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Assistant Professor
University of San Diego School of Law
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EDUCATION

Harvard Law School

Cambridge, MA

J.D., *magna cum laude* (1999)

- *Research Assistant*, Professor Laurence Tribe
- *Research Assistant*, Professor David Rosenberg
- *Research Assistant*, Berkman Center for Internet & Society.
- *Articles Editor*, HARVARD ENVIRONMENTAL LAW REVIEW
- *Editor*, HARVARD JOURNAL OF LAW & TECHNOLOGY

Florida State University

Tallahassee, FL

M.S., Physics (1996)

- Course work in mechanics, electricity & magnetism, quantum mechanics & field theory, and statistical mechanics & thermodynamics.
- Specialized study in superstring theory and particle physics.

Stanford University

Stanford, CA

A.B., with distinction, Philosophy (1992); Phi Beta Kappa

- *Program in History & Philosophy of Science*.
- *Research Assistant*, Gravity Probe B Project. Assisted with experimental test of general relativity.
- *Research Assistant*, Stanford Sleep Disorders Clinic

RESEARCH INTERESTS

Patent law; intellectual property; law & entrepreneurship; litigation & settlement; empirical legal studies; law & economics; computational legal studies.

TEACHING EXPERIENCE

University of San Diego School of Law

San Diego, CA

2009-present

Assistant Professor

University of California, Berkeley, School of Law

Berkeley, CA

2008-2009

Lecturer

University of California, Los Angeles

Los Angeles, CA

2006

Instructor, Extension Program

Florida State University

Tallahassee, FL

1995-1996

Instructor, Physics Department

FELLOWSHIP & CLERKSHIP

University of California, Berkeley, School of Law

Berkeley, CA

2008-2009

Ewing Marion Kauffman Research Fellow

U.S. Court of Appeals for the Ninth Circuit

Pasadena, CA

1999-2000

Law Clerk to the Honorable A. Wallace Tashima

ACADEMIC PUBLICATIONS

Myths of (Un)Certainty at the Federal Circuit (forthcoming in 43 LOYOLA OF LOS ANGELES LAW REVIEW (2010)) (symposium volume, by invitation).

Patenting by Entrepreneurs: An Empirical Study (forthcoming in 16 MICHIGAN TELECOMMUNICATIONS & TECHNOLOGY LAW REVIEW (2010)) (with Stuart Graham).

An abridged version of this article will appear in HANDBOOK OF LAW, INNOVATION, AND GROWTH (Robert Litan ed., 2010).

Commercializing Patents, 62 STANFORD LAW REVIEW 341(2010), available at <http://ssrn.com/abstract=1395558>.

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey (forthcoming in 24 BERKELEY TECHNOLOGY LAW JOURNAL (2009)) (with Stuart Graham, Robert Merges, and Pamela Samuelson), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1429049.

Why Barring Settlement Bars Legitimate Suits: A Reply to Rosenberg and Shavell, 18 CORNELL JOURNAL OF LAW & PUBLIC POLICY 57 (2008), available at <http://ssrn.com/abstract=986234>.

Why Do Start-Ups Patent?, 23 BERKELEY TECHNOLOGY LAW JOURNAL 1063 (2008) (with Stuart Graham) (symposium volume, by invitation), available at <http://ssrn.com/abstract=1121224>.

Book Note, 10 HARVARD JOURNAL OF LAW & TECHNOLOGY 707 (1996) (reviewing MICHAEL REISS & ROGER STRAUGHAN, IMPROVING NATURE?: THE SCIENCE AND ETHICS OF GENETIC ENGINEERING (1996)), available at <http://jolt.law.harvard.edu/articles/pdf/v10/10HarvJLTech707.pdf>.

WORKS IN PROGRESS

Patent Bullies: How Industry Incumbents Abuse the Patent System (presented at 2009 Law & Society Conference, 2009 Intellectual Property Scholars Conference, and the George Washington School of Law 2009 Patents and Entrepreneurship in Business and Information Technologies). Describes how established companies with large patent portfolios exploit defects in the patent system to suppress competition and identifies this behavior as a widespread, yet largely unnoticed, problem.

Quantum Game Theory and Cooperation in Intellectual Property (presented at 2008 Works-in-Progress IP Conference, 2009 Annual Meeting of the American Law & Economics Association, and 2009 Annual Meeting of the Midwestern Law & Economics Association). Applies the new field of quantum game theory to intellectual property, modifying current classical models; recommends new approaches for solving the public goods problem in intellectual property law.

Do Economic Downturns Dampen Patent Litigation? (with Stuart Graham & Alan Marco). Analyzing quarterly patent infringement suit filing data since 1998, this paper is the first to show that declines in several macroeconomic indicators are significantly correlated with decreases in patent litigation rates.

