

**Shubha Ghosh**  
**Crandall Melvin Professor of Law**  
**Director, Syracuse Intellectual Property Law Institute**

**Forthcoming**

UNDERSTANDING INTELLECTUAL PROPERTY LAW (*with* TYLER T. OCHOA & MARY LAFRANCE)  
(5th ed. forthcoming 2025).

**Books**

EXHAUSTION OF INTELLECTUAL PROPERTY RIGHTS: DOCTRINES, POLICIES, REFORMS (2025).

QUESTIONS AND ANSWERS: ANTITRUST (2d ed. 2024).

UNDERSTANDING INTELLECTUAL PROPERTY LAW (*with* TYLER T. OCHOA & MARY LAFRANCE)  
(5th ed. 2024).

ACING TORT LAW: A CHECKLIST APPROACH TO TORT LAW (4th ed. 2022).

ADVANCED INTRODUCTION TO LAW AND ENTREPRENEURSHIP (2021).

UNDERSTANDING INTELLECTUAL PROPERTY LAW (*with* TYLER T. OCHOA & MARY LAFRANCE)  
(4th ed. 2020).

EXHAUSTING INTELLECTUAL PROPERTY RIGHTS: A COMPARATIVE LAW AND POLICY ANALYSIS  
(*with* Irene Calboli) (2018).

TRANSACTIONAL INTELLECTUAL PROPERTY: FROM STARTUPS TO PUBLIC COMPANIES: A  
SUCCESSOR TO INTELLECTUAL PROPERTY IN BUSINESS ORGANIZATIONS: CASES AND  
MATERIALS (*with* RICHARD GRUNER & JAY KESAN) (4th ed. 2018).

ACING TORT LAW (3rd ed. 2017).

INTELLECTUAL PROPERTY: PRIVATE RIGHTS, THE PUBLIC INTEREST, AND THE REGULATION OF  
CREATIVE ACTIVITY (*with* RICHARD GRUNER, JAY KESAN & ROBERT REIS) (3rd ed. 2016).

TRANSACTIONAL INTELLECTUAL PROPERTY: FROM STARTUPS TO PUBLIC COMPANIES: A  
SUCCESSOR TO INTELLECTUAL PROPERTY IN BUSINESS ORGANIZATIONS: CASES AND  
MATERIALS (*with* RICHARD GRUNER & JAY KESAN) (3rd ed. 2015).

UNDERSTANDING INTELLECTUAL PROPERTY LAW (*with* DONALD CHISUM, MARY LAFRANCE &  
TYLER OCHOA) (3rd ed. 2015).

THE IMPLEMENTATION OF EXHAUSTION POLICIES: LESSONS FROM NATIONAL EXPERIENCES (2013). Available at <http://www.ictsd.org/themes/innovation-and-ip/research/the-implementation-of-exhaustion-policies-lessons-from-national>.

QUESTIONS & ANSWERS: ANTITRUST (2013).

TRANSACTIONAL INTELLECTUAL PROPERTY: FROM STARTUPS TO PUBLIC COMPANIES (*with* RICHARD GRUNER & JAY KESAN) (2nd ed. 2012, *of* INTELLECTUAL PROPERTY IN BUSINESS ORGANIZATIONS, 2006).

IDENTITY, INVENTION, AND THE CULTURE OF PERSONALIZED MEDICINE PATENTING (2012).

ACING TORT LAW (2nd ed. 2012).

GLOBAL ISSUES IN PATENT LAW (*with* MARTIN ADELMAN, AMY LANDERS & TOSHIKI TAKENAKA, 2011).

UNDERSTANDING INTELLECTUAL PROPERTY (*with* DONALD CHISUM, MARY LAFRANCE & TYLER OCHOA) (2nd ed. 2011).

INTELLECTUAL PROPERTY: PRIVATE RIGHTS, THE PUBLIC INTEREST, AND THE REGULATION OF CREATIVE ACTIVITY (*with* RICHARD GRUNER, JAY KESAN & ROBERT REIS) (2nd ed. 2011).

ACING TORT LAW: A CHECKLIST APPROACH TO TORT LAW (2009).

INTELLECTUAL PROPERTY: PRIVATE RIGHTS, THE PUBLIC INTEREST, AND THE REGULATION OF CREATIVE ACTIVITY: CASES AND MATERIALS (*with* RICHARD GRUNER, JAY KESAN & ROBERT REIS) (2007).

INTELLECTUAL PROPERTY IN BUSINESS ORGANIZATIONS: CASES AND MATERIALS, (*with* RICHARD GRUNER & JAY KESAN) (2006).

THEATER LAW: CASES AND MATERIALS (*with* STEVEN E. CHAIKELSON ET AL.) (2004).

