L. Burk, reprinted in 38 **Intellectual Property Law Review** __ (forthcoming 2006)

Patenting Nanotechnology, 58 **Stanford Law Review** 601 (2005)

Inducing Patent Infringement, 39 **U.C. Davis Law Review** 225 (2005), reprinted in 51:12 **AIPPI Japan** 16 (December 2006) (in Japanese)

The Changing Meaning of Patent Claim Terms, 104 **Michigan Law Review** 101 (2005)

The Merchandising Right: Fragile Theory or Fait Accompli?, 54 **Emory Law Journal** 461 (2005), with Stacey L. Dogan

Articles in Mainstream Law Reviews continued

Quantum Patent Mechanics, 9 **Lewis & Clark Law Review** 29 (2005), with Dan L. Burk

Property, Intellectual Property, and Free Riding, 83 **Texas Law Review** 1031 (2005)

What's Different About Intellectual Property, 83 **Texas Law Review** 1097 (2005)

Trademarks and Consumer Search Costs on the Internet, 41 **Houston Law Review** 777 (2004), with Stacey L. Dogan

Valuable Patents, 92 **Georgetown Law Journal** 435 (2004), with John R. Allison, Kimberly A. Moore & Derek Trunkey, reprinted in 37 **Intellectual Property Law Review** __ (forthcoming 2005)

Reducing Digital Copyright Infringement Without Restricting Innovation, 56 **Stanford Law Review** 1345 (2004), with R. Anthony Reese

Ex Ante Versus Ex Post Justifications for Intellectual Property, 71 **University of Chicago Law Review** 129 (2004)

Ending Abuse of Patent Continuations, 84 **Boston University Law Review** 63 (2004), with Kimberly A. Moore

Balancing Ease and Accuracy in Assessing Pharmaceutical Exclusion Payments, 88 **Minnesota Law Review** 712 (2004), with Herbert Hovenkamp & Mark D. Janis

Policy Levers in Patent Law, 89 **Virginia Law Review** 1575 (2003), with Dan L. Burk, reprinted in 14 **Intellectual Property Law and Policy Journal** 45 (2007) and 15 **Intellectual Property Law and Policy Journal** 53 (2007) (Japanese translation)

Are the United States Patent Priority Rules Really Necessary?, 54 **Hastings Law Journal** 1299 (2003), with Colleen Chien; reprinted in 36 **Intellectual Property Law Review** 3 (2004)

ICANN and Antitrust 2003 **University of Illinois Law Review** 1, with A. Michael Froomkin

Anticompetitive Settlement of Intellectual Property Disputes, 87 **Minnesota Law Review** 1719 (2003), with Herbert Hovenkamp & Mark Janis

Place and Cyberspace, 91 **California Law Review** 521 (2003), reprinted in Steven Wildman ed., **Rethinking Rights and Regulations: Institutional Responses to New Communication Technologies** (MIT Press 2003), and reprinted in **Rights in the Digital Era: Freedom of Speech and Intellectual Property** (2005) (Italian translation)

Intellectual Property Rights and Standard-Setting Organizations, 90 **California Law Review** 1889 (2002)

The Growing Complexity of the Patent System, 82 **Boston University Law Review** 77 (2002), with John Allison

Rational Ignorance at the Patent Office, 95 **Northwestern University Law Review** 1495 (2001)

The End of End-to-End: Preserving the Architecture of the Internet in the Broadband Era, 48 **UCLA Law Review** 925 (2001), with Lawrence Lessig, reprinted in Mark N. Cooper ed., **Open Architecture as Communications Policy** (2004)

Articles in Mainstream Law Reviews continued

Patent Scope and Innovation in the Software Industry, 89 **California Law Review** 1 (2001), with Julie E. Cohen

Who's Patenting What? An Empirical Exploration of Patent Prosecution, 53 **Vanderbilt Law Review** 2099 (2000), with John Allison

Private Property, 52 **Stanford Law Review** 1545 (2000)

How Federal Circuit Judges Vote in Patent Validity Cases, 29 **Florida State University Law Review** 745 (2000), with John Allison; reprinted at 10 **Federal Circuit Bar Journal** 435 (2001)

The Modern Lanham Act and the Death of Common Sense, 108 **Yale Law Journal** 1687 (1999)

Beyond Preemption: The Law and Policy of Intellectual Property Licensing, 87 **California Law Review** 111 (1999)

