



CONTENTS

Interview ..... p. 3  
Best Practices ..... p. 4  
New LLM Students .. p. 6  
BioLaw & SLATA .... p. 8  
Visiting Professors ... p. 10  
LLMs at Fenwick .... p. 12  
Patent Law; IPO ..... p. 15  
Events & Speakers .. p. 16

LST FACULTY

John Barton '68  
George E. Osborne Professor of Law, Emeritus, Stanford Law School

Paul Goldstein  
Stella W. and Ira S. Lillick Professor of Law, Stanford Law School

Henry T. Greely (BA '74)  
Deane F. and Kate Edelman Johnson Professor of Law and Director, Center for Law and the Biosciences, Stanford Law School, and Professor of Genetics (by courtesy), Stanford School of Medicine

Mark A. Lemley (BA '88)  
William H. Neukom Professor of Law and Director, Stanford Program in Law, Science & Technology, Stanford Law School

Lawrence Lessig  
Professor of Law and Director, Center for Internet and Society, Stanford Law School

Margaret Jane Radin (BA '63)  
William Benjamin Scott and Luna M. Scott Professor of Law and Co-Director, Center for E-Commerce, Stanford Law School

## Welcome to Volume 2 of LST@Stanford ... from the New Director of the Program in Law, Science & Technology

Welcome to the fourth issue of LST@Stanford. This is my first issue as Director of the Program in Law, Science and Technology. I joined the Stanford faculty in May from the University of California at Berkeley, and took over leadership of LST from Professor Margaret Jane Radin, who is enjoying a well-earned leave. (Professor Radin continues to co-direct the Center for E-Commerce, one of the three constituent parts of the LST program).

As usual, there is quite a bit going on at LST this fall. Let me start with people. The law school welcomed our new dean, Larry Kramer, from NYU this summer. Dean Kramer is already hard at work, and one of his goals for the law school is to build our connections with other departments on campus. In the case of LST,



Mark A. Lemley, William H. Neukom Professor of Law and Director, Stanford Program in Law, Science & Technology

this means we will be strengthening our ties to the Schools of Business and Engineering, and the economics department, with their top-notch scholars of innovation. We also welcome three visiting professors with interests in law, science, and technology: Professor R. Anthony Reese from the University of Texas School of Law, who teaches and writes in copyright, Internet law, and trademark law; Professor Eugene Volokh from UCLA Law School, who

works at the intersection of copyright and the First Amendment, and Professor Christopher Leslie from Chicago-Kent School of Law, who teaches and writes in antitrust law and its relationship to intellectual property. We profile these scholars on pages 10-11 of this newsletter.

We also have a bumper crop of programs for lawyers and scholars this academic year. For example, on November 4, the LST Program's Center for Internet and Society hosted BloggerCon III, a conference discussing how the use of blogs can effect change—see <http://www.bloggercon.org/iii/> for some thoughtful discussions of this conference. LST will also cosponsor the 5th Annual Advanced Patent Law Institute (see page 15), which will take place on December 2 and

3 at the Fairmont Hotel in San Jose. On January 28 and 29, LST will host the ABA Cyberspace Law Committee Winter Working Meeting. Then, on March 11, the LST program's Center for Law and the Biosciences will hold its annual conference, which this year will be devoted to biotechnology patent law issues. Later in spring 2005, the LST program will organize a conference entitled, "The Law and Policy of Standard-Setting Organizations," as well as its 2nd annual E-Commerce Best Practices conference. This is in addition to regular on-campus speaker series run by the Center for Internet and Society and by the Center for Law and the Biosciences.

We also welcome our third Law, Science & Technology LLM class. Students in the LLM Program in Law, Science & Technology come to Stanford Law School from around the world to focus for one academic year on the study of cutting-edge issues in law, science, and technology. The incoming students were selected from an application pool of some of the most talented young technology lawyers in the world, reflecting a wide array of experience, interests and professional specializations. This issue of LST@Stanford introduces you to the LST LLM class of 2005 on page 6.

Finally, LST faculty and students continue to produce relevant and fascinating research. See our new "Recent Publications" section on this page for examples of this research.

In the pages of this newsletter, you will find news about some of the fas-

inating events that have recently taken place within the LST program, news regarding our many upcoming conferences, interviews with LST faculty members, and in-depth discussions of new programs. We're looking forward to a great year, and we hope you can join us at some or all of our many events.

Sincerely,  
Mark A. Lemley

*William H. Neukom Professor of Law and Director, Stanford Program in Law, Science & Technology, Stanford Law School; Of Counsel, Kecker & Van Nest LLP*  
*mlemley@law.stanford.edu*

## Recent Publications by LST Faculty

"Ending Abuse of Patent Continu-  
uations," 84 *Boston University  
Law Review* 63 (2004), Mark A.  
Lemley and Kimberly A. Moore

"Balancing Ease and Accuracy in  
Assessing Pharmaceutical Exclu-  
sion Payments," 88 *Minnesota  
Law Review* 712 (2004), Mark A.  
Lemley, Herbert Hovenkamp, and  
Mark D. Janis

*A Patent System for the 21st Cen-  
tury* (The National Academies  
Press 2004), Committee on Intel-  
lectual Property Rights in the  
Knowledge-Based Economy et  
al., Including John Barton

*Free Culture: How Big Media  
Uses Technology and the Law to  
Lock Down Culture and Control  
Creativity* (Penguin Press 2004),  
Lawrence Lessig

2004 Supplement to *IP and Anti-  
trust* (Aspen Law & Business, 1st  
ed., 2001), Mark Lemley, Herbert  
Hovenkamp, and Mark Janis (two  
volume treatise)

*Intellectual Property in the New  
Technological Age: 2004 Case  
and Statutory Supplement* (Aspen  
Law & Business, 2004), Mark  
Lemley, Peter S. Menell, and Rob-  
ert P. Merges

"Reducing Digital Copyright In-  
fringement Without Restricting  
Innovation," 56 *Stanford Law Re-  
view* 1345 (2004), Mark Lemley  
and R. Anthony Reese

"Ex Ante Versus Ex Post Justifi-  
cations for Intellectual Property,"  
71 *University of Chicago Law Re-  
view* 129 (2004), Mark Lemley