### **Books, Edited**

FORGOTTEN INTELLECTUAL PROPERTY LORE: CREATIVITY, ENTREPRENEURSHIP AND INTELLECTUAL PROPERTY (2020).

INTELLECTUAL PROPERTY AND INNOVATION (2017).

CREATIVITY, LAW AND ENTREPRENEURSHIP (*with* Robin Paul Malloy 2011).

### **Law Review and Other Scholarly Articles**

*Efficient Expressions*, 31 HIST. ECON. IDEAS 169 (2023).

*Beyond AI Ownership, or the Continuing Problem of Software Patenting in the AI Landscape*, 33 AUSTL. INTELL. PROP. J. 59 (2023).

*A Consumer Divided Cannot Stand*, 68 ANTITRUST BULL. 307 (2023).

*The Continuing Right to Repair*, 37 BERKELEY TECH. L.J. 1096 (2022).

*A La Recherche De Breyer Perdu*, 21 UNIV. ILL. CHI. REV. INTELL. PROP. L. 38 (2022).

*Time, Scarcity, and Abundance*, 7 FRONTIERS IN RES. METRICS AND ANALYTICS 1 (2022).

*Universities as Engines of Development*, 14 LAW & DEV. REV. 723 (2021).

*Myriad post-Myriad*, 47 SCI. & PUB. POL'Y 638 (2021).

*Do the Games Never End?* 71 FLA. L. REV. F. 76 (2020).

*The Elusive Quest for Digital Exhaustion in the US and the EU: The CJEU's Tom Kabinet Ruling a Milestone or Millstone for Legal Evolution?*, 8 HUNG. YB INT'L L. & EUR. L. 249 (2020).

*A Revolution Ignored?*, 65 ANTITRUST BULL. 606 (2020).

*The Antitrust Logic of Biologics*, 2018 U. ILL. L. REV. ONLINE 46 (2018),  
<https://illinoislawreview.org/online/the-antitrust-logic-of-biologics/>.

*Jurisdiction Stripping of the Federal Circuit?*, 52 AKRON L. REV. 391 (2018).

*Free Speech, Free Markets and the Death of Trademark Law*, 5 J. NAT'L L. U. DELHI 61 (2018).

*Eli Lilly and the International Investment Law Challenge to a Neo-Federal IP Regime* (with Jason Yackee), 21 VAND. J. ENT. & TECH. L. 517 (2018).

Introduction, *A Duty to Remember*, 68 SYRACUSE L. REV. 1 (2018).

*A Court Divided*, 17 CHI.-KENT J. INTELL. PROP. 346 (2018).

*Remapping Copyright Functionality: The Quixotic Search for a Unified Test for Severability for PGS Works*, 39 EUR. INTELL. PROP. REV. 90 (2017).

*Entrepreneurship and Antitrust Enforcement*, 61 ANTITRUST BULL. 595 (2016).

*Are Universities Special?*, 49 AKRON L. REV. 671 (2016).

*Asking the Nearest Hippie*, 22 MICH. TELECOMM. & TECH. L. REV. 135 (2015).

*Beyond Hatch-Waxman*, 67 RUTGERS U. L. REV. 779 (2015).

*Decentering the Consuming Self: Personalized Medicine, Science, and the Market for Lemons*, 5 WAKE FOREST J. L. & POL'Y 299 (2015).

*Against Contractual Authoritarianism*, 44 SW. L. REV. 239 (2014–2015).

*Short-Circuiting Contract Law: The Federal Circuit's Contract Law Jurisprudence and IP Federalism*, 96 J. PAT. & TRADEMARK OFF. SOC'Y 536 (2014).

*Convergence?*, 15 MINN. J. L. SCI. & TECH. 95 (2014).

*The Implementation of Exhaustion Policies: Lessons from National Experiences* (February 3, 2014). Univ. of Wisconsin Legal Studies Research Paper No. 1248. Available at <https://ssrn.com/abstract=2390232> (2014). <https://dx.doi.org/10.2139/ssrn.2390232>

Introduction, *Legal Education and Legal Reform in South Asia*, 63 J. LEGAL EDUC. 497 (2013–2014).

*Reforming Software Claiming*, 2013 WIS. L. REV. ONLINE 63 (2013).

*Komesar's Razor: Comparative Institutional Analysis in a World of Networks*, 2013 WIS. L. REV. 455 (2013).

*Duty, Consequences, & Intellectual Property*, 10 U. ST. THOMAS L.J. 801 (2012–2013).

*Cultivating Intellectual Property*, 4 WIPO J. 28 (2012–13).

*Managing the Intellectual Property Sprawl*, 49 SAN DIEGO L. REV. 979 (2012).

*Informing and Reforming the Marketplace of Ideas: The Public-Private Model for Data Production and the First Amendment*, 2012 UTAH L. REV. 653 (2012).