The Law and Economics of Internet Norms, 73 **Chicago-Kent Law Review** 1257 (1998)

Freedom of Speech and Injunctions in Intellectual Property Cases, 48 **Duke Law Journal** 147 (1998), with Eugene Volokh

Legal Implications of Network Economic Effects, 86 **California Law Review** 479 (1998), with David McGowan

Dealing With Overlapping Copyrights on the Internet, 22 **University of Dayton Law Review** 547 (1997)

The Economics of Improvement in Intellectual Property Law, 75 **Texas Law Review** 989 (1997)

Encouraging Software Reuse, 49 **Stanford Law Review** 255 (1997), with David O'Brien

Romantic Authorship and the Rhetoric of Property, 75 **Texas Law Review** 873 (1997) (review of James Boyle, *Shamans, Software and Spleens: Law and the Construction of the Information Society*), reprinted in Peter Drahos ed., **Intellectual Property** (2000)

Antitrust and the Internet Standardization Problem, 28 **Connecticut Law Review** 1041 (1996)

Intellectual Property and Shrinkwrap Licenses, 68 **Southern California Law Review** 1239 (1995)

The Antitrust Liability of Labor Unions for Anticompetitive Litigation, 80 **California Law Review** 757 (1992), with Daralyn J. Durie

The Economic Irrationality of the Patent Misuse Doctrine, 78 **California Law Review** 1599 (1990)

Book Chapters and Articles in Specialty Law Reviews

Who Uses Open Source Software? (National Institutes of Health grant # NGA: 1 R01 HG003769-01), with Wei Zhou (in progress)

The Trademark Use Requirement in Dilution Cases, with Stacey L. Dogan (in progress)

Are Universities Patent Trolls?, __ **Fordham Intellectual Property Law Journal** __ (forthcoming Spring 2008), reprinted in 7 **ICFAI Journal of Intellectual Property Rights** (India) __ (forthcoming 2008)

Book Chapters and Articles in Specialty Law Reviews continued

The Limits of Claim Differentiation, 22 **Berkeley Technology Law Journal** __ (forthcoming Fall 2007)

Rationalizing Internet Safe Harbors, 5 **Journal of Telecommunications and High Tech Law** __ (forthcoming 2008), reprinted in __ **ICFAI Journal of Cyber Law** (India) __ (forthcoming 2008)

A Search-Costs Theory of Limiting Doctrines in Trademark Law, in **Trademark Law and Theory: A Handbook of Contemporary Research** (Graeme Dinwoodie & Mark D. Janis, eds. forthcoming December 2007), with Stacey L. Dogan

A New Balance Between IP and Antitrust, 13 **Southwestern Journal of Law and Trade in the Americas** 237 (2007)

Should a Licensing Market Require Licensing?, 70 **Law and Contemporary Problems*** 185 (2007)

What To Do About Bad Patents, **Regulation**, Winter 2005-06, at 10 (2005), with Douglas Lichtman & Bhaven N. Sampat; reprinted in **IP Law and Business**, January 2006, at 20

Unilateral Refusals to License in the U.S., in **Antitrust, Patents and Copyright: EU and US Perspectives** 12 (Francois Leveque & Howard Shelanski eds. 2005), reprinted in 2 **Journal of Competition Law and Economics** 1 (2006)

Divided Infringement Claims, 33 **American Intellectual Property Law Association Quarterly Journal*** 255 (2005), with Ryan M. Kent, David W. O'Brien, Ashok Ramani, and Robert Van Nest, reprinted in 6 **Sedona Conference Journal** 117 (2005), and reprinted in **Festschrift fur Carl Baudenbacher** (forthcoming 2007).

A Quick and Inexpensive System for Resolving Digital Copyright Disputes, 23 **Cardozo Arts & Entertainment Law Journal** 1 (2005), with R. Anthony Reese

Probabilistic Patents, 19 **Journal of Economic Perspectives*** 75 (2005), with Carl Shapiro

Designing Optimal Software Patents, in **Intellectual Property Rights in Frontier Industries: Software and Biotechnology** (Robert E. Hahn ed. 2005), with Dan L. Burk, reprinted in **Software Patents: Legal Perspectives** (India) (A.V. Narsimha Rao ed. 2007)

Biotechnology's Uncertainty Principle, in 50 **Advances in Genetics: Perspectives on Properties of the Human Genome Project** 305 (2003), with Dan L. Burk (reprinted in 54 **Case Western Reserve Law Review** 691 (2004))

Ending Patent Law's Willfulness Game, 18 **Berkeley Technology Law Journal** 1085 (2003), with Ragesh K. Tangri

Is Patent Law Technology-Specific?, 17 **Berkeley Technology Law Journal** 1155 (2002), with Dan L. Burk

* Denotes peer-reviewed or peer-edited journal.