**Stanford Program in  
Law, Science & Technology**

## Interview with Professor Paul Goldstein

*Professor Goldstein is widely recognized as one of the country's leading authorities on intellectual property law. He is the author of a four-volume treatise on U.S. copyright law, a one-volume treatise on international copyright law, and a widely adopted law school text on intellectual property. Goldstein is a frequent consultant to national and international commissions on intellectual property law and is a consulting practitioner with Morrison & Foerster. He has served as chairman of the U.S. Office of Technology Assessment Advisory Panel on Intellectual Property Rights in an Age of Electronics and Information. He teaches courses on copyright and intellectual property.*



Paul Goldstein, Stella W. and Ira S. Lillick Professor of Law at Stanford Law School

**LST@Stanford: What are the most pressing challenges to the U.S. copyright system that you see arising in the near future?**

Goldstein: The Internet's dramatic dispersal of copyright control is the dominating near-term issue. One challenge is for markets to adjust their mechanisms for payment and control so that authors—and I include in that term artists and composers—get compensated for their creativity, while not undermining widespread enjoyment of their works. iTunes is one good example of an effective adjustment.

**How do you think these challenges to copyright will play out in the international sphere? Will international initiatives be helpful?**

Again, the Internet, with its global reach, has raised substantial issues of governance and governing law. When an unauthorized transmission is made from a server in Vanuatu to a hard drive in England, what law determines whether the transmission is infringing? Will personal jurisdiction over the action lie in England? What about enforcement of the resulting judgment? There is a Hague Convention discussion underway, but the road promises to be long and bumpy. The American Law Institute is also working on these issues.

**Does the current U.S. copyright regime still find the proper balance between rewarding creators for their original works and providing access to 'culture' to the public at large?**

Your readers can answer that one at least as well as I can. Are they getting what they need—or want—in the way of information and entertainment? If so, that means creators

are still creating works at a desirable level and consumers are enjoying access at a desirable level.

**Do you think that DRM [Digital Rights Management] poses a significant threat to fair use? Does the DMCA [Digital Millennium Copyright Act] need to be revised in order to safeguard fair use?**

The question is not whether DRM poses a significant threat to fair use, but whether emergence of the computer-communications technologies that make DRM possible has, because of these technologies' capacity to eliminate transaction costs, reduced the need for fair use doctrine, at least to the extent that the doctrine is a response to the problem of transaction costs.

**Which popular representations of the copyright system (in news media, government, books of colleagues, and the entertainment industry) do you find most convincing, and which do you find most problematic?**

The single greatest error that the popular media and some commentators make is to buy into the notion that copyright is capable of conferring a monopoly over ideas. Copyright law will not—in any context or in any country—extend its protection to ideas; ideas are under the law always free for all to use.

*continued on p. 8*

## At Inaugural E-Commerce Best Practices Conference, Industry Leaders Discuss Online Legal Uncertainties

*LST program's Center for E-Commerce and Association of Corporate Counsels (ACC) create forum for discussion of the seemingly contradictory legal obligations that characterize online business space*

More than 130 participants came to Stanford Law School on June 25 to discuss the key legal and strategic issues that make online business such a difficult field to navigate. Hosted by the LST program, the first-ever Stanford E-Commerce Best Practices Conference, entitled "How to Deal with the Uncertainties of Online Business," attracted a wide variety of people from business and legal communities in the Silicon Valley area and beyond. Participants and audience members alike found a startlingly prescient forum for figuring out what industry leaders should do to avoid regulatory problems, to make their contracts enforceable, and to ensure that their customers remain faithful through calamitous times.

**Given that online business hasn't yet had a chance to develop a clearly defined set of best practices, what are businesspeople supposed to do in the meantime?**

This was the fundamental question that emerged out of a brainstorming session in October 2003. At this session, several prominent online business professionals came up with a range of topics relating to the key problems that arise when conducting business online, including contract formation, limitations and enforce-

ment, negating of implied licenses, international jurisdiction, conflicting privacy regimes, online security, pi-



racy of digital content, and taxation of digital content.

These topics served to guide the conference through a series of business areas in which conflicts and uncertainties typically render conversations about best practices quite unharmonious. All the while, conference panelists and attendees asked, in then-Dean Kathleen Sullivan's words, "what the best practices would be if we could be the omniscient legislators who figured out what they might look like."

**How do E-Commerce best practices evolve?**

During the first panel of the conference, Google General Counsel and Vice President for Corporate Development David Drummond '89 noted a concern underlying many models of online business. "We want to reach every Internet user in the world, so when you realize that there are now hundreds of different legal regimes to worry about—not just countries, but states, provinces, and municipalities—you can imagine that this challenges the traditional business model in a lot of ways." He went on to note the importance of a scalable model, suggesting that when a product has interfaces in more than 100 languages, it is essential that designers and legal team members be able to work together to produce a product that does not need to be customized for every locale and every legal regime.

RealNetworks Vice President and General Counsel Robert Kimball described one necessary feature of any successful global business model as he talked about how management might incorporate a sense of the legal review into the process of building a product. One way to account for inconsistent legal regimes would be to ensure that the product team is always kept well aware of the areas in which these regimes will affect the design process. Mr. Drummond won-

dered if the best way to proceed was by analogizing to the laws of other jurisdictions or by returning to the kinds of foundational documents from which one could tease out some general principles of the best course of action. Ensuring an exciting, quality user experience “requires creating a forum where lawyers and product people can both play a role in innovation,” he proposed.

Visa Executive Vice President and General Counsel Guy Rounsaville took this point in a slightly different direction by saying that lawyers must be part of a structure that is constantly reviewing what is going on within a company and its merchants. The current business climate demands adherence to the principles of Sarbanes-Oxley, even for a private company like Visa that is not legally subject to the act, concluded Mr. Rounsaville. Mr. Kimball also pointed out that someone on the product team should be responsible for privacy and the crafting of a release schedule.

Mr. Kimball went on to suggest that any attempts to reinvent the wheel with regard to privacy would be a huge mistake. Instead, a successful evolution requires creating a happy customer while managing the risk faced by this customer and, in turn, managing the risk faced by a company as a result of its customers’ actions. He added that one should remember to build in a certain amount of noise into a business model to account for any frivolous and unjustified lawsuits, or small complaints, which might emerge from the early risks an online business would have to take in formulating its best practices.