*Razing the Funhouse?* 64 FLA. L. REV. F. 23 (2012).

*The Quest for Effective Traditional Knowledge Protection: Some Reflections on WIPO's Recent IGC Discussions*, 6 BIORES (18 June 2012). Available at <http://www.ictsd.org/bridges-news/biores/news/the-quest-for-effective-traditional-knowledge-protection-some-reflections>.

*Commercializing Data*, 3 ELON L. REV. 195 (2011–2012).

*Peace Song for the Tiger Mother*, 17 UCLA ASIAN PAC. AM. L.J. 45 (2011–2012).

*CSI: Aoki*, 45 U.C. DAVIS. L. REV. 1889 (2011–2012).

*Why Intergenerational Equity*, 2011 WIS. L. REV. 103 (2011).

*FDA Preemption of Drug and Device Labeling: Who Should Decide What Goes on a Drug Label?* (with Tamsen Valoir), 21 HEALTH MATRIX 555 (2011).

*The Sale of Patented Methods: Reconciling on-Sale Bar & Patent Exhaustion Doctrines in Light of In Re Kollar & Quanta v. LG* (with Lucas Divine), 39 AIPLA Q. J. 295 (2011).

*A Roadmap for TRIPS: Copyright and Film in Colonial and Independent India*, 1 QUEEN MARY J. INTELL. PROP. 146 (2011).

*Open Borders, the US Economic Espionage Act of 1996, and the Global Movement of Knowledge and People*, 21 K. L.J. 1 (2010).

*Open Borders, Intellectual Property & Federal Criminal Trade Secret Law*, 9 J. MARSHALL REV. INTELL. PROP. L. i (2009–2010).

*The Transactional Turn in Intellectual Property*, 35 U. DAYTON L. REV. 329 (2009–2010).

*Carte Blanche, Quanta, and Competition Policy*, 34 J. CORP. L. 1209 (2008–2009).

*Patenting Games: Baker v. Selden Revisited*, 11 VAND. J. ENT. & TECH. L. 871 (2008–2009).

*Predatory Conduct and Predatory Legislation: Exclusionary Tactics in Airline Markets* (with Darren Bush), 45 HOUS. L. REV. 343 (2008–2009).

*Protection and Enforcement of Well-known Mark Rights in China: History, Theory and Future*, (with Jing “Brad” Luo), 7 NW. J. TECH. & INTELL. PROP. 119 (2008–2009).

*Intellectual Property Rights : The View from Competition Policy*, 103 NW. U. L. REV. COLLOQUY 344 (2008-2009).

*Decoding and Recoding Natural Monopoly, Deregulation, and Intellectual Property*, 2008 U. ILL. L. REV. 1125 (2008).

*Intellectual Property: American Exceptionalism or International Harmonization* (with F. Scott Kieff, et al.), 3 N.Y.U. J. L. & LIBERTY 448 (2008)

*Race-Specific Patents, Commercialization, and Intellectual Property Policy*, 56 BUFF. L. REV. 409 (2008).

*Dilution and Competition Norms: The Case of Federal Trademark Dilution Claims Against Direct Competitors*, 24 SANTA CLARA COMPUTER & HIGH TECH. L.J. 571 (2007–2008).

*Who Doesn't Own Culture – Two Books on Law's Role in Shaping Culture*, 8 STUD. INT'L FIN. ECON. & TECH. L. 135 (2007).

*Belief: An Essay in Understanding*, 54 BUFF. L. REV. 807 (2006).

*What Is the Legal Standard for Determining When Bidding Is Predatory?*, 34 PREVIEW U.S. SUP. CT. CASES 138 (2006).

*How Specifically Must an Antitrust Plaintiff Plead a Conspiracy in Order to State a Claim?*, 34 PREVIEW U.S. SUP. CT. CASES 134 (2006).

*The Fable of the Commons: Exclusivity and the Construction of Intellectual Property Markets*, 40 U.C. DAVIS L. REV. 855 (2006–2007).

*The Market As Instrument*, 59 S.M.U. L. Rev. 1717 (2006).

*The Intellectual Property Incentive: Not So Natural as to Warrant Strong Exclusivity*, 3 SCRIPTED 96 (2006).

*Exclusivity: The Roadblock to Democracy?*, 50 ST. LOUIS U. L.J. 799 (2005–2006).

*Can a Business Collude with Itself?*, 2005–2006 PREVIEW U.S. SUP. CT. CASES 182 (2005–2006).

*When Exclusionary Conduct Meets the Exclusive Rights of Intellectual Property: Morris v. PGA Tour and the Limits of Free Riding As An Antitrust Business Justification*, 37 LOY. U. CHI. L.J. 723 (2005–2006).

*Market Entry and the Proper Scope of Copyright*, 12 INT’L J. ECON. OF BUS. 347 (2005).

