

THE DUKE INTELLECTUAL PROPERTY & CYBERLAW SOCIETY

presents:



THIRD ANNUAL
**HOT TOPICS IN
INTELLECTUAL PROPERTY LAW
SYMPOSIUM**

Duke University School of Law
Friday March 26, 2004





AGENDA

Welcoming Remarks

- 9:00am - 9:05am Grant Yang, President, Duke Law Intellectual Property and Cyberlaw Society (Room 3043)
- 9:05am-9:15am Katharine Bartlett, Dean and Kenneth Pye Professor of Law, Duke University School of Law (Room 3043)

Morning Panel

MP3s: Privacy and Piracy in the World of Filesharing

- 9:15am - 10:30am **Panel Member Presentations** (Room 3043)
- 9:15am - 9:30am CAN THE LABELS AND P2P SURVIVE EACH OTHER: A BRIEF HISTORY OF DIGITAL DISTRIBUTION OF MUSIC
Jim Burger, Dow, Lohnes & Albertson
- 9:30am - 9:45am VOLUNTARY COLLECTIVE LICENSING OF MUSIC FILE SHARING
Jason Schultz: Staff Attorney at Electronic Frontier Foundation
- 9:45am - 10:00am LEGAL ISSUES SURROUNDING PEER TO PEER FILE SHARING SYSTEMS
Dean Garfield: Vice President of Legal Affairs, Recording Industry Association of America
- 10:00am-10:15am THE MYTH OF ANONYMITY ON P2P NETWORKS
Mark Ishikawa: CEO of BayTSP
- 10:15am - 10:30am P2P & THE DIGITAL PARADIGM
Professor Raymond Ku: Case Western Reserve Law School
- 10:30am - 10:45am **Morning Snack Break** (3rd Floor Loggia)
SPONSORED BY DUKE UNIVERSITY OFFICE OF INFORMATION TECHNOLOGY
- 10:45am - 12:00pm **Morning Panel Discussion** (Room 3043)
Panelists: Jim Burger, Dean Garfield, Mark Ishikawa and Jason Schultz
Moderator: Professor Raymond Ku

Lunch

- 12:00pm - 1:00pm **Buffet Lunch** (Burdman Lounge)
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AGENDA

Keynote Address

- 1:00pm - 2:00pm CLAIM CONSTRUCTION DECONSTRUCTED (Room 3043)
Presented by Judge Randall R. Rader: United States Court of Appeals for the Federal Circuit

Afternoon Breakout I

- 2:15pm - 3:30pm **Option I:** (Room 4045) *SPONSORED BY THE PRATT SCHOOL OF ENGINEERING*
NANOTECHNOLOGY: THE CURRENT STATE OF THE ART AND HOW THIS NEW TECHNOLOGY IS BEING PATENTED
Don Featherstone: Director, Sterne, Kessler, Goldstein & Fox
Michael Specht: Associate, Sterne, Kessler, Goldstein & Fox
- Option II:** (Room 4048) *SPONSORED BY THE DUKE UNIVERSITY OFFICE OF STUDENT AFFAIRS*
HOT TOPICS IN BIOTECHNOLOGY IP LAW
Bud Nelson: Chief IP Counsel, Trimeris, Inc.
Virginia Bennett, Senior Patent Counsel, GlaxoSmithKline

- 3:30pm - 3:45pm **Afternoon Snack Break** (3rd Floor Loggia)
SPONSORED BY DOW, LOHNES & ALBERTSON PLLC

Afternoon Breakout II

- 3:45pm-5:00pm **Option I:** (Room 4045) *SPONSORED BY THE DUKE LIBRARIES*
A CRITICAL ANALYSIS OF THE FTC/DOJ PATENT RECOMMENDATIONS
Blair Jacobs, Partner, Pillsbury Winthrop
- Option II:** (Room 4048) *SPONSORED BY THE CENTER FOR THE STUDY OF THE PUBLIC DOMAIN*
ANTITRUST ANALYSIS IN SOFTWARE PRODUCT MARKETS
Andrew Chin: Associate Professor of Law, University of North Carolina School of Law