The Possibility of an Impossibility Theorem. Recently, Grundfest and Huang postulated an “Impossibility Conjecture”—namely, that because of the inherent uncertainty in litigation, regardless of the substantive law and procedural rules the court adopts, socially optimal litigation outcomes can never result. This paper develops this theoretical claim and evaluates it using patent and other litigation data.

OTHER INTELLECTUAL PROPERTY PUBLICATIONS

Disclosing “Related Cases” at the Federal Circuit: Eli Lilly’s Written Description “Secret”, PATENTLY-O, Dec. 3, 2009, available at <http://www.patentlyo.com/patent/2009/12/disclosing-related-cases-at-the-federal-circuit-eli-lillys-written-description-secret.html>.

Top 10 Patent Strategies, THE DAILY TRANSCRIPT (San Diego), Sept. 30, 2009.

Book Review, CALIFORNIA LAWYER (May 2009) (reviewing RICHARD CAULEY, WINNING THE PATENT DAMAGES CASE: A LITIGATOR'S GUIDE TO ECONOMIC MODELS AND OTHER DAMAGE STRATEGIES (2009)), available at <http://www.callawyer.com/story.cfm?eid=901299&evid=1>.

Drafting Patent Infringement Complaints, 11 INTELLECTUAL PROPERTY STRATEGIST, May 2005.

Effectively Using Partial Summary Judgment in Patent Cases, 11 INTELLECTUAL PROPERTY STRATEGIST, Jan. 2005.

OTHER PUBLICATIONS

Factors Used to Determine Whether an ERISA Fiduciary or Administrator Has Wrongfully Denied Benefits, in STEVEN SACHER, ET AL., EMPLOYEE BENEFITS LAW (3d ed. 2009) (forthcoming) (with Matthew Jedreski).

Getting to the Substance, DAILY JOURNAL (Los Angeles & San Francisco), Nov. 9, 2006 (co-author).

3rd Circuit Splits from Other Courts on Fair Opportunity Doctrine, DAILY JOURNAL (Los Angeles & San Francisco), July 24, 2006 (co-author).

Circuit Splits Affect Conflicts of Authority, DAILY JOURNAL (Los Angeles & San Francisco), June 14, 2006 (co-author).

Circuit Splits of Interest to Business, CHICAGO DAILY LAW BULLETIN, June 9, 2006 (co-author).

Splits Involve Issues Affecting Business, Government, Workers, DAILY JOURNAL (Los Angeles & San Francisco), May 18, 2006 (co-author).

When Private Enterprise Hits Public Agencies, Splits Arise, DAILY JOURNAL (Los Angeles & San Francisco), April 13, 2006 (co-author).

Circuit Splits Range From Securities to Attorney Fees, DAILY JOURNAL (Los Angeles & San Francisco), Mar. 30, 2006 (co-author).

From Banking to Bankruptcy, Various Views Arise on Circuits, DAILY JOURNAL (Los Angeles & San Francisco), Mar. 8, 2006 (co-author).

Decisions Reveal Splits Over Approach to Discrimination, DAILY JOURNAL (Los Angeles & San Francisco), Jan. 4, 2006 (co-author).

Circuits Split on How to Test When Trademark Use is Fair, DAILY JOURNAL (Los Angeles & San Francisco), Dec. 2, 2005 (co-author).

Environmental, Fee Issues Bring Splits Among Circuits, DAILY JOURNAL (Los Angeles & San Francisco), Oct. 26, 2005 (co-author).

Circuit Splits Involve Cases On U.S. and Foreign Issues, DAILY JOURNAL (Los Angeles & San Francisco), June 21, 2005 (co-author).

Bankruptcy, Labor, Criminal Cases Result in Circuit Splits, DAILY JOURNAL (Los Angeles & San Francisco), Mar. 23, 2005 (co-author).

LECTURES, PRESENTATIONS & CONFERENCES

The Mathematical Structure of Legal Rights, University of San Diego School of Law Research Colloquium (January 2010).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Colorado Bar Association, Intellectual Property Section, Denver (January 2010).

Commercializing Patentable Subject Matter, The Future of Subject Matter Eligibility After *In re Bilski*, Bar-Ilan Law School, Tel-Aviv, Israel (January 2010).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Conference on Empirical Legal Studies, University of Southern California Law School (November 2009).

Empirical Studies of Patent Litigation, Northwestern Law School (discussant) (November 2009).

Myths of (Un)Certainty at the Federal Circuit, The Federal Circuit as an Institution, Symposium, Loyola of Los Angeles Law School (November 2009).