Foreseeability in Patent Law, 16 **Berkeley Technology Law Journal** 1045 (2001), with Matthew J. Conigliaro & Andrew C. Greenberg

The Constitutionalization of Technology Law, 15 **Berkeley Technology Law Journal** 529 (2000)

Book Chapters and Articles in Specialty Law Reviews continued

Reconceiving Patents in the Age of Venture Capital, 4 **Journal of Small and Emerging Business Law** 137 (2000) (reprinted in **China's Invention and Patent** (2004) (Chinese translation))

Standardizing Government Standard-Setting Policy for Electronic Commerce, 14 **Berkeley Technology Law Journal** 745 (1999)

Empirical Evidence on the Validity of Litigated Patents, 26 **American Intellectual Property Law Association Quarterly Journal*** 185 (1998), with John Allison

Could Java Change Everything? The Competitive Propriety of a Proprietary Standard, 43 **Antitrust Bulletin*** 715 (1998), with David McGowan, reprinted in 3 **Journal of Internet Law*** 19 (March 1999)

Recent Developments in Patent Law, 6 **Texas Intellectual Property Law Journal** 103 (1997)

Understanding the Economic Espionage Act of 1996, 5 **Texas Intellectual Property Law Journal** 177 (1997), with James H.A. Pooley and Peter J. Toren

An Empirical Study of the Twenty-Year Patent Term, 22 **American Intellectual Property Law Association Quarterly Journal*** 369 (1995), reprinted in IV Ruth Towse & Rudi Holzhauser eds., **The Economics of Intellectual Property** (Edward Elgar Publishing 2002)

Convergence in the Law of Software Copyright?, 10 **High Technology Law Journal** 1 (1995)

Rights of Attribution and Integrity in Online Communications, 1995 **Journal of Online Law*** art. 2 (May 1995) (<http://www.wm.edu/law/publications/jol>), reprinted in Gary Gumpert, ed., **Real Law @ Virtual Space: Regulation in Cyberspace** (Hampton Press 1999)

Shrinkwraps in Cyberspace, 35 **Jurimetrics Journal*** 311 (1995)

Antitrust Counterclaims in Patent and Copyright Infringement Cases, 3 **Texas Intellectual Property Law Journal** 1 (1994)

Antitrust Immunity: State Action and Federalism, Petitioning and the First Amendment, 17 **Harvard Journal of Law and Public Policy** 293 (1994), with David McGowan

Summary Judgment in Antitrust Cases: Understanding Monsanto and Matsushita, 36 **Antitrust Bulletin*** 271 (1991), with Thomas M. Jorde

United States v. Syufy, 20:3 **Antitrust Law and Economics Review*** 9 (1989)

SELECTED PAPERS, PRESENTATIONS, AND ACTIVITIES

Amicus Briefs

Lead counsel and co-author, Brief Amici Curiae of 26 Professors Supporting Affirmance, *Edwards v. Arthur Andersen* (Cal. Sup. Ct. 2007)

Lead counsel and co-author, Brief Amici Curiae of 41 Professors of Economics, Business and Law in Support of Granting the Petition for Certiorari, *Joblove v. Barr Labs* (U.S. 2007)

Amicus Briefs continued

Co-author, Brief Amici Curiae of Intellectual Property Professors in Support of Reversal, *Microsoft Corp. v. AT&T Corp.* (U.S. 2006)

Lead counsel and author, Brief Amicus Curiae of Comcast Cable Communications LLC in Support of Defendants and in Support of Affirmance in *BMC Resources, Inc. v. Paymentech L.P.* (Fed. Cir. 2006)

Lead counsel and principal author, Brief Amici Curiae of the Electronic Frontier Foundation and 38 Intellectual Property Professors in Support of Appellants in *Freecycle Network v. Oey* (9th Cir. 2006)

Lead counsel and principal author, Brief Amici Curiae of Charter Communications, Inc., Comcast Cable Communications, Coxcom, Inc., and Time Warner Cable in Support of Appellants in *Freedom Wireless v. BCGI* (Fed. Cir. 2006)