*Law, Technology, and Development: Policy Debates in the New Millennium*, 27 LAW & POL’Y 1 (2005).

*Patent Law and the Assurance Game: Refitting Intellectual Property in the Box of Regulation*, 18 CAN. J. L. & JURIS. 307 (2005).

*The Functions of Transaction Costs: Rethinking Transaction Cost Minimization in a World of Friction (with David Driesen)*, 47 ARIZ. L. REV. 61 (2005).

*On Bobbling Heads, Paparazzi, and Justice Hugo Black*, 45 SANTA CLARA L. REV. 617 (2004–2005).

*Patents and the Regulatory State: Rethinking the Patent Bargain Metaphor After Eldred*, 19 BERKELEY TECH. L.J. 1315 (2004).

*A Rose Is a Rose Is: The Thorny Case of Morris Communications Corp. v. Professional Golf Association Tour, Inc.*, 1 ERASMUS L. & ECON. REV. 287 (2004), *reprinted in* 3 BUFF. INTELL. PROP. L.J. 1 (2005–2006).

*Globalization, Patents, and Traditional Knowledge*, 17 COLUM. J. ASIAN L. 73 (2003–2004), reprinted as *Traditional Knowledge, Patents and the New Mechanisms*, 85 J. PAT. & TRADEMARK OFF. SOC'Y 828, 885 (2003).

*What Do Patents Purchase?: In Search of Optimal Ignorance in the Patent Office* (with Jay Kesan), 40 Hous. L. Rev. 1219 (2003–2004).

*Copyright as Privatization: The Case of Model Codes*, 78 TUL. L. REV. 653 (2003–2004).

*Reflections on the Traditional Knowledge Debate*, 11 CARDOZO J. INT'L & COMP. L. 497 (2003–2004).

*Deprivatizing Copyright*, 54 CASE W. RES. L. REV. 387 (2003–2004).

*Gandhi & the Life of the Law*, 53 SYRACUSE L. REV. 1273 (2003).

*Traditional Knowledge, Patents and the New Mercantilism (Part II)*, 85 J. PAT. & TRADEMARK OFF. SOC'Y 885 (2003).

*Traditional Knowledge, Patents and the New Mechanisms (Part I)*, 85 J. PAT. & TRADEMARK OFF. SOC'Y 828 (2003).

*The Traditional Terms of the Traditional Knowledge Debate*, 23 NW. J. INT'L L. & BUS. 589 (2002–2003).

*Legal Code and the Need for a Broader Functionality Doctrine in Copyright*, 50 J. COPYRIGHT SOC'Y U.S.A. 71 (2002–2003).

*Pills, Patents, and Power: State Creation of Gray Markets as a Limit on Patent Rights*, 53 FLA. L. REV. 789 (2001), reprinted in 14 FLA. J. INT'L L. 217 (2001–2002).

*The Merits of Ownership; or, How I Learned to Stop Worrying and Love Intellectual Property*, 15 HARV. J. L. TECH 453 (2001–2002).

*Turning Gray into Green: Some Comments on Napster*, 23 HASTINGS COMM. & ENT. L.J. 563 (2000–2001).

*Colloquium on Privacy and Security* (with Gary M. Schober et al.), 50 BUFF. L. REV. 703 (2002).

*Relaxing Antitrust during Economic Downturns: A Real Options Analysis of Appalachian Coals and the Failing Firm Defense*, 68 ANTITRUST L.J. 111 (2000–2001).

Panel One, *The Road to Napster: Internet Technology & Digital Content*, 50 AM. U. L. REV. 363 (2000–2001).

*Toward a Theory of Regulatory Takings for Intellectual Property: The Path Left Open after College Savings v. Florida Prepaid*, 37 SAN DIEGO L. REV. 637 (2000).

*Methods, Conclusions, and the Search for Scientific Validity in Economics and Other Social Sciences*, 8 DIGEST: THE NAT'L ITALIAN-AMERICAN B. ASS'N L.J. 1 (2000).

*Where's the Sense in Hill v. Gateway 2000?: Reflections on the Visible Hand of Norm Creation*, 16 TOURO L. REV. 1125 (1999–2000).

*Gray Markets in Cyberspace*, 7 J. INTELL. PROP. L. 1 (1999–2000).

*Reconciling Property Rights and States' Rights in the Information Age: Federalism, the Sovereign's Prerogative and Takings after College Savings*, 31 U. TOL. L. REV. 17 (1999–2000).

*Whistling Dixie: The Invalidity and Unconstitutionality of Covenants Against Yankees (with Alfred Brophy)*, 10 VILL. ENVTL. L.J. 57 (1999).

*Fragmenting Knowledge, Misconstruing Rule 702: How Lower Courts Have Resolved the Problem of Technical and Other Specialized Knowledge in Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1 CHI.-KENT J. INTELL. PROP. 1 (1999).