The Legality of “Rogue” Bots: MDY Industries v. Blizzard Entertainment, American Bar Association Webinar (moderator) (October 2009).

The “Entrant’s Dilemma”: Patent Cross Licensing & Startup Innovation, Patent Cross Licensing: Academic and Practical Perspectives, UC Berkeley School of Law (October 2009).

Quantum Game Theory and Cooperation in Intellectual Property, Annual Meeting of the Midwestern Law & Economics Association, Notre Dame Law School (October 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Works in Progress in Intellectual Property, Seton Hall Law School (October 2009).

Patent Law Colloquium, Santa Clara Law School (discussant) (September 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, West Coast Research Symposium, University of Washington School of Law (September 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Hosier Scholars Series, DePaul Law School (September 2009).

Patent Bullies: How Industry Incumbents Abuse the Patent System, Conference on Innovation and Communication Law, Louisville Law School (August 2009).

Patent Bullies: How Industry Incumbents Abuse the Patent System, Intellectual Property Scholars Conference, Cardozo Law School (August 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, National Bureau of Economic Research, Intellectual Property Summer Session, Boston (July 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Kauffman Foundation Summer Legal Institute, Dana Point, California (July 2009).

Commercializing Patents, Annual Conference of the International Society for New Institutional Economics, University of California, Berkeley (June 2009).

The Vonage Trilogy: A Case Study in “Patent Bullying,” Patents and Entrepreneurship in Business and Information Technologies, George Washington University (June 2009).

Patenting by Entrepreneurs: An Empirical Study, The Economics and Law of the Entrepreneur, Searle Center, Northwestern University School of Law (with Stuart Graham) (June 2009).

Patent Bullies: How Industry Incumbents Abuse the Patent System, Law & Society Association Annual Meeting, Denver (May 2009).

Quantum Game Theory and Cooperation in Intellectual Property, Annual Meeting of the American Law & Economics Association, University of San Diego School of Law (May 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, San Diego Intellectual Property Law Association (May 2009).

Organizer, Bay Area IP & Privacy Law Research Fellows & LLMS Workshop, University of California, Berkeley, School of Law (May 2009).

The 2008 Kauffman-Berkeley Patent Survey: Why Do Entrepreneurs Patent (And Not)? Creativity, Law and Entrepreneurship Workshop, Institute for Legal Studies, University of Wisconsin Law School (with Stuart Graham) (April 2009).

High Technology Entrepreneurs and the Patent System: Results of the 2008 Berkeley Patent Survey, Centers & Clinics Research Workshop, UC Berkeley School of Law; Graduate Education in Technology Commercialization Workshop, Georgia Tech School of Management (April 2009).

Commercializing Patents, Junior Scholars in Intellectual Property, Michigan State University School of Law (March 2009).

Discussant, Royalty Stacking Roundtable, University of San Diego School of Law (March 2009).

How (and Why) are US Entrepreneurs Using Patents? Evidence from the 2008 Kauffman-Berkeley Patent Survey, Innovation Seminar, Haas School of Business, UC Berkeley (with Stuart Graham) (February 2009).

Commercializing Patents, Faculty Workshops at Benjamin Cardozo Law School, Boston University Law School, Emory Law School, Seattle University Law School, SMU Dedman Law School, Thurgood Marshall Law School, University of Houston Law School, University of Miami Law School, University of Oregon Law School, and University of San Diego Law School (November-December 2008).

The Kauffman-UC Berkeley Entrepreneurial Companies Litigation & Licensing Survey, 2008 Kauffman Symposium on Entrepreneurship and Innovation Data, Washington, D.C. (presented by Stuart Graham) (November 2008).

Quantum Game Theory and Cooperation in Intellectual Property, 2008 Works-in-Progress IP Conference, Tulane Law School (October 2008).

Some (Very) Preliminary Results of the 2008 UC Berkeley Patents & Entrepreneurship Survey, Bay Area IP Professors, Stanford Law School (presented with Stuart Graham) (September 2008).

The Commercialization Interest in Intellectual Property Law, IP Scholars Conference 2008, Stanford Law School (August 2008).

The Kauffman-UC Berkeley Entrepreneurial Companies Litigation & Licensing Survey, Kauffman Foundation Data Symposium Workshop, National Science Foundation, Arlington, VA (July 2008).

Benefit Disputes after MetLife v. Glenn: What's the Standard of Review? American Bar Association, Live Webcast (July 2008).

The Role of Centers in Multidisciplinary Curricula, Kauffman Foundation Workshop on Technology Entrepreneurship and Commercialization, Georgia Tech University (May 2008).