“Increasingly, we’ve found that the academic world, to keep current, needs to stay in touch with the outside world. With the Program in Law, Science & Technology, we have begun to create a kind of convening ground for a dialogue that might otherwise not take place: a dialogue between people from the academic world who study various phenomena, people from industry who create these phenomena in the first place, people from the policy and regulatory world who create the restrictions on them, and people from practice. That kind of meeting between academia, businesses, lawyers, and government has been the goal of our programs over the past few years.”

— Former Stanford Law School Dean Kathleen M. Sullivan

Yahoo Vice President and General Counsel Michael Callahan described what one might call the “evolutionary” nature of privacy policy. He paid special attention to the challenges posed by the acquisition of another company, discussing how difficult it often was to amalgamate the privacy policy of a newly acquired company with a company’s own set of standards and statutes.

Panelists addressed a wide range of audience questions, ranging from when and whether a company should hire a lobbyist to the importance of creating internal documentation of a company’s own best practices.

Lively discussions continued throughout the course of the day. During the next roundtable discussion, Ralph Pais, a partner at Fenwick & West LLP, and others spoke about the difficulties of enforcing online contracts and the similar difficulties a company faces in attempting to negate implied licenses.

Then, in the 11 a.m. panel, two lawyers, two in-house lawyers, and a law

professor convened to discuss how a company might go about harmonizing a regulatory environment over a range of international portals, including but not limited to .uk, .fr, and .jp domains. They discussed the international jurisdictional conflicts that arise when you are dealing in incompatible regulatory environments around the world.

The Honorable Jeremy Fogel, Judge for the U.S. District Court for the Northern District of California, offered a historical perspective during his luncheon keynote address. He pointed out that in 1850, commerce existed almost entirely as a set of hand-to-hand and face-to-face practices. A reputation for integrity—in the explicit terms of how well a company’s agents and representatives could build the trust of their clients—was the bedrock principle for a company’s success. Today’s conference, if it had taken place 154 years ago, would not last nearly as long as it would today. At this last line, the audience laughed; nevertheless, it is clear that some of the same underlying

*continued on p. 11*

# Group of Incoming LLM Students Kicks Off Third Year of Highly Successful Law, Science & Technology Master of Laws Program

## GITANJLI DUGGAL

Gitanjali Duggal, from India, received her Bachelor of Laws (LLB) degree from Campus Law Center, University of Delhi, India in July 1996, and also holds a Diploma in International Law and Diplomacy from the Indian Academy of International Law and Diplomacy, where she was awarded the Dr. V.K. Krishna Menon Memorial Gold Medal. She enrolled with the Bar Council of Delhi in 1997. Gitanjali has been working as a Senior Associate at Anand and Anand Advocates (a leading IP Law Firm in India) and was partner of a sister firm, Pravin Anand and Partners. Ms. Duggal is a litigator, practicing before the Supreme Court of India and the High Court of Delhi, and has worked extensively on matters pertaining to trademarks; copyright; patents; industrial designs; domain names; trade dress; dilution of well-known trademarks; Exclusive Marketing Rights (EMR); database protection; trade secrets; sports law (including ambush marketing); privacy, personality and publicity rights; defamation; and protection of geographical indications. In addition, she has assisted in managing the portfolio of the Indian Performing Right Society, a collecting society of lyricists and music composers, under the Indian Copyright Act. At present she is coauthoring a book titled *Halsbury's Laws of India, Intellectual Property* to be published in late 2004.

Ms. Duggal authored a chapter titled "Intellectual Property in India," which was published in *IP Profiles 2002*, Asia Law & Practice, Hong Kong, 2002, and has coauthored many chapters and articles, notable among them being a chapter on "Privacy, Publicity and Personality Laws in India" and a chapter titled "A Modern Approach to IP." She is a Member of the Asian Patent

Attorneys' Association (APAA) and the International Association for the Protection of Industrial Property (AIPPI).

## TAKAHIRO IKAWA

Takahiro Ikawa, from Japan, earned an LLB from the University of Tokyo. His coursework there largely focused on commercial code, civil law, and the practice of international business law. While working towards his LLB, Takahiro joined the Society of Speech & Debate of the University of Tokyo. He has since been working as a junior/

U.S. Antitrust Cases, sponsored by the Japanese Institute of International Business Law and chaired by Professor Nogimura of the Nihon University.

> *Why did you choose to get your LLM from Stanford Law? How do you hope the LLM Program in Law, Science & Technology will contribute to your professional legal training?*

**Takahiro: "I chose Stanford Law's LLM program, because of its great reputation in the field of intellectual property law—my main influences are Professor Goldstein and Professor Lessig—and because I am working for a large IT company in Japan."**

> *Which courses are you most looking forward to taking at Stanford this coming year?*

**"I am looking forward to classes focusing on the treatment of intellectual property rights in business transactions."**

> *What is the most important legal issue in the field of technology law facing your country today?*

**"Enhancement of IP protection is really important. I am interested in exploring the extent to which it contributes to innovation."**



For more information on the Master of Laws (LLM) in Law, Science & Technology, please visit <http://www.law.stanford.edu/admissionsn/adv/lst/>

associate legal specialist with Fujitsu Limited, a Japan-based IT company. He has had opportunities to work on wide-ranging legal matters both in Japan and overseas, including IP matters, cross-border mergers and acquisitions, litigation, and general corporate matters. As a part of his legal practice, he conducted a successful settlement of a U.S. class action lawsuit that lasted over two years. He also handled and successfully settled litigation with Indian companies regarding a joint venture company in India. Takahiro is a member of Study Group of

Kookmin University in Seoul. Fifteen years ago, upon graduation, he joined Samsung Electronics as a founding member of its legal department when corporate legal departments did not exist in manufacturing companies in Korea. After nine years of legal experience at Samsung, he was recruited by Microsoft to be the primary legal contact for the subsidiary. He proceeded to set up a legal team and run it for five years, handling corporate legal issues ranging from anti-trust and litigation to National Assembly hearings and contract negotiation.

## EUN HYUN KIM

Eun Hyun Kim, from Korea, earned his LLB and MPA from

In addition, he enthusiastically participated in both academic and industry activities outside of the company and held several chair/director positions in industry associations. Serving as the chairman of Korea Committee of the Business Software Alliance (a nonprofit worldwide trade organization active in 65 countries) for the past two years, Eun has played an important role as the industry representative in the shaping of government policies regarding the Internet and software industries and the legislation of the related laws in Korea. His academic interest lies mainly in the Internet-related law and policy issues that arise as the speed of technological change makes it difficult for the “old” law—as it now stands—to solve various pressing legal issues on its own.