*Casting Light on Originalism*, 24 OKLA. CITY U. L. REV. 431 (1999).

*W[h]ither Daubert? What Courts Mean by "Scientific" Evidence*, 29 TRIAL LAW. Q. 9 (1999).

*Federal and State Resolutions of the Problem of Daubert and "Technical or Other Specialized Knowledge,"* 22 AM. J. TRIAL ADVOC. 237 (1998–1999).

*The Legal, Economic, and Policy Roles of Immigrant Entrepreneurs in the Immigration Debate*, 5 UCLA ASIAN PAC. AM. L.J. 15 (1998).

*The Morphing of Property Rules and Liability Rules: An Intellectual Property Optimist Examines Article 9 and Bankruptcy*, 8 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 99 (1997–1998).

*Takings, the Exit Option, and Just Compensation*, 17 INT'L REV. L. & ECON. 157 (1997).

*Property Rules, Liability Rules, and Termination Rights: A Fresh Look at the Employment at Will Debate with Applications to Franchising and Family Law*, 75 OR. L. REV. 969 (1996).

*An Economic Analysis of the Common Control Exception to Gray Market Exclusion*, 15 U. PA. J. INT'L BUS. L. 373 (1994–1995).

## **Book Chapters**



*Redesigning Design Protection: The Problem of Overlap*, in DESIGN LAW: GLOBAL LAW AND PRACTICE (Dana Beldiman ed., 2024).

*Crisis, Invention, & Innovation*, in INTELLECTUAL PROPERTY RIGHTS IN THE POST-PANDEMIC WORLD (Tania Pihlajarinne et al. eds., 2023).

*Protecting Custom Fit, Aspiring for Social Justice*, in CAMBRIDGE HANDBOOK ON INTELLECTUAL PROPERTY AND SOCIAL JUSTICE (Lateef Mtima & Steve Jamar eds., 2023).

*Make Without Take*, in RELEVANCE OF DUTIES IN THE CONTEMPORARY WORLD (Raman Mittal & Kshitij Kuman Singh eds., 2022).

*Ain't It Just Software?*, in RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY AND ARTIFICIAL INTELLIGENCE (Ryan Abbott ed., 2022).

*Consequentialist Thinking and Economic Analysis in Intellectual Property*, HANDBOOK OF INTELLECTUAL PROPERTY RESEARCH: LENSES, METHODS, AND PERSPECTIVES (Irene Calboli & Maria Lilla Montagnani eds., 2021).

“If Music Did Not Pay”: The State Court Roots of Justice Holmes’ Intellectual Property Jurisprudence, in FORGOTTEN INTELLECTUAL PROPERTY LORE (2020).

*Competition in Digital Markets*, Research Handbook on Intellectual Property and Digital Technologies (Tanya Aplin ed., 2020).

*Bayh-Dole Beyond Patents*, RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY AND TECHNOLOGY TRANSFER (Jacob H. Rooksby ed., 2020).

*Intellectual Property and Economic Development: a Guide for Scholarly and Policy Research*, RESEARCH HANDBOOK ON THE ECONOMICS OF INTELLECTUAL PROPERTY LAW (Ben Depoorter & Peter S. Menel eds., 2019).

*Contemporary Views on the Economics of Patents*, OXFORD RESEARCH ENCYCLOPEDIA OF ECONOMICS AND FINANCE ONLINE (2018).

*The Mirror, the Lamp, and Public Performances*, OXFORD HANDBOOKS ONLINE (2017).

*Injunctive Relief and Compulsory Licensing under Indian Patent Law*, in ANNOTATED LEADING PATENT CASES IN MAJOR ASIAN JURISDICTIONS (Kung-Chung Liu ed., 2017).

*Patent Exhaustion on Trial in the United States*, in GLOBAL GOVERNANCE OF INTELLECTUAL PROPERTY IN THE 21ST CENTURY: REFLECTING POLICY THROUGH CHANGE (Mark Perry ed., 2016).

*Competition, Markets, and Trademark Transactions*, in THE LAW AND PRACTICE OF TRADEMARK TRANSACTIONS (Irene Calboli & Jacques de Werra eds., 2016).

*Incentives, Contracts, and Intellectual Property Exhaustion*, in RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY EXHAUSTION AND PARALLEL IMPORTS (Irene Calboli & Edward Lee eds., 2016).

*FRAND in India* (with D. Daniel Sokol), University of Florida Levin College of Law, Legal Studies Research Paper No. 16-46 (2016.)

*The Colorblind Marketplace?*, in INTELLECTUAL PROPERTY, ENTREPRENEURSHIP AND SOCIAL JUSTICE: FROM SWORDS TO PLOUGHSHARES (Lateef Mtima ed., 2015).