Recent U.S. Supreme Court and Federal Circuit Patent Cases, Irell & Manella, Los Angeles, CLE course (Summer 2006).

Drafting Subpoenas in State & Federal Court, Irell & Manella, Los Angeles, CLE course (Fall 2005).

Numerous presentations at venture capital events, including VentureNet, Growth Capital, UCSD Connect, LARTA Institute, Los Angeles Venture Association (LAVA), Los Angeles Business Technology Center, Keiretsu Forum, Tech Coast Angels, Pasadena Angels, and Sand Hill Angels (2001-03).

LEGAL & BUSINESS EXPERIENCE

Heller Ehrman LLC

San Francisco, CA

3/2007-3/2008

Associate

Practiced in the intellectual property litigation, appellate, and venture law groups, handling patent litigation, federal court appeals, and IP transactions & counseling.

Representative matters included:

- *General Electric v. SonoSite* (W.D. Wis.). Represented an early-stage company, SonoSite, in a patent infringement action involving ultrasound technology.
- Analyzed the impact of *Verizon v. Vonage* on a start-up client for potential venture capital investors.
- Confidential counseling on IP portfolio development for an early-stage software company.

Irell & Manella LLP

Los Angeles, CA

8/2004-12/2006

Associate

Practiced in the litigation, intellectual property, and appellate groups, handling patent litigation, state & federal court appeals, and IP transactions & counseling.

Representative matters included:

- *Net2Phone v. eBay/Skype* (D.N.J.) and *Peer Communications v. eBay/Skype* (E.D. Tex.). Represented Skype in patent litigation involving its Voice over IP (VoIP) technology.
- *Biosense Webster v. Endocardial Solutions* (C.D. Cal.), a patent action between subsidiaries of Johnson & Johnson and St. Jude Medical involving heart mapping systems.

Unified Dispatch, Inc. (UDI)

Los Angeles, CA

2/2001-8/2004

Founder & CEO

Founded and ran a software and services company providing voice recognition and call center systems to the ground transportation industry.

- Raised three rounds of financing from leading venture capital and angel investment groups.
- Lead inventor on pending patent application, “Automated Transportation Call-Taking System.”
- Managed intellectual property, including patents, copyrights, and trademarks.

1-800-TAXICAB, Inc.

Los Angeles, CA

1/1999-2/2001

Co-Founder & President

Founded a national referral network for taxi service, which routes callers who dial into the toll-free number 1-800-TAXICAB to local taxi companies.

- Raised initial financing from angel groups and private investors.
- Hired and managed sales team, engineers, and office staff.
- Participated in drafting and negotiation of articles, stockholders’ agreement, options plan, employment agreements, IP licensing agreements, and term sheets.

McDermott, Will & Emery

Miami, FL

1999 (Summer)

Cravath, Swaine & Moore

New York, NY

1998 (Summer)

Limbach & Limbach

San Francisco, CA

1997 (Summer)

PRO BONO MATTERS

Bilski v. Kappos, ___ U.S. ___ (2009). Assisted in drafting an amicus brief in a significant Supreme Court case addressing the boundaries of patentable subject matter, including the patentability of business methods and software.

MetLife v. Glenn, ___ U.S. ___, 128 S. Ct. 2343 (2008). Played leading role in an ERISA case decided in our client’s favor by the U.S. Supreme Court.

Kobs v. United Wisconsin Life Ins. Co., 546 U.S. 1033 (2005). Drafted and filed petition for certiorari and reply brief for an injured employee in an ERISA action.

Pasquantino v. United States, 544 U.S. 349 (2005). Co-drafted merits-stage reply brief and performed research in a U.S. Supreme Court case on behalf of petitioners indicted under the Wire Fraud Act.

Kennedy v. Long Term Disability Plan for Empl. of Huntington Banc, 162 Fed. Appx. 578, 579 (6th Cir. 2006). Drafted and filed petition for rehearing en banc in an ERISA case.

Aguinda v. Texaco, Inc., 303 F.3d 470 (2d Cir. 2002). Performed legal research for plaintiff class in an action against Texaco for its pumping of contaminated crude oil into the Ecuadorian rainforest.

GRANTS

Investigator, “A Comprehensive Patent Litigation Dataset for Empirical Research,” Ewing Marion Kauffman Foundation (with Stuart Graham and Brian Wright).

Participant, “Entrepreneurial Companies & the Patent System,” Ewing Marion Kauffman Foundation (with Robert Barr, Stuart Graham, Robert Merges, and Pamela Samuelson).

TECHNOLOGY EXPERTISE

Professional-level knowledge in telecommunications, software, and Internet technologies. Graduate work in mechanical, electrical, nuclear, and materials engineering.