## PHILIPPE LUCET

Philippe Lucet, from Paris, France, received his JD in corporate and tax law from the Paris II (Assas) University and his post-JD degree in intellectual property and information technologies from the Paris XI University. He also received a master’s degree in finance and business from Sciences-Po Paris and holds the degree of Master of International Affairs from Columbia University. Philippe specializes in information technologies, music, sponsorship, and entertainment matters. He began his career in 1997 as a consultant for a French think tank specializing in media and IT issues and worked for two years as an associate for Arthur Andersen Legal’s IP/IT department before he was admitted to the Paris bar in 2000. He was then recruited by the IP/IT department of the international law firm Salans, where he advised, in particular, a major U.S. software company on the setup of its European subsidiaries and on numerous European intellectual property matters. After graduating from Columbia University, Philippe was sent abroad as a member of the French desk and IP/IT department of Salans’ New York office, where he assisted French and U.S. firms with the start-up and development of their businesses on both sides of the Atlantic and represented various international modeling agencies. As a French attorney-at-law, Philippe also developed his own practice and has represented, among

others, a digital marketplace of EUR 15m capital founded by the four main French banks and a prominent European rock music festival. He lectured for two years in an intellectual property and information technologies course at the Master of Management and Information Technologies program of the Paris II University.

## ASDIS MAGNUSDOTTIR

Asdis Magnusdottir, from Iceland, graduated from the University of Iceland Law School as a *candidatus juris*. She entered law school after working in the Icelandic Patent Office for one year. During law school, Asdis was an active member of the University of Iceland Student Union and served as chairman of the union for a year. Her final essay from law school was in the field of patent law: “Legal Protection of Biotechnology Inventions—New Directive of the European Union.” Since graduating, Asdis has worked for A&P Arnason, Intellectual Property Group, a specialized private IP consultation firm partly owned by LOGOS-Legal Services, the biggest law firm in Iceland. Asdis was the head of the trademark department there and worked with many of Iceland’s largest exporting firms. Within the firm, she led a special project aimed at educating the industry on IP-related matters. She has been an active member of SVESI, the Icelandic division of NIR, and was the executive director of a Scandinavian IP conference attended by more than 100 professionals. Asdis has also lectured in the field of patent law and has completed the requirements to plead cases before Icelandic courts.

*> Why did you choose to get your LLM from Stanford Law? How do you hope the LLM Program in Law, Science & Technology will contribute to your professional legal training?*

**Asdis: “I wanted to be able to join a special program in new science, technology, and law in the midst of Silicon Valley, and I wanted to study at one of the best law schools in the U.S. Choosing to attend Stanford was thus not a difficult choice. The faculty in the LST program is outstanding. I know that I will be better prepared professionally to handle IP matters after this year; furthermore, I am getting to know great people from all over the**

**world! We are forming a network of professionals which will be very valuable in the future.”**

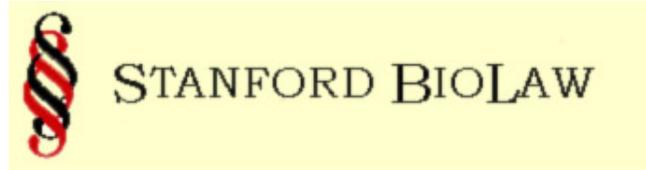
*> Which courses are you most looking forward to taking at Stanford this coming year?*

**“I am having trouble limiting myself because I want to take so many! I am, however, really looking forward to taking the core courses like Patent Law with Professor Lemley and Copyright with Professor Goldstein. It will be a privilege to learn from someone who has had so much influence on the field we are studying. There is also the colloquium with Roland Vogl, where we will touch upon all kinds of topics with experts both within our special field of interest and others. When people from all over the world participate in such groups, the discussions are bound to be lively.”**

## MINEKO MOHRI

Mineko Mohri, from Japan, earned her law degree at Keio University in Tokyo. While a student, she was appointed to the Law Faculty Students’ Board, where she organized and chaired legal conferences and symposia with prominent professors and politicians. She served as a lecturer at Keio University, teaching Civil Procedure Law and Constitutional Law for their National Bar Exam Preparation Course. Mineko is an associate with YUASA and HARA, one of the five largest law and patent firms in the Asia Pacific region. There, she practices mainly in trademark, design, copyright, and patent law for domestic and global clients in brand marketing, counterfeit goods control, litigation, and Japanese business start-up support. While working at YUASA and HARA, she served on the committee of the Japan Patent Office and developed a new training system for patent attorneys. She also helped create teaching materials about patent litigation procedures. Mineko drafted the commentary on patent infringement litigation procedure for a textbook, and served as a lecturer at the Japan Patent Attorney Association, teaching a case study on patent litigation procedure. In summer 2004, she was awarded a scholarship for a joint research project on “Employee’s Invention in Japan” at the Max Planck Insti-

*continued on p. 14*



## Student Group Focused on Biotech Finds No Shortage of Legal Quandaries

The vast increase in our ability to understand and manipulate our biological underpinnings has, naturally, generated substantial amounts of discussion among scientists and nonscientists alike. Since its creation two years ago by students of Stanford Law School, Stanford BioLaw has sought to create a forum for discussion and debate about the role of law in fostering and regulating biotechnology.

Stanford BioLaw is fortunate that leading experts in relevant fields are willing to volunteer their time to provide insights. Over the first two years of the organization's speaker series, students have heard about a range of issues, including how the law affects access to AIDS medication in Africa, policy considerations in regulating potential bioweapons, trade disputes with European biotechnology companies, and the ethical oversight of government funded clinical research.

Last spring, along with continuing its speaker series, Stanford BioLaw kicked off its "Brave New Law" project. The project seeks to delve deeper into discussions of important topics currently before regulators. The first conference focused on human reproduction—a thorny, but nonetheless fundamental, dilemma facing those charged with regulating biotechnology. The conference featured experts with an array

of perspectives, including law professors, geneticists, physicians, bioethicists, and members of President Bush's Council on Bioethics. Topics included federal regulation of assisted reproductive technology (ART), constitutional restraints on congressional regulation of ART, the effects of partisan politics on biotechnology, and the interface of scientific data and the justice system. Transcripts of the conference will soon be available.