Lead counsel and author, Brief Amici Curiae of 52 Intellectual Property Law Professors in Support of Petitioners in *eBay, Inc. v. MercExchange, LLC* (U.S. 2006)

Lead counsel and co-author, Brief Amici Curiae of 37 Business, Economics and Law Professors in *In re Tamoxifen Citrate Antitrust Litigation* (2d Cir. 2005) (en banc)

Lead counsel and author, Brief Amici Curiae of 35 Intellectual Property Law Professors in Support of Certiorari in *eBay, Inc. v. MercExchange, LLC* (U.S. 2005)

Lead counsel and co-author, Brief Amici Curiae of Cisco Corp. and Google Inc. in *American Axle Manufacturing v. Dana Corp.* (U.S. 2004)

Lead counsel and author, Brief Amici Curiae of Intel Corp., IBM Corp, Google Inc., Microsoft Corp., and Micron Corp. in *Phillips v. AWH Corp.* (Fed. Cir. 2004) (en banc)

Lead counsel and author, Brief Amicus Curiae of Google Inc. in *1-800 Contacts v. WhenU.com* (2d Cir. 2004)

Co-author, Brief Amici Curiae of Computer Associates International, Qualcomm, LSI Logic, and 8 patent law professors in *Knorr-Bremse v. Dana* (Fed. Cir. 2004) (en banc)

Lead counsel and principal author, Brief Amicus Curiae of Intellectual Property Professors in *Moseley v. V Secret Catalogue* (U.S. 2002)

Lead counsel and principal author, Brief Amicus Curiae of Electronic Frontier Foundation, AFFECT, Digital Future Coalition, Association of Research Libraries, American Library Association, American Association of Law Libraries, Computer and Communications Industry Association, U.S. Association for Computing Machinery, and 33 intellectual property professors in *Bowers v. Baystate Technologies* (Fed. Cir. 2002)

Lead counsel and principal author, Brief Amicus Curiae of Technology Law Professors in *Intel Corp. v. Hamidi* (Cal. Sup. Ct. 2002) (review petition and merits brief)

Lead counsel and joint author, Brief Amicus Curiae of The Internet Archive in *Eldred v. Ashcroft* (U.S. 2001 (certiorari petition) and 2002 (merits brief))

Lead counsel and joint author, Brief Amicus Curiae of Technology Law Professors in *Ebay v. Bidder's Edge* (9th Cir. 2000)

Amicus Briefs continued

Lead counsel and principal author, Brief Amicus Curiae of Copyright Law Professors in *Sony v. Connectix* (9th Cir. 1999)

Lead counsel and principal author, Brief Amicus Curiae of American Committee for Interoperable Systems in *ProCD v. Zeidenberg* (7th Cir. 1996)

Other Papers and Published Speeches

How to Make a Patent Market (draft 2007), with Nathan Myhrvold

Time for Congress to innovate, reform abused patent system, **San Jose Mercury-News**, June 15, 2006, at 20A (op-ed)

End to End: The Architectural Principle of Open Access, 22 **Whittier Law Review** 3 (2000), with Lawrence Lessig (reprint of declaration filed in the *AT&T – Media One* merger case)

Rank, 3 **Green Bag 2d** 457 (2000)

Will the Internet Remake Antitrust Law?, in Kraig M. Hill et al., eds., **Globalization of Intellectual Property in the 21st Century** (Center for Advanced Study and Research on Intellectual Property 1999) (speech); reprinted in Christopher Marsden ed., **Regulating the Global Information Society** (Routledge 2000)

Submarine Patents, and What to Do About Them, 2 **Initiate!!** 8 (1996)

Theft of Trade Secrets, paper for ALI/ABA CLE conference, Pittsburgh, PA, September 1995 (with James H.A. Pooley) (http://www.fr.com/publis/f_paper7.html)

Conferences Chaired

Chair, Stanford IP Seminar for Chinese Judges, August 12-21, 2007

Chair, Second, Third and Fourth Annual Ecommerce Best Practices Conference, Stanford Law School, Stanford, California 2005-2007

Chair or co-chair, First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and Twelfth Annual Advanced Patent Law Institutes, San Jose, California 2000-2007 and Austin, Texas, 1996-2007

Co-chair, Stanford Law School Conference on Intellectual Property and Biosciences, Stanford, California September 15, 2006

Co-chair, "Standardization and the Law: Finding the Golden Mean for International Trade," Stanford Law School, Stanford, California September 22-23, 2005