*Genetic Identity and Personalized Medicine Patenting: An Update on Myriad's Patents Related to Ashkenazim Jewish Ancestry*, in DIVERSITY IN INTELLECTUAL PROPERTY: IDENTITIES, INTERESTS, AND IINTERSECTIONS (Irene Calboli & Srividhya Ragavan eds., 2015).

*The Idea of International Intellectual Property*, in THE SAGE HANDBOOK OF INTELLECTUAL PROPERTY (Matthew David & Debora J. Halbert eds., 2015).

*What the Treatment of Covenants not to Compete Teaches About Intellectual Property and Competition Norms*, in INTELLECTUAL PROPERTY IN COMMON LAW AND CIVIL LAW (Toshiko Takenaka ed., 2013).

*The Movement of Skilled Labor and Knowledge Across Borders*, in THE ASHGATE RESEARCH COMPANION TO MIGRATION LAW, THEORY AND POLICY. (Satvinder Juss ed., 2013).

*Propriedade Intelectuel no novo Projeto de Direito e Desenvolvimento*, in DIREITO E DESENVOLVIMENTO: UM DIALOGO ENTRE OS BRICS (Mario G. Schapiro & David M. Trubek eds., 2012).

*The Strategic Lawyer*, in ENTREPRENEURSHIP AND INNOVATION IN EVOLVING ECONOMIES: THE ROLE OF LAW (Megan M. Carpenter ed., 2012).

*Vertical Restraints, Competition, and the Rule of Reason*, in ANTITRUST LAW AND ECONOMICS (Keith Hylton ed., 2010).

*When Property is Something Else: Understanding Intellectual Property Through the Lens of Regulatory Justice*, in INTELLECTUAL PROPERTY AND THEORIES OF JUSTICE (Alain Marciano et al. eds., 2008).

*Who Doesn't Own Culture? Two Books on Law's Role in Shaping Culture*, in LAW, CULTURE, AND ECONOMIC DEVELOPMENT: A LIBER AMERICORUM FOR PROFESSOR ROBERTO McLEAN (Joseph J. Norton & C. Paul Rogers eds., 2007).

*Recognizing Authority in the Marketplace: The Curious and Ubiquitous Problem of Gray Markets*, in INTELLECTUAL PROPERTY AND INFORMATION WEALTH, vol. 4: INTERNATIONAL INTELLECTUAL PROPERTY LAW AND POLICY (Peter Yu ed., 2007).

*How to Build a Commons: Is Intellectual Property Constrictive, Facilitating, or Irrelevant? in UNDERSTANDING KNOWLEDGE AS A COMMONS: FROM THEORY TO PRACTICE* (Elinor Ostrom & Charlotte Hess eds., 2007).

*The Importance of Patents, Trade-marks and Copyright for Innovation and Economic Performance: Developing a Research Agenda for Canadian Policy, (with Dr. Mohammed Rafiquzzaman) in INTELLECTUAL PROPERTY AND INNOVATION IN THE KNOWLEDGE-BASED ECONOMY* (Jonathan D. Putnam ed., 2006).

*Competitive Baselines for Intellectual Property Systems, in INTERNATIONAL PUBLIC GOODS AND TECHNOLOGY TRANSFER* (Keith Maskus & Jerome Reichmann eds., 2005).

*Copyright Act of 1790*, MAJOR ACTS OF CONGRESS, vol. 1, at 181 (Brian K. Landsberg ed., 2004).

*Copyright Act of 1976*, MAJOR ACTS OF CONGRESS, vol. 1, at 185 (Brian K. Landsberg ed., 2004).

*Patent Acts*, MAJOR ACTS OF CONGRESS, vol. 3, at 116 (Brian K. Landsberg ed., 2004).

*Understanding Immigrant Entrepreneurs: Theoretical and Empirical Issues, in THE STATE OF ASIAN PACIFIC AMERICA: REFRAMING THE IMMIGRATION DEBATE: A PUBLIC POLICY REPORT* (Bill Hing & Ronald Lee eds., 1996).

### **Reports to Governmental Bodies and Professional Associations**

Brief of Amici Curiae US Inventor, Inc. et al., *Retractable Technologies, Inc. and Thomas J. Shaw v. Becton, Dickinson & Co.*, No. 16-953 (5th Cir. 2017).

### **Reports, News, and Commentary**

*In Visa Case, DOJ Continues to Misapply The Sherman Act*, LAW360 (Nov. 7, 2024), <https://www.law360.com/articles/2255233/in-visa-case-doj-continues-to-misapply-the-sherman-act->.