Stanford BioLaw looks forward to many more lively discussions about novel legal questions arising from the cutting edge of biology. The group is deeply grateful to its generous sponsors. In particular, the law firm of Paul Hastings, Janofsky & Walker LLP, a leader in biotechnology-related litigation, provided complete funding for the Brave New Law conference. The law firm of Kirkland and Ellis LLP, which opened a San Francisco office in 2003, made its own generous donation towards the speaker series.

Those interested in hearing about upcoming events should email [majordomo@lists.stanford.edu](mailto:majordomo@lists.stanford.edu) with "subscribe stanford-biolaw" (no quotes) in the body. Events will also be listed at <http://biolaw.stanford.edu>.

— Pablo Arredondo

---

*continued from p. 3*

**LST@Stanford: How would you describe the atmosphere within the LST program, and how would you say that it contributes to (or detracts from) your academic and professional legal work?**

Goldstein: It's a wonderfully open setting for the exchange of ideas among faculty, among students, and between faculty and students.

**Thank you, Professor Goldstein. ■**

## A Brief History of SLATA

With its location in the heart of Silicon Valley, Stanford Law School provides an ideal forum for students who want to explore the nexus of law, technology, science, and society. And for nearly two decades, the Stanford Law and Technology Association (SLATA) has sought to serve these interests by sponsoring speakers and symposia, pushing for additions to the law school curriculum, and giving guidance to students who want to pursue a legal career in the field of technology.

Founded in 1984, this student-run organization draws on a unique set of resources: faculty members pursuing scholarship on technology-related subjects; Silicon Valley business leaders; and local law firms specializing in copyright, intellectual property, biotechnology, and patent law. In its 20-year history, SLATA has seen many of its alumni become leaders in the law and technology community: former association members include Kent Walker '87, senior vice president at Liberate Technologies; Marc Rotenberg '87, executive director of the Electronic Privacy Information Center (EPIC); and Ivan Fong '87, senior counsel for information technology at General Electric.

Today, SLATA continues to build on its tradition as a leading student organization, and SLATA-sponsored activities continue to create forums for the discussion of current issues in law and technology. The association's popular "Lunch with the JDs" program invites lawyers practicing in such areas as IP and patent law to campus to talk about their jobs. "Pizza with the Profs" provides an informal setting for students to hear from professors about their research in challenging new fields and to find out about new technology classes in the offing. The group has also created a mentorship program to give law students one-on-one advice from lawyers in the field. SLATA advises Stanford Law School's administration and information technology department on such matters as the school's technology infrastructure and the sponsor-

ship of programs to bring new resources to the law school. And SLATA's leadership works closely with the law school's faculty to bolster the course offerings in technology.

The organization has sponsored symposia on a range of topics, including "How Government Policy Affects R&D" and "Intellectual Property and the Venture Capital Process." In addition, this year will mark SLATA's return to conference planning. The last SLATA conference, in Spring of 2003, brought together leading law and technology thinkers to discuss "Digital Landscapes: Redrawing the Boundaries in Entertainment, Media and the Law." The event included panels on the legal implications of the Digital Millennium Copyright Act, the rise of digital animation, and the move to digital news content. Among the featured speakers were Steven Griffin, chairman of MusicCity; Jonathan Tasi-

ni, president of the National Writers Union; Professor Lawrence Lessig of Stanford Law School; Cindy Cohn of the Electronic Frontier Foundation; and Philip Rosedale, founder and chief executive officer

of Linden Lab. This year, SLATA is leading an unprecedented effort to create a joint conference designed and run by the law and technology associations of several Bay Area law schools.

More information about SLATA is available at <http://slata.stanford.edu>.

— Aaron Thacker



## Professor R. Anthony Reese Returns to Stanford for 2004-05 Academic Year

A specialist in copyright, intellectual property, and cyberspace aspects of intellectual property, Professor Reese currently holds the Thomas W. Gregory Professorship in Law at the University of Texas at Austin. He will spend this year as a visiting professor at Stanford teaching three classes: IP in Cyberspace, Property and Contract Go Hi-Tech, and IP: Trademark.

Professor Reese's connection to Stanford and the Bay Area runs quite deep. He received his JD from Stanford Law School in 1995 and acted as a Research Fellow in Stanford's Program in Law, Science & Technology from 1998-99. Prior to his fellowship, he clerked for the Judge Betty Fletcher on the U.S. Court of Appeals for the Ninth Circuit and practiced intellectual property law with



Morrison & Foerster. Indeed, Professor Reese is still affiliated with Morrison & Foerster's San Francisco office as special counsel.

His publications include "Reducing Digital Copyright Infringement without Restricting Innovation" (*Stanford Law Review*, 2004) (with Mark A. Lemley). He has also written about copyright's first-sale doctrine (*Boston College Law Review*, 2003), digital rights management (*Berkeley Technology Law Journal*, 2003), the public display right in copyright law (*University of Illinois Law Review*, 2001), copyright and Internet music transmissions (*University of Miami Law Review*, 2001), and state sovereign immunity and intellectual property law (*Texas Law Review*, 2001) (coauthor).

## Professor Eugene Volokh, Constitutional Law Scholar, Visiting From UCLA

This autumn, Eugene Volokh, a nationally recognized expert on the First Amendment, cyberspace law, harassment law, and gun control, will teach Constitutional Law II: Free Speech and Advanced Constitutional Law: Religion Clauses at Stanford Law School. Professor Volokh is visiting from UCLA School of Law, where he lectures on Copyright and Firearms Regulation.

Mr. Volokh graduated from UCLA with a BS in math and computer science at age fifteen. He then worked for twelve years as a computer programmer and is still a partner in a small software company which sells the HP 3000 software that he wrote. Later, he clerked for Judge Alex Kozinski on the U.S. Court of Appeals for the Ninth Circuit and Justice



Sandra Day O'Connor '52 (BA '50) on the U.S. Supreme Court.

Professor Volokh has written more than 30 law review articles and more than 40 op-eds on constitutional law, cyberspace law, and other topics. He is the author of "Mechanisms of the Slippery Slope," 116 *Harvard Law Review* 1026-137 (2003); the casebook *The First Amendment: Problems, Cases, and Policy Arguments* (2001); the textbook *Academic Legal Writing: Law Review Articles, Student Notes, and Seminar Papers* (2003); and the *Volokh Conspiracy* weblog. A 2002 survey by University of Texas law professor Brian Leiter listed him as the third most cited law professor among those who entered teaching after 1992.