- 5:00pm-5:30pm **Evening Reception** (3rd Floor Loggia)
SPONSORED BY THE TRIANGLE INTELLECTUAL PROPERTY LAW ASSOCIATION



KEYNOTE PRESENTER



Judge Randall R. Rader
United States Court of Appeals for the Federal
Circuit

Randall R. Rader is a Circuit Judge on the United States Court of Appeals for the Federal Circuit. He obtained a B.A. in English from Brigham Young University in 1974 and a J.D. from George Washington University in 1978. President Ronald Reagan appointed him to the United States Claims Court in 1988. President George Bush nominated Judge Rader to the Court of Appeals for the Federal Circuit in 1990.

While on the appellate bench, Judge Rader has served actively as an educator. He has taught patent law and advanced intellectual property courses at the University of Virginia School of Law, Georgetown University Law Center, Washington, D.C. and The George Washington University Law School, Washington, D.C. Judge Rader is co-author of a casebook on patent law used at over sixty-five law schools. He has received many awards, including the J. Wm. Fulbright Award for Distinguished Public Service, 2000, the Jefferson Medal, 2003, a Distinguished Teaching Award, 2003, and a Distinguished Service Award, 2003. As an appellate judge, Judge Rader has also led or participated in over sixty delegations to foreign nations, usually to teach rule of law or intellectual property concepts in developing nations.

Before his appointment to the bench, Judge Rader served members of the House of Representatives (1975-1980) and served as counsel to the Senate Judiciary Committee (1980-88). While counsel to the Judiciary Committee, he was Chief Counsel or Minority Chief Counsel for the Subcommittee on the Constitution and the Subcommittee on Patents, Trademarks, and Copyrights.



PRESENTERS



Virginia Bennett
Senior Patent Counsel
GlaxoSmithKline

Virginia Bennett is Senior Patent Counsel at GlaxoSmithKline in Research Triangle Park, where she focuses on biotech issues facing the pharmaceutical industry.

Bennett received a J.D. from the University of California at Los Angeles in 1992. She also received a M.A. in Journalism from the University of Southern California (1985) and a B.A. in Biology from the University of California at Berkeley (1979).

Bennett is the author of "Plant Biotechnology," *The Law and Strategy of Biotechnology Patents*, Butterworth Heinemann (1994) and "Protecting the Patentability of Your Collaborative Research," *Nature Biotechnology* 15:472 (May 1997). Prior to joining GlaxoSmithKline, Bennett was a partner with the intellectual property firm Myers Bigel Sibley & Sajovec in RTP.



Jim Burger
Member, Dow Lohnes & Albertson

Jim Burger represents technology companies on intellectual property, communications, and government policy matters. Burger joined Dow Lohnes & Albertson's Media, Information and Technology group in January 1997.

Burger has participated extensively in such complex matters as DVD content protection, the Secure Digital Music Initiative (SDMI), wireless data communications, and the Copy Protection Technical Working Group (CPTWG), as well as representing information technology industry associations and individual IT companies before the FCC in proceedings such as Broadcast Protection and Cable Plug & Play. He works, speaks, and writes extensively on legal and policy issues arising from the confluence of digital technology, entertainment, intellectual property, and government regulation.

For nine years before joining Dow Lohnes & Albertson, Burger was Senior Director in Apple Computer's Law Department where his responsibilities included worldwide intellectual property policy. He was also General Counsel for Europe and Latin America and responsible for worldwide government affairs. He was Chair of the Information Technology Industry Council's Proprietary Rights Committee.



PRESENTERS



Andrew Chin

Associate Professor of Law

University of North Carolina School of Law

Andrew Chin is of counsel to Intellectual Property Solutions, PLLC, where he prepares and prosecutes patent applications in computer and Internet technology. Chin joined the faculty of the University of North Carolina School of Law in 2001. He teaches antitrust, intellectual property and patent law.

