

AALS Workshop on When Technology Disrupts Law: How Do IP, Internet and Bio Law Adapt?

Berkeley, California
June 10 - 12, 2012

Why Attend?

Synthetic biology, regenerative stem cells, chimera, fMRI, nanotechnology, cloud computing, social networks, and web 2.0 are just a few of the many technological advances of the first decade of the twenty-first century to which intellectual property (IP), internet and biolaw professionals are having to help the law adapt. This workshop will bring together leading thinkers not only from the legal academy, but also from fields of economics, business, biology, and computer science, to share insights about these technologies and how the law and lawyers can best adapt to these new phenomena.

The conventional wisdom in the IP field has long been that the grant of exclusive rights such as patents and copyrights is essential to foster innovation in virtually all fields of endeavor. This wisdom has been called into question to some degree by the rise of peer production processes, such as open source development, and by other modes of open innovation. How has and how should the law respond to open innovation? If users are innovating by tinkering with products that are patented or copyrighted, should special rules privilege this tinkering? The internet and other advances in information technology have made it possible for people to collaborate at a distance to construct significant information resources such as Wikipedia. Who owns what has been created collaboratively? What role do commons play in promoting innovation and progress? The rise of amateur creations such as remixes and mashups of copyrighted content, which are widely available on sites such as YouTube, have generated more legal questions than answers.

Social networks allow sharing of information beyond anything that could have been imagined a decade ago. What responsibilities do the operators of these networks have toward their users, particularly as to data mining with personal data about the users? Data mining has also become extremely important with large data sets, and bioinformatics is a new field of research that does not fit within standard models of disciplinary fields. Among the challenging questions that have arisen in the biological sciences have been whether products of synthetic biology can be copyrighted or subject to Creative Commons licenses. Thickets of patents on stem cell innovations and genetic materials are said by some to pose threats to the ongoing progress of research in these fields, and law professors, among others, are offering suggestions about how to overcome obstacles of this sort.

Beyond IP, advances in biology and biotechnology increasingly challenge not just the margins, but the core of the law as well. Functional brain scanning can now provide a detailed picture of the living, thinking human brain, complicating our understanding of such legal concepts as scienter, responsibility, guilt, and punishment. Rapid, inexpensive genome sequencing allows patients intimate knowledge of their genetic heritages, with consequences for employment, insurance, health, and family law. Embryonic stem cells raise myriad bioethical issues, renewing legal debates over property rights in human body parts and abortion rights. And, synthetic biology raises concerns biosafety, biosecurity, and the democratization of biotechnology.

This workshop will not only consider these types of questions, but also what kinds of changes to legal institutions might be necessary or desirable to render the institutions better able to adapt to the rapidly changing technological environment in which we live. Should the Federal Communications Commission have more regulatory authority over the internet? Do we need to recreate the Office of Technology Assessment inside the U.S. Congress? Is the Patent & Trademark Office able to handle the influx of applications in new

fields of technology? How might the U.S. Copyright Office be revamped to make better use of information technologies and the internet? Does the Food & Drug Administration need to be redesigned? Because so many of the technology challenges today are not just national, but global in character, how does or should the regulatory infrastructure on an international scale need to be reconfigured to respond to these changes? To what extent do technologies themselves express policy and even regulatory choices?

This two and a half day workshop will feature three keynote speakers, several plenary panels on substantive issues such as those mentioned above, a debate about the patenting of genetic information by lawyers who have been involved in active litigation on these matters, an opportunity to converse with a remarkable group of senior women in the IP field, and breakout sessions to discuss open innovation in various fields, creative ways to teach difficult subjects with and about technology, and influences from other fields of knowledge that have a bearing on the work of IP, internet, and biolaw professionals.

Planning Committee for 2012 AALS Workshop on When Technology Disrupts Law: How Do IP, Internet and Bio Law Adapt?

- * Margo A. Bagley, University of Virginia School of Law
- * Mark P. McKenna, Notre Dame Law School
- * Paul Ohm, University of Colorado Law School
- * Pamela Samuelson, University of California Berkeley School of Law, Chair
- * Andrew W. Torrance, University of Kansas School of Law

Where?

The Mid-Year Meeting will be held at the Claremont Hotel in Berkeley, California. The room rate is \$189 for single or double occupancy; subject to a nightly sales tax of 14.065%. Hotel reservations will be available in January.

Meeting Registration?

Look for meeting registration coming in January 2012. You may register for both the Workshop on When Technology Disrupts Law: How Do IP, Internet and Bio Law Adapt on June 10-12 and Workshop on Torts, Environment and Disaster on June 8-10. The registration fees for faculty at AALS member and fee-paid law schools are: \$495 Early Bird Registration, \$535 After Early Bird Date, and \$780 for both workshops.

PROGRAM

Sunday, June 10, 2012

10:00 a.m. - 5:00 p.m.
AALS Registration

1:30 - 2:00 p.m.

Welcome

Susan Westerberg Prager, AALS Executive Director, Chief Executive Officer

Introduction

Pamela Samuelson, University of California, Berkeley, School of Law and Chair,
Planning Committee for AALS Workshop on Intellectual Property

2:00 - 2:30 p.m.