## Professor Christopher R. Leslie, Visiting from Chicago-Kent College of Law

Professor Leslie has a degree in economics and political science from UCLA and a master's in public policy from the Kennedy School of Government at Harvard University. He graduated from Boalt Hall School of Law, University of California at Berkeley, where he served as an associate editor on the *California Law Review* and was elected to the Order of the Coif. After clerking for Judge Diarmuid O'Scannlain on the U.S. Court of Appeals for the Ninth Circuit, he practiced law at Pillsbury Madison & Sutro and Heller Ehrman White & McAuliffe in San Francisco, concentrating on antitrust and complex busi-



ness litigation. He will teach a course on Sexual Orientation and the Law at Stanford this spring.

Prior to joining the faculty of Chicago-Kent College of Law, Professor Leslie taught on the topics of antitrust and corporations at Boalt Hall. Professor Leslie's scholarship has appeared in the *Texas Law Review*, the *UCLA Law Review*, the *Wisconsin Law Review*, the *Harvard Civil Rights-Civil Liberties Law Review*, and the *Ohio State Law Journal*. His research focuses on anti-trust and business law.

---

*continued from p. 5*

ing principles of business practice still hold. Judge Fogel referenced a recent article in *The Economist* identifying the handful of Internet-based companies that had flourished during the bust years of the industry as those that had maintained the strongest relationships with their customers.

The humorous sincerity of Judge Fogel's address—along with his contention that clients are motivated not by abstract legal principles, but by things like betrayal, disappointment, and entitlement—carried over into the conference's afternoon sessions, which were generally marked by a tone of good-natured collaboration and earnest discussion. Afternoon panels included "The Privacy Regimes Patchwork: How to Adopt a Globally Integrated vs. a Territorial Approach," "Online Security: The Precondition for Consumer Trust," and "Taxation of Digital Goods and Services: New Regulations and the Compliance Challenges for Online Businesses."

In the final discussion of the day, on the topic of the piracy of digital content, panelists pointed out that P2P networks have evolved away from Napster, which was a centralized hub, to more decentralized architectures that are self-organizing without any ongoing intermediation. These architectures disperse and fragment the ac-

tivity of pirates, yielding various levels of culpability and blurred distinctions between jurisdictions. In this environment, it necessarily becomes quite difficult to figure out who to sue and how to enforce any judgment one receives. Mr. Andrew Bridges, a partner at Winston & Strawn LLP, argued that any would-be regulator of privacy needs to understand how many different players, motives, and values are involved, and how to create effective working distinctions between these motives.

On behalf of Margaret Jane Radin, then-director of the LST program, Ian Ballon, the Executive Director of the Stanford Center for E-Commerce, Roland Vogl, executive director of the LST program, and conference organizer Bill Cosden, of the San Francisco Bay Area chapter of the Association of Corporate Counsel, we would like to thank all those who attended and all those who participated in the inaugural Stanford E-Commerce Best Practices Conference.

We applaud the commitment of LST affiliate partners Affymetrix; Cooley Godward LLP; Fenwick & West LLP; Heller Ehrman White & McAuliffe LLP; Morgan, Lewis & Bockius LLP; Paul, Hastings, Janofsky & Walker LLP; Pillsbury Winthrop LLP; and Wilson Sonsini Goodrich & Rosati; and look forward to many more years of vibrant discussion of online best practices at Stanford Law School. ■

## Three LLM Graduates Spend a Summer at Fenwick & West LLP

*Three 2004 LLM graduates speak of their experiences as summer associates at a high technology and life sciences law firm.*

This year, for the first time, the law firm of Fenwick & West LLP offered Stanford LLM students the opportunity to work as summer associates in the firm's Palo Alto office. Three students—Frederic Debusseré, an associate with the law firm Stibbe in Brussels, Belgium, Liu Fang from Linklaters in Beijing, China, and Tobias Somary from CMS von Erlach Klainguti Stettler Wille in Zurich, Switzerland—were invited to participate in the firm's first LLM summer associate program. Frederic was an LLM student in the Program in Law, Science & Technology; Liu and Tobias were LLM students in the Program in Law, Economics & Business.



This invitation from Fenwick & West enabled a lively exchange of legal expertise from different jurisdictions and helped build lifelong professional relationships. What follows are excerpts from an interview in which the three Stanford participants told us about their experience as the first batch of F&W LLM summer associates. As the interview begins, Ralph Pais, partner in Fenwick's Intellectual Property Group and lecturer in law at Stanford Law School's Gould Center (where he teaches one of the school's most popular negotiations classes), shares his vision for the program.

### **What was Fenwick & West LLP hoping to achieve by launching a summer associate program for LLM students?**

Ralph Pais: Our goals included the following: providing the LLMs a chance to experience U.S. practice so that they would be more familiar with how we approach projects, which would allow us to work together more effectively in future matters once they returned to their home jurisdiction; building closer relationships with law-

yers from other parts of the world (particularly from regions where our clients conduct business), so that we would have closer ties and possible contacts for future client needs; building or strengthening ties with foreign firms with which the LLM students are associated; enrich-

ing our summer program by having participants from diverse legal backgrounds and systems who would provide different insights and perspectives; gaining insights from the LLMs about differences in legal approach and practice in their respective jurisdictions; and adding another element to our already close relationship with Stanford Law School.

### **How did the LLMs contribute to the work of Fenwick & West LLP?**

Ralph Pais: They worked along with our attorneys and summer associates on client matters. They were available to provide legal advice specific to their jurisdiction as and when those sorts of matters arose. They made presentations on differences in legal training and practice in the U.S. and their respective jurisdictions.

### **What were the specific challenges?**

Ralph Pais: Because this was something new for us, our lawyers did not fully understand or appreciate how the LLMs were different from summer associates. Getting the LLMs effectively integrated into the firm and workflow took a bit more effort than we had anticipated or planned for, but we were able to make necessary adjustments. We also learned what to do differently in the future, which will allow us to provide a better experience for next year's LLM participants.

### **What future interactions do you expect from this program?**

Ralph Pais: The friendships that we formed will be continued. Also, we expect that as opportunities present themselves, referrals of work among different firms will be likely.