Chin received his bachelors degree from the University of Texas at Austin. He earned his doctorate in combinatorial mathematics and computational complexity theory at St. Catherine's College, Oxford on a Rhodes Scholarship and a National Science Foundation Graduate Fellowship. Between 1991 and 1995, Chin taught mathematics at Texas A&M University, computer science at King's College, University of London, and public policy at the University of Texas at Austin. At Yale Law School, he published a paper written during his first semester as a note in the Yale Law Journal, and several subsequent law review articles.

After graduating, Chin clerked for Judge Henry H. Kennedy, Jr. of the United States District Court for the District of Columbia, and assisted Judge Thomas Penfield Jackson and his law clerks in the drafting of the findings of fact in *United States v. Microsoft Corporation*. Chin then practiced in the corporate and intellectual property departments in the Washington, D.C. office of Skadden, Arps, Slate, Meagher & Flom, LLP.



Donald Featherstone

Director and Co-Chair Nanotechnology Practice Group

Sterne, Kessler, Goldstein & Fox PLLC

Donald Featherstone is a director in the electrical practice group of Sterne, Kessler, Goldstein & Fox PLLC and is a co-chairman of the firm's nanotechnology practice group. In addition to strategic patent portfolio creation and management, Featherstone prepares opinions, technology agreements and IP audits and performs due diligence investigations. He is a former patent examiner of semiconductor devices.

Featherstone received his J.D., Intellectual Property Law Specialty Track, from the George Mason University and a B.S. in Electrical Engineering from Lafayette College.



PRESENTERS



Dean C. Garfield
Vice President of Legal Affairs
Recording Industry Association of America

Dean C. Garfield is Vice President of Legal Affairs at the Recording Industry Association of America (RIAA). The trade group's member companies are responsible for creating, manufacturing, or distributing 80 percent of all legitimate sound recordings sold in the United States. He assists in managing several intellectual property cases, including litigations against Grokster, AudioGalaxy, Launch, Kazaa, and Music City. He is also responsible for the management and execution of the Parental Advisory Program at the RIAA.

Before joining the RIAA in 2000, Garfield was a member of the law firm of Kaye Scholer LLP for 6 years in both New York and Washington, D.C. While at Kaye Scholer, Garfield handled general commercial litigation with an emphasis on intellectual property and labor matters.

Garfield received a joint degree in 1994 from NYU Law and the Woodrow Wilson School of Public Administration and International Affairs at Princeton. In addition to his responsibilities at the RIAA, Garfield serves on the boards of several public interest entities, and devotes his spare time to pro bono matters, including death penalty litigations.



Mark Ishikawa
Chief Executive and Technology Officer
BayTSP, Inc.

Mark Ishikawa is founder, CEO and CTO of BayTSP, Inc. He is an expert in the fields of Internet content distribution, spidering, peer-to-peer (P2P) applications, electronic security, networking and database design, and has served in a variety of executive level positions in numerous Silicon Valley technology companies.

Over the course of his nearly two decades in the computer services industry, Ishikawa has engineered and managed large scale databases, wide-area networks, branding, and encryption systems for organizations ranging from the U.S. Department of Defense to Hewlett Packard. Prior to founding BayTSP in 1999, he served as Chief Operating Officer of Infontent.com, Inc. He has served as an expert witness for the Justice Department on peer-to-peer technologies and has spoken at Harvard and Stanford Universities on this subject.



PRESENTERS



Blair Jacobs
Partner
Pillsbury Winthrop LLP

Blair Jacobs is a partner in the McLean, VA office of Pillsbury Winthrop, LLP. His practice focuses on patent litigation and counseling. Jacobs represents clients in a variety of technical areas, including fiber optic telecommunication equipment, photolithographic equipment for imaging semiconductor devices, Internet technologies, iris recognition security devices, computer hardware and software, medical devices, laser printer cartridges, and other technologies. Jacobs has extensive trial experience in federal and state courts and has substantial experience in the appellate phase of litigation, including the presentation of more than twenty oral arguments before federal appellate courts.

Before entering private practice, Jacobs clerked for a federal judge, served as a trial attorney for the Department of Justice, and worked at the White House as a legal advisor for a Presidential oversight board. He frequently lectures and writes on matters relating to patent law, patent litigation and trial advocacy.