Opinion: *The DOJ Shouldn't Re-Write Antitrust Law Out of AI Fears*, Legal Dive, July 8, 2024, <https://www.legaldive.com/news/the-doj-shouldnt-re-write-antitrust-law-out-of-ai-fears/720708/>

*Fuck the Draft* ®: *Notes on the First Amendment and Trademark Law* (February 24, 2016), <https://ssrn.com/abstract=2737220>

*Patent Exhaustion and Self-Replicating Technologies: Amicus Brief in Support of Bowman by the American Antitrust Institute (with Peter C. Carstensen & Randy Stutz)* UNIV. WIS. LEGAL STUDIES RES. PAPER NO. 1213 (Dec. 12, 2012), <https://ssrn.com/abstract=2188618>

*RAND Patents and Exclusion Orders: Submission of 19 Economics and Law Professors to the International Trade Commission* (with Colleen V. Chien et al.) SANTA CLARA U. LEGAL STUD. RES. PAPER NO. 07-12; UC BERKELEY PUB. L. RES. PAPER NO. 2102865 (July 9, 2012).  
<https://ssrn.com/abstract=2102865>

*Transparent and Commercialized?: Managing the Public-Private Model for Data Production and Use*, UNIV. WIS. LEGAL STUD. RES. PAPER NO. 1155 (Mar. 7, 2011),  
<https://ssrn.com/abstract=1780486>

*Life in the Anticommons*, criticism of CURB YOUR ENTHUSIASM, published on the PICTURING JUSTICE website, [www.usfca.edu/pj](http://www.usfca.edu/pj) (2005).

*Myriad Troubles Facing Gene Patents*, 2 PRECLINICA 300 (2004) (discussion of cancellation of patent on breast cancer gene sequence in Europe).

*Intellectual Property in Bankruptcy*, 2 PRECLINICA 239 (2004) (presentation to general audience on bankruptcy and intellectual property).

*The Bayh-Dole Act Under Fire*, 2 PRECLINICA 13 (2004) (commentary on Bayh-Dole Act and recent claims of conflict of interest at the National Institute of Health).

*Shooting Gus van Sant's Elephant*, film criticism of ELEPHANT, published on the PICTURING JUSTICE web site, [www.usfca.edu/pj](http://www.usfca.edu/pj) (2004).

*A Social Insurance Perspective on Security and Privacy* (with Vikram Mangalmurti) (July 26, 2004), <https://ssrn.com/abstract=569643>

*Leaving the Friedmans Alone*, film criticism of CAPTURING THE FRIEDMANS, published on the PICTURING JUSTICE web site, [www.usfca.edu/pj](http://www.usfca.edu/pj) (2003).

*The Relationship Between Antitrust and Intellectual Property Laws*, published at [www.gigalaw.com](http://www.gigalaw.com) (December 2000).

*The Legal Importance of Defining Markets on the Internet*, published at [www.gigalaw.com](http://www.gigalaw.com) (November 2000).

*Antitrust Scrutiny of Business to Business Websites*, published at [www.gigalaw.com](http://www.gigalaw.com) (October 2000).

*The Antitrust Implications of B2B Electronic Marketplaces*, published at [www.gigalaw.com](http://www.gigalaw.com) (September 2000).

*MP3 v. the Law: How the Internet Could (But Won't) Become Your Personal Jukebox*, published at [www.gigalaw.com](http://www.gigalaw.com) (July 2000).

*Unscrambling Free Speech Law for Cable...and the Internet?*, published at [www.gigalaw.com](http://www.gigalaw.com) (June 2000).

*Deciphering Free Speech and the Encryption Debate*, published at [www.gigalaw.com](http://www.gigalaw.com) (May 2000).

*Source Code as Free Speech in Encryption Cases*, published at [www.gigalaw.com](http://www.gigalaw.com) (April 2000).

*Analyzing Fair Use and the First Amendment on the Internet*, published at [www.gigalaw.com](http://www.gigalaw.com) (March 2000).

*Limiting Speech: The Consequences of Quashing Cybersquatting*, published at [www.gigalaw.com](http://www.gigalaw.com) (February 2000).

*Revealing the Microsoft Windows Source Code*, published at [www.gigalaw.com](http://www.gigalaw.com) (January 2000).

### **Book Reviews**

*Competing Competition Laws: What the United States Can Learn from the European Union*, JOTWELL (Sep. 2, 2024) (reviewing PABLO IBÁÑEZ COLOMO, *THE NEW EU COMPETITION LAW* (2023)).

*War by Some Other Name*, JOTWELL (Oct. 17, 2023) (reviewing SCOTT J. SHAPIRO, *FANCY BEAR GOES PHISHING: THE DARK HISTORY OF THE INFORMATION AGE, IN FIVE EXTRAORDINARY HACKS* (2023)).