### **Liu, what were your intentions in participating in this program?**

Liu Fang: I decided to participate in this program, because I was very interested in learning about how U.S. lawyers handle international transactions. While Fenwick does not have any overseas offices, it does have a significant amount of international work, which convinced me that it can provide me with a good opportunity to observe and get first-hand experience in its international practice.

### **Why Fenwick, Tobias?**

Tobias Somary: I came to Stanford during my sabbatical year after having practiced in Zurich for five years. With a good job waiting for me at home, I was not interested in pursuing long-term employment possibilities in the U.S., but rather a short, yet in-depth experience with a solid law firm in the Bay Area. These interests coincided with the purpose of the program that Fenwick was offering, and the result was a win-win situation that ideally will lead to the establishment of a long-term business relationship for both sides. I was surprised that none of the other firms in the Bay Area had picked up on the idea.

Besides their exceptional approach, Fenwick has a practice focus that perfectly matches the interest groups of the two Stanford LLM programs: a top IP & technology practice for the Law, Science & Technology students, and a great M&A, VC and start-up practice for my colleagues in the Law, Economics & Business program. These issues made my decision to apply for an internship with Fenwick a logical course of action.

### **What kinds of interesting assignments did you get as summer associate?**

Frederic Debusseré: As an IT & IP lawyer, I mainly worked on technology licensing agreements, IP rights, due diligences, and European privacy issues. I noticed that IP & IT lawyers in the U.S. have to deal with the same kind of legal and business questions as lawyers in Europe; the only real difference is the law. I was very pleased to have had the opportunity to introduce Fenwick lawyers to some key issues about lawyering in Europe in the course of an internal lunch presentation I gave together with Tobias.

### **What was particularly impressive about working at Fenwick?**

Tobias Somary: It was fascinating for me to gain work experience in that vibrant environment where innovative projects and interested venture capitalists are brought together. I also found it interesting to see how the community does not necessarily perceive business failure as a bad thing but as a necessary step on the way to success, which is very different from the Western European view. The lively economic environment certainly has had a great impact on the legal practice: I found that the lawyers were generally less formal, yet fully familiar with the client's business, flexible, fast and professional. I have taken many insights back to Switzerland and very much hope to integrate them in my personal practice.

### **What suggestions or advice do you have for next year's LLM associates?**

Tobias Somary: I recommend that all future LLMs apply for this program. However, the greatest challenge may lie in getting your work permit in a timely manner. Make sure you get your act together way in advance, around February. This internship is too precious to miss.

— Article and Interview by Ji-Hyun Park

*continued from p. 7*

tute for Intellectual Property, Competition and Tax Law.

> *Why did you choose to get your LLM from Stanford Law?*

**Mineko:** “I was interested in participating in the distinguished culture of interaction between technology, society, and law.”

> *Which courses are you most looking forward to taking at Stanford this coming year?*

**“Patent Law, Copyright Law, Law & Biosciences, Art & the Law”**

> *What is the most important legal issue in the field of technology law facing your country?*

**“The law governing employee inventions is one of the most important issues facing Japanese companies today.”**

## STEFANO QUINTINI

Stefano Quintini, from Italy, earned his law degree *cum laude* in 1998 from the Catholic University of Milan, and received a doctorate from the University of Pavia in 2004 with a doctoral thesis on “Domain Names and Good Faith Duties in the Use of the Internet.” For this thesis, he did extensive research at the Franklin Pierce Law Center in New Hampshire in 2001 and at the Max Planck Institute in Munich, Germany, in 2003. Stefano is the author of several publications and has given presentations on a variety of issues related to IP and IT Law. In 2004, Stefano has lectured on design protection issues within the Master’s Program in Fashion and Design at the Bocconi University of Milan, and on general IP issues within the LLM program at the LUISS University of Rome.

Professionally, Stefano has practiced in a “boutique” Milan-based law firm specializing in IP law for four years. At the beginning of 2003, he joined Baker & McKenzie’s Milan office as an associate of the IP/IT department. He has represented multinational companies in numerous IP/IT deals, including joint ventures for data processing services, outsourcing agreements, software licenses, trademark licens-

es, and distribution agreements. Stefano has also represented multinational companies in IP judicial cases, including chemical patent infringement actions, trademark infringement and invalidity actions, and industrial design infringement actions. He took part in Italy’s implementation of the antipiracy program of a leading U.S. computer company. Stefano is a member of the Milan bar.

## JUDIT RIUS SANJUAN

Judit Rius Sanjuan, from Spain, studied law and earned a master’s degree in international studies at the Pompeu Fabra University in Barcelona. With the assistance of an Erasmus grant, she spent one year studying at the University of Geneva (Switzerland) and also completed internships at the United Nations and the Spanish Mission. Upon graduation, Judit started working at the Information Highway Group, an information technology consulting firm associated with the leading Spanish business school, IESE, where she worked in the European Projects Department (personal data protection, online ADR, domain names, and jurisdiction) and cowrote a study on the legal aspects of e-commerce in Europe, which was given the highest possible assessment by the European Commission. Judit has also worked for Intelligent Software Components S.A. (iSOCO), a spin-off company of the Spanish Artificial Intelligence Research Institute (dependent on the Spanish Ministry of Science and Technology), where she worked mainly in software licensing. Judit is the author of postgraduate IP courses on the legal implications of free software at the online Universitat Oberta de Catalunya (UOC). Until recently, Judit was working at the in-house legal department of Laboratorios Menarini, a leading international pharmaceutical company, where she had the opportunity to work on distribution contracts, pharmaceutical regulatory affairs, and IP law. In addition, Judit collaborates with different nonprofit organizations in Spain and abroad. Judit was awarded the La Caixa Scholarship in 2004 to support her LLM degree at Stanford.

> *Which courses are you most looking forward to taking at Stanford this coming year?*

**Judit:** “I am planning to take a number of IP classes on copyright, patents, and trademarks; in addition, I will likely study contracts and some other technology-oriented issues. I would like to complement this range of study by taking some courses on human rights or NGO-related subjects.