Co-chair, conference on "Biotechnology & Intellectual Property: Current Controversies," Stanford Law School, Stanford, California March 11, 2005

Chair, Empirical Patent Research Conference, St. Helena, California, February 4, 2005

Conferences Chaired continued

Chair or co-chair, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Annual University of Texas Computer Law Conferences, San Francisco, California 2001-2002 and Austin, Texas 1995-2006

Co-chair, Patent System Reform conference, Berkeley, California April 15-16, 2004

Chair, Third Annual Intellectual Property Scholars Conference, Berkeley, California August 8-9, 2003

Chair, Patent System Reform conference, Berkeley, California March 1-2, 2002

Chair, Beyond Microsoft: Antitrust, Technology and Intellectual Property, Berkeley, California March 2-3, 2001

Co-Chair, The Legal and Policy Infrastructure for Global Electronic Commerce, Berkeley, California March 5-6, 1999

Co-chair, Intellectual Property and Contract in Digital Media: The Impact of Uniform Commercial Code Article 2B, Berkeley, California, April 27-28, 1998

Chair, 1998 Computers, Freedom and Privacy conference (CFP98), Austin, Texas, February 18-20, 1998

Congressional and Administrative Testimony and Judicial Education

Chair and presenter, sessions on "Patents, Standards and Competition", "Injunctive Relief After eBay", and "IP and Antitrust", Stanford IP Seminar for Chinese Judges, August 12-21, 2007

"Bayh-Dole: The Next 25 Years," testimony before the Technology and Innovation subcommittee of the Science and Technology Committee of the U.S. House of Representatives, 110th Cong., 1st Sess., July 17, 2007

Chair, Intellectual Property Rights and Technology, program for judges of the Karnataka High Court, India, May 13, 2007

"Intellectual Property and Genetics," presentation to Federal Judicial Center Law and the Biosciences Seminar, Stanford, California January 12, 2007

"Patent Infringement," "Defenses," and "Remedies," presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, June 7, 2006

Testimony on "Patent Quality Enhancement in the Information-Based Economy" before the subcommittee on Courts, the Internet and Intellectual Property of the Committee on the Judiciary of the U.S. House of Representatives, Washington, DC April 5, 2006

"Intellectual Property and Genetics," presentation to Federal Judicial Center Law and the Biosciences Seminar, Stanford, California January 13, 2006

Testimony on "Patent Reform" before the Antitrust Modernization Commission, Washington, D.C., November 8, 2005

Testimony on "Protecting Copyright and Innovation in a Post-Grokster World" before the Judiciary Committee of the U.S. Senate, 109th Cong., 1st Sess., September 28, 2005

Testimony and Judicial Education continued

Testimony on "Market Competitiveness: Does State Antitrust Law Need to be Updated?," before the California Senate Judiciary Committee, Sacramento, California August 23, 2005

"Testimony on Patent System Reform: Injunctions and Remedies" before the Intellectual Property subcommittee of the Judiciary Committee of the U.S. Senate, 109th Cong., 1st Sess., June 14, 2005

"Written Description," "Patent Infringement," "Defenses," and "Remedies," presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 25, 2005

Testimony on HR 683 relating to trademark dilution before the Courts, the Internet and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 109th Cong., 1st Sess., February 17, 2005

Panelist, "Internet Law," presentation to the Ninth Circuit Judicial Conference, San Francisco, California, February 1, 2005

"Claim Construction," "Doctrine of Equivalents," "Willful Infringement," and "Trademark Dilution," presentations to the Federal Judicial Center's National Workshop for District Judges, Philadelphia, Pennsylvania, April 19, 2004; Chicago, Illinois, June 8, 2004; and Seattle, Washington, September 21, 2004

Written testimony on SB 1506 relating to identity of file-sharers before the California Senate Judiciary Committee, April 12, 2004

"Prosecution History Estoppel" and "Subpoenas Under the DMCA," presentations to the Seventh Circuit Judicial Conference, Lake Geneva, Wisconsin, Oct. 15, 2003

"Written Description," "Infringement," "Remedies," and "Scope of Waiver of Attorney-Client Privilege," presentations to the Federal Judicial Center workshop for U.S. District Court Judges, Berkeley, California, May 28, 2003

"Geography and the Internet," presentation to the National Symposium for Federal Appellate Judges, Federal Judicial Center, Washington, DC October 22, 2002