*Artificial Intelligence, Human Rights, & Legal Judgment*, JOTWELL (Apr. 4, 2023) (reviewing Malcolm Langford, *Taming the Digital Leviathan: Automated Decision-Making and International Human Rights*, 114 AM. J. OF INT'L L. UNBOUND 141 (2020) and Daragh Murray, *Using Human Rights Law to Inform States' Decisions to Deploy AI*, 114 AM. J. OF INT'L L. UNBOUND 158 (2020)).

*A Tribute That Turns One Inside-Out*, JOTWELL (Feb. 15, 2022) (reviewing FEI-HSIEN WANG, *PIRATES AND PUBLISHERS: A SOCIAL HISTORY OF COPYRIGHT IN MODERN CHINA* (2019)).

Book Review, 10 IP L. Book Rev. 11 (2020) (reviewing CHRIS SAGERS, *UNITED STATES V. APPLE: COMPETITION IN AMERICA* (2019)).

*Recognizing and Correcting a Discrepancy*, JOTWELL (September 21, 2020) (reviewing MARKETA TRIMBLE, *THE TERRITORIAL DISCREPANCY BETWEEN INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT CLAIMS AND REMEDIES*, 23 LEWIS & CLARK L. REV. 501 (2019)).

*Layering Property, Disseminating Knowledge*, JOTWELL (July 19, 2019) (reviewing RUTH L. OKEDIJI, *A TIERED APPROACH TO TRADITIONAL KNOWLEDGE*, 58 WASHBURN L.J. 271 (2019)).

*All's Well That Ends Well, Sort of*, JOTWELL (October 1, 2018) (reviewing OONA A. HATHAWAY & SCOTT J. SHAPIRO, *THE INTERNATIONALISTS: HOW A RADICAL PLAN TO OUTLAW WAR REMADE THE WORLD* (2018)).

*A Blueprint for the Global Microbial Commons*, JOTWELL (September 29, 2017) (reviewing JEROME REICHMAN, PAUL F. UHLIR, AND TOM DEDEURWAERDERE, *GOVERNING DIGITALLY INTEGRATED GENETIC RESOURCES, DATA, AND LITERATURE: GLOBAL INTELLECTUAL PROPERTY STRATEGIES FOR A REDESIGNED MICROBIAL RESEARCH COMMONS* (2016)).

*Sheltering the Public from Intellectual Property*, JOTWELL (October 19, 2016) (reviewing Sam Halabi, *International Intellectual Property Shelters*, 90 TUL. L. REV. 903 (2016)).

*Reviving the Original Scope of Intellectual Property, Internationally*, JOTWELL (Jan. 12, 2016) (reviewing Rochelle Dreyfuss & Susy Frankel, *FROM INCENTIVE TO COMMODITY TO ASSET: HOW INTERNATIONAL LAW IS RECONCEPTUALIZING INTELLECTUAL PROPERTY*, 36 MICH. J. INTL. L. 4 (2015)).

*Marks on Markets and Competition*, JOTWELL (March 22, 2013) (reviewing Mark A. Lemley & Mark P. McKenna, *Is Pepsi Really a Substitute for Coke? Market Definition in Antitrust and IP*, 100 GEO. L.J. 2055 (2012)).

*Rationalizing Heuristics*, JOTWELL (May 18, 2012) (reviewing MARK KELMAN, *THE HEURISTICS DEBATE* (2011)).

Book review, IP L. BOOK REV., June 2010, at 8 (reviewing DAN L. BURK & MARK A. LEMLEY, *THE PATENT CRISIS AND HOW THE COURTS CAN SOLVE IT* (2009)), available at [http://gguipcl.com/the\\_ip\\_law\\_book\\_review/archive\\_-\\_vol\\_1\\_no\\_1\\_june\\_2010](http://gguipcl.com/the_ip_law_book_review/archive_-_vol_1_no_1_june_2010).

*Modeling Globalization from the Bottom Up: A Review Essay of John Braithwaite and Peter Drahos*, GLOBAL BUSINESS REGULATION, 39 L. & SOC'Y REV. 965 (2005).

*Belling the Cat, Virtually*, Review of Stuart Biegel's, *BEYOND OUR CONTROL?*, 1 BUFF. INTELL. PROP. L.J. 240 (2002).

*Enlightening Identity and Copyright*, (reviewing Emma Rothschild, *ECONOMIC SENTIMENTS*, 49 BUFF. L. REV. 1315 (2001)).

Book Review 23 LEGAL STUD. F. 599 (reviewing 1999 LAW AND ECONOMICS ANTHOLOGY (Kenneth G. Dau-Schmidt & Thomas S. Ulen eds.), and FOUNDATIONS OF THE ECONOMICS APPROACH TO LAW (Avery Katz ed.)).

Book Review: 13 STAN. ENVTL. L.J. 251 (1994) (reviewing Jamie Cassels, *THE UNCERTAIN PROMISE OF LAW: LESSONS FROM BHOPAL* (Univ. of Toronto Press, 1993)).