Raymond Ku
Professor of Law
Case Western Reserve University School of Law
Assoc. Director, Center for Law, Technology & the Arts

Raymond Ku is a Professor of Law & the Associate Director of the Center for Law, Technology & the Arts at CASE, where he teaches courses on copyright law and copyright law in the digital millennium. Prior to joining CASE, Ku was an associate professor and director of the Institute of Law, Science & Technology at Seton Hall University School of Law. Before that he was an associate professor at Thomas Jefferson School of Law, where he established and directed the Center for Law, Technology & Communications. Ku is lead author of the first casebook devoted exclusively to the study of cyberspace law, *Cyberspace Law: Cases & Materials* (Aspen 2002). He has published articles in numerous law reviews and journals.

Ku clerked for Timothy K. Lewis, justice on the U.S. Court of Appeals for the Third Circuit, and was an associate with Levine Pierson Sullivan & Koch LLP and Gibson, Dunn & Crutcher LLP. He holds a J.D. from New York University School of Law, where he was a Leonard Boudin First Amendment Fellow, and an A.B. in political science from Brown University.



PRESENTERS



Bud Nelson
Chief IP Counsel
Trimeris, Inc.

Bud Nelson is Chief IP Counsel of Trimeris, Inc., a biopharmaceutical company engaged in the discovery and development of new drugs for the treatment of viral diseases.

Prior to joining Trimeris, Nelson worked for 2½ years as a patent attorney and Assistant Director of Research for a start-up biotech company in Columbus, Ohio. For 5 years before that he was a patent attorney at a Buffalo, New York law firm.

Nelson has earned a B.A. in Biology, a B.S. in Medical Technology, an M.A. and Ph.D. in Immunology and Microbiology, and a J.D. He has published articles in more than 15 scientific publications and 9 legal publications (5 related to Internet Law). He currently has 7 patents, with other patents pending.



Jason Schultz
Staff Attorney
Electronic Frontier Foundation

Jason Schultz is a Staff Attorney specializing in intellectual property and reverse engineering. Prior to joining EFF, Schultz worked at the law firm of Fish & Richardson PC, where he spent most of his time invalidating software patents and defending open source developers in law suits.

While at F&R, Schultz co-authored an amicus brief on behalf of the Internet Archive, Prelinger Archives, and Project Gutenberg in support of Eric Eldred's challenge to the Sonny Bono Copyright Term Extension Act. Prior to F&R, Schultz served as a law clerk to the Honorable D. Lowell Jensen and as a legal intern to the Honorable Ronald M. Whyte, both in the Northern District of California federal court system.

During law school, Schultz served as Managing Editor of the Berkeley Technology Law Journal and helped found the Samuelson Clinic, the first legal clinic in the country to focus on high tech policy issues and the public interest. Schultz also has undergraduate degrees in Public Policy and Women's Studies from Duke University. Schultz maintains a personal blog at lawgeek.net.



PRESENTERS



Michael Specht

Associate

Sterne, Kessler, Goldstein & Fox PL.LC.

Michael Specht is an associate in the electronics and nanotechnology practice groups of Sterne, Kessler, Goldstein & Fox PLLC. In addition to strategic patent portfolio creation and management, he prepares opinions, technology agreements, and IP audits, and performs due diligence investigations.

Specht was formerly general counsel of an early stage technology company, served as a Senior Engineer at the Federal Communications Commission, and began his career at Telcordia Technologies. Specht received a J.D., cum laude, from Georgetown University, an M.S. in electrical engineering from Purdue University and a B.S. with highest honors from Case Western Reserve University.



ABOUT THE DUKE LAW INTELLECTUAL PROPERTY & CYBERLAW SOCIETY

The Intellectual Property and Cyberlaw Society was formed as an organization for all students and faculty interested in emerging issues of technology and law. The Society provides opportunities for discussion and interaction between not only Duke students and faculty, but also visiting professors, legal practitioners and technology industry leaders by sponsoring meetings, seminars and other activities. For more information please visit our website at <http://intprop.law.duke.edu>.

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