"Claim Construction," "Patent Infringement" and "Patent Remedies", presentations to the Federal Judicial Center program Intellectual Property in the New Technological Age, Berkeley, California, June 19, 2002

Written testimony regarding California SB 1814, relating to monopolization, June 14, 2002

"Intellectual Property Rights and Standard-Setting Organizations," testimony before the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice, Washington, DC, April 18, 2002

"The Role of Patents in Innovation," testimony before the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice, Berkeley, CA, February 26, 2002

"Internet Jurisdiction" and "Contracts and Preemption," presentations to ABA State Appellate Judicial Conference, Vancouver, BC, July 24, 2001

"Patent Claim Construction," "Written Description" and "Doctrine of Equivalents," presentations to the Federal Judicial Center program Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 20-22, 2001

Testimony and Judicial Education continued

"Doctrine of Equivalents" and "Willful Infringement," presentations to the Central District of California judicial retreat, Ojai, California, Feb. 2, 2001

"Intellectual Property and Sovereign Immunity," testimony before the Courts and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 106th Cong., 2nd Sess., July 27, 2000

"Patent Claim Construction," "Contract Preemption," and "Internet Jurisdiction," presentations to the Federal Judicial Center program Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 21-23, 2000

"Internet Jurisdiction" and "Contract Preemption," presentations to the Ninth Circuit Judicial Conference, San Diego, California, January 12, 2000

"Intellectual Property and the Challenges Presented by New Technology," presentation to the Federal Judicial Center's National Workshop for District Judges, Baltimore, Maryland, August 19, 1999 and Chicago, Illinois, September 10, 1999

Testimony before the California Senate in support of SB 1146, relating to trade secrets in auto emissions devices, June 22, 1999

Written testimony before the Texas House of Representatives regarding H.B. 22, relating to assignment of an employee's rights in an invention, April 14, 1999

"State Intellectual Property Law and Preemption," presentation to the Federal Judicial Center program Understanding the Landscape of Intellectual Property Law, Berkeley, California, June 19, 1998

Testimony before the Federal Trade Commission on the Joint Venture Guidelines Project, Washington, DC, March 20, 1998

Testimony Concerning the Need for and Effects of H.R. 359, Relating to Patent Term, before the Courts and Intellectual Property subcommittee of the Judiciary Committee of the U.S. House of Representatives, 104th Cong., 1st Sess., Nov. 1, 1995

275 other presentations to conferences, universities, colloquia, academic business executives and bar groups on various issues related to intellectual property, antitrust, computer and Internet law, telecommunications, and electronic commerce, 1994-2007

FACULTY SERVICE

Stanford Law School

Member, Joint Degrees/Interdisciplinary Programs Committee, 2007-2008

Member, Building Committee, 2007

Member, Appointments Committee, 2005 – 2006

Director, Program in Law, Science and Technology, 2004 – present

Director, LLM Program in Law, Science and Technology, 2004 – present

Member, International Programs Committee, 2004 – 2005
Faculty Advisor, Stanford Law and Technology Association, 2004 – present

University of California at Berkeley

Chair, University Dean Search Committee, Haas School of Business, 2001 - 2002

Boalt Hall School of Law

Co-Director, Berkeley Center for Law and Technology, 1999 - 2004
Chair, Faculty Appointments Committee, 2002 – 2003; member, 2000 – 2001
Faculty Advisor, Berkeley Technology Law Journal, 2003 - present
Faculty Advisor, Saul Lefkowitz Trademark Moot Court team, 2000 – 2001
Member, Computer Advisory Committee, 2000

University of Texas System

Judge, UT Student Association Appellate Court, 1995 - 1999
University Hearing Officer, 1995 - 1999
Member, Computer and Information Technology Use Policies Committee, 1996 - 2000
Member, Intellectual Property Committee, 1994 - 2000

University of Texas School of Law

Member, Career Services Committee, 1995 - 2000
Member, Computer Services Committee, 1994 - 2000 (chair, 1997 and 1999)
Member, Library Committee, 1994 - 1996, 1997 - 1999 (chair, 1995 - 1996)
Coordinator, Lectures and faculty colloquia, 1999 - 2000
Faculty advisor, Texas Intellectual Property Law Journal, 1994 – 2000
Faculty advisor, Intellectual Property Law Society, 1994 - 2000
Faculty advisor, Giles S. Rich Intellectual Property Moot Court team, 1995 – 2000