## RENATA STREIT

Renata Streit, from Brazil, earned her LLB from Universidade Federal do Rio de Janeiro, having acted as a teacher’s assistant in Constitutional Law for three years. Upon completion of law school, Renata pursued a specialist degree in civil-constitutional law from Universidade do Estado do Rio de Janeiro, where she studied the reform of the Brazilian Civil Code and its impacts on electronic contracts. Her broad academic background allowed her, in December 2002, to become the general coordinator of the Brazilian Centre of Internet Legal Studies ([www.cbeji.com.br](http://www.cbeji.com.br)), which is the main virtual legal resource in Brazil and is dedicated to providing relevant content and stimulating the debate and development of information technology law in Brazil and abroad. Renata’s practical legal training includes an internship at the Roberto Marinho Foundation and a position, for the last three years, as an associate at Barbosa, Müssnich & Aragão Advogados, where she works with corporate law and information technology. Due to her previous experience in third sector law, Renata acts as a pro bono lawyer for several projects, including the Committee for Democratization of Informational Technology (CDI), the largest digital divide project in the world.

## CELSO XAVIER

Celso Xavier, from Brazil, earned both his LLB and LLM (in civil procedural law) from the Pontificia Universidade Catolica de São Paulo. Since 1996, Celso has been practicing in the Litigation Department of Demarest e Almeida Advogados, the largest Brazilian law firm, where he is now a senior associate. He takes care of lawsuits involving biotechnology, IP, and unfair competition. Celso is a member of the Bio-

technology Committee of the Brazilian Bar Association, São Paulo Chapter, and is also a member of the Brazilian Law Firms Center of Studies (CESA), where he is in charge of court and ADR issues. Academi-

cally speaking, Celso was invited in 2000 to be the assistant to a justice of the Brazilian Supreme Court in a Civil Procedure course he was teaching at Pontificia Universidade Catolica de São Paulo. Celso has

authored numerous publications and has given presentations on a variety of issues related to biotechnology and civil procedural law. ■

----- THE STANFORD PROGRAM IN LAW, SCIENCE & TECHNOLOGY PRESENTS -----

## **Ready, Set, EXIT—Are You Ready for IPO or M&A?**

What Pre-Public Companies Need to Know in the Sarbanes-Oxley Era

Network Meeting Center, Techmart Building, Santa Clara  
December 2, 2004

Presented in partnership with SVASE (Silicon Valley Association of Startup Entrepreneurs), Cooley Godward LLP, MIT-Stanford Venture Lab (VLAB), and the Association for Corporate Growth-Silicon Valley.

The program will feature: **Steve Cakebread**, CFO, *Salesforce.com*; **Edward Knight**, EVP & General Counsel, *NASDAQ*; **David Liu**, SVP, Broadview (*a division of Jeffries*); **George Reyes**, CFO, *Google, Inc.*; **Rob Thomas**, President & CEP, *Infoblox*; and **Nancy Wojtas**, Partner, *Cooley Godward LLP*.

This program will be preceded by **Technical Update for General Counsels and CFOs**, an MCLE/CPE credit seminar moderated by Stanford Law School Professor **Michael Klauser**.

For complete program information and to register, please visit: <http://www.svase.org/site/Events/Data/ME1204>. Scholarships are available for program affiliates.

## **Advanced Patent Law Institute**

December 2-3, 2004  
The Fairmont Hotel, San Jose

*A conference jointly sponsored with Boalt Hall's Berkeley Center for Law and Technology and the University of Texas School of Law*

Leading IP and patent law practitioners will come together on December 2 and 3 at the Fairmont Hotel in San Jose for this year's Advanced Patent Law Institute. The focus will be practical, with a distinguished faculty addressing issues faced by advanced practitioners in corporate IP departments and leading law firms. Cochaired by Stanford Law School Professor Mark A. Lemley and James Pooley of Milbank, Tweed, Hadley, and McCloy LLP, the conference will include among its participants patent attorneys, valuation experts, government officials, federal judges, and academics. This year's program features sessions on outsourcing patent prosecution offshore, monetizing and securitizing IP, patents and open source, antitrust issues, inventorship, and more. Save \$50 by registering early. Call 512/475-6700 or visit [www.utcle.org](http://www.utcle.org).

----- UPCOMING EVENTS AND SPEAKERS -----

In 2005, the LST program will host a series of cutting-edge conferences for lawyers, scholars, and policy makers:

- **ABA Cyberspace Law Committee Winter Working Meeting...** *hosted by the LST program, January 28 and 29, 2005*
- **Biotechnology Patents Conference...** *hosted by the Center for Law and the Biosciences, March 11, 2005*
- **The Law and Policy of Standard-Setting Organizations...** *hosted by the LST program, May 2005*
- **2nd Annual E-Commerce Best Practices Conference...** *presented by the LST program's Center for E-Commerce and the Association of Corporate Counsel, San Francisco Bay Area Chapter, June 2005*

In addition, the Center for Law and the Biosciences will feature speakers discussing the following topics:

- **Universities' Financial Involvement in Biotechnology...** Richard Epstein, James Parker Hall Distinguished Service Professor of Law, University of Chicago Law School
- **Genetics and Race...** Pilar Ossorio, Assistant Professor of Law and Medical Ethics, University of Wisconsin Law School
- **Law and Behavioral Biology...** Owen Jones, Professor of Law and Biological Sciences, Vanderbilt Law School
- **IP and the Biosciences...** Mark Lemley, William H. Neukom Professor of Law and Director, LST program, Stanford Law School

For more information on these upcoming events, please visit the LST website at <http://lst.stanford.edu> ,  
the Center for Internet & Society website at <http://cyberlaw.stanford.edu/events/> ,  
or the Center for Law and the Biosciences website at <http://clb.stanford.edu>.

## About LST@Stanford ...



This newsletter was prepared by:

- Roland Vogl** Executive Director, Stanford Program in Law, Science & Technology, and Editor-in-Chief of LST@Stanford  
and  
**Nicholas Bramble** Designer, editor, and lead writer of LST@Stanford

Many thanks to **Professor Mark A. Lemley**, director of the Stanford Program in Law, Science & Technology; **Kent Howard**, Web page assistant; **Joe Neto**, computer coordinator, and **Krista Andersen**, editorial assistant. For questions, suggestions, and future story ideas, e-mail either **Roland Vogl** at [rvogl@law.stanford.edu](mailto:rvogl@law.stanford.edu) or **Nicholas Bramble** at [nbramble@stanford.edu](mailto:nbramble@stanford.edu).

Read LST@Stanford online at <http://lst.stanford.edu/newsletter>