Plenary Session- Open Innovation and Governance Keynote:

Eric Von Hippel, Professor of Management of Innovation and Engineering Systems, Sloan School of
Management, Massachusetts Institute of Technology, Cambridge, Massachusetts

2:30 - 3:45 p.m.

Plenary Session - Open Innovation Panel

Carliss Y. Baldwin, William L. White Professor of Business Administration, Harvard Business School,
Boston, Massachusetts

Andrew Endy, Assistant Professor of Bioengineering, Stanford University School of Medicine,
Stanford, California

William W. "Terry" Fisher III, Harvard Law School

Brett Frischmann, Benjamin N. Cardozo School of Law Yeshiva University

3:45 - 4:00 p.m.

Refreshment Break

4:00 - 5:15 p.m.

Concurrent Sessions:

User-Generated Content on Social Networks and Other Collaborative Websites

Edward Lee, Illinois Institute of Technology, Chicago-Kent College of Law

Rebecca L. Tushnet, Georgetown University Law Center

Open Biology

Joseph P. Jackson III, Founder, Open Science Summit, Mountain View, California

Dave Opderbeck, Seton Hall University School of Law

Commercializing Open Innovations

Stuart Graham, Assistant Professor, College of Management, Georgia Institute of Technology, Atlanta, Georgia

Greg R. Vetter, University of Houston Law Center

Social Networks and Privacy

Chris Hoofnagle, University of California, Berkeley School of Law

Frank A. Pasquale, Seton Hall University School of Law

6:00 - 8:00 p.m.

AALS Reception

Monday, June 11, 2012

9:00 - 10:15 a.m.

Plenary Session - Updating the Regulatory Infrastructure - Domestic Regulatory

Arti K. Rai, Duke University School of Law

Philip J. Weiser, University of Colorado Law School

Fred von Lohmann, Senior Copyright Counsel, Google Inc., Mountain View, California

Christopher M. Holman, University of Missouri-Kansas City, School of Law

10:15 - 10:30 a.m.

Refreshment Break

10:30 a.m. - 12:00 p.m.

Plenary Session - Challenges of Updating International Regulatory Infrastructure

Daniel J. Gervais, Vanderbilt University Law School

Ruth Okediji, University of Minnesota Law School

Amy N. Kapczynski, University of California, Berkeley, School of Law

Additional speaker to be announced

12:00 - 1:45 p.m.

AALS Luncheon

Edward W. Felten, Chief Technology Officer, Federal Trade Commission

2:00 - 3:15 p.m.

Concurrent Sessions: Pedagogy

Teaching Biotech

Sean O'Connor, University of Washington School of Law

Teaching with Digital Technology

Lydia P. Loren, Lewis and Clark Law School

Teaching Cyber Law

Ira S. Nathenson, St. Thomas University School of Law

3:30 - 5:00 p.m.

Plenary Session - Debate

Daniel Ravicher, Benjamin N. Cardozo School of Law, Yeshiva University

Kevin E. Noonan, Partner, McDonnell, Boehnen, Hulbert, & Berghoff LLP, Chicago, Illinois

5:15 - 7:00 p.m.

AALS Reception

Tuesday, June 12, 2012

9:00 - 10:15 a.m.

Plenary Session - Conversation with Senior Women in the Intellectual Property Field

Rochelle C. Dreyfuss, New York University School of Law
Rebecca S. Eisenberg, The University of Michigan Law School
Wendy Jane Gordon, Boston University School of Law
Jessica Litman, The University of Michigan Law School

Moderator: Pamela Samuelson, University of California, Berkeley, School of Law

10:15 - 10:30 a.m.

Refreshment Break

10:30 a.m. - 12:00 p.m.

Concurrent Sessions - Influences from Other Fields

New Institutional Economics

Paul Heald, University of Illinois College of Law

Behavioral Economics

Christine Jolls, Yale Law School

Neuroscience/Cognitive Psychology/Marketing Behavior

Teneille Brown, University of Utah, S. J. Quinney College of Law

Experimental

Christopher Sprigman, University of Virginia School of Law

12:00 - 1:45 p.m.

AALS Luncheon

Speaker to be Announced

2:00 - 3:15 p.m.

Plenary Session - Big Data / Evolutionary / Geonomics

Jeff Jonas, Chief Scientist, IBM Entity Analytics and IBM Distinguished Engineer, IBM Research,
Yorktown Heights, New York

Daniel Katz, Michigan State University College of Law

Peter Lee, University of California, Davis, School of Law

Victoria C. Stodden, Assistant Professor, Department of Statistics, Columbia University, New York, New York

3:15 - 3:30 p.m.

Refreshment Break

3:30 - 5:00 p.m.

Plenary Session - Technology as Policy

Dan L. Burk, University of California, Irvine, Law School

Henry T. Greely, Stanford Law School

Orin S. Kerr, The George Washington University Law School

Deirdre K. Mulligan, University of California, Berkeley, Information School