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### ACADEMIC POSITIONS

University of California at Berkeley

Richard M. Sherman Distinguished Professor of Law & Information,  
since 2005; Chancellor's Professor of Law & Information, 2001-06;  
Professor since 1996

Courses on intellectual property, Internet law, information law and  
policy; seminars on copyright reform, open source and open content  
licensing, intellectual property scholarship, peer to peer file sharing,  
copyright law for an information society

Honorary Professor, University of Amsterdam, since June 2002

University of Pittsburgh School of Law, Professor of Law, 1987-1996;  
Associate Professor, 1984-87; Assistant Professor, 1981-84

Visiting Professor of Law, New York University Law School, upcoming  
Fall 2011; Harvard Law School, Fall 2007; Cornell Law School, 1995-96;  
Columbia Law School, Spring 1994; Emory University, 1989-90; Visiting  
Assistant Professor of Law, University of Hawaii Law School, Fall 1980

Distinguished Visiting Faculty, University of Toronto Law School, January  
2002; Visiting Fellow, University of Melbourne School of Law, Summer  
1997; Visiting Scholar, Vrije Universiteit Brussels, Summer 1993

Principal Investigator, Software Licensing Project, Software Engineering  
Institute, Carnegie-Mellon University, 1985-86, Consultant 1986-88

Litigation Associate, Willkie Farr & Gallagher, 1977-81

## EDUCATION

Yale Law School, J. D. 1976

University of Hawaii at Honolulu, M. A. 1972, Political Science; B. A. 1971, History

## WORKS IN PROGRESS

Does the Copyright Office Really Have Rule-Making Authority, and Should It Have More? (with Andy Gass)

Possible Modes and Venues for Copyright Reform

How Important Are Intellectual Property Rights to Software Entrepreneurs? (with Stuart J.H. Graham)

Evolving Conceptions of the Roles of Patent and Copyright Laws in Protecting Intellectual Creations

The Future of Books in Cyberspace

Origins of Statutory Damages in U.S. Copyright Law

## LAW REVIEW PUBLICATIONS

Debate, Unconstitutionally Excessive Statutory Damage Awards in Copyright Cases, Opening Statement, 158 U. Penn. L. Rev. PENNumbra 27 (2009), Closing Statement, 158 U. Penn. L. Rev. PENNumbra (2009) (with Ben Sheffner), available at <http://www.pennumbra.com>

Why Irreparable Harm Should Not Be Presumed in Copyright Preliminary Injunction Cases (with Krzysztof Bebenek), 5 I/S: J. Law & Policy for Info. Soc'y (forthcoming 2009)

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Why Copyright Excludes Systems and Processes From the Scope of Its Protection, 85 Tex. L. Rev. 1921 (2007)  
republication in 2008 Intell. Prop. L. Rev.

Principles for Resolving Conflicts Between Trade Secrets and the First Amendment, 58 Hastings L. J. 777 (2007)  
republication in FIRST AMENDMENT LAW HANDBOOK 2007-08 (Rodney Smolla, ed. 2008), condensed version forthcoming in THE LAW AND THEORY OF TRADE SECRECY: A HANDBOOK OF CONTEMPORARY RESEARCH (Rochelle C. Dreyfuss & Katherine J. Strandburg, eds. 2010) under the title "On First Amendment Defenses in Trade Secrecy Cases"

Questioning Copyright in Standards, 48 B.C. L. Rev. 193 (2007),  
republication in 2007 Intell. Prop. L. Rev.

A Reverse Notice and Takedown Regime to Enable Fair Uses of Technically Protected Copyrighted Works, 22 Berkeley Tech. L.J. 981 (2007) (with Jerome H. Reichman & Graeme Dinwoodie),  
republication forthcoming in P2P AND SECONDARY LIABILITY IN COPYRIGHT LAW (Alain Strowel, ed. 2009)

Should Copyright Owners Have to Give Notice About Their Use of Technical Protection Measures?, 6 J. Telecom. & High Tech. L. 41 (2007) (with Jason Schultz),  
republication forthcoming in DIGITAL RIGHTS MANAGEMENT TECHNOLOGIES (ICFAI 2008)

Preliminary Thoughts on Copyright Reform, 2007 Utah L. Rev. 551,  
republication in J. Scholarly Pub'g (April 2008)

Enriching Discourse on Public Domains, 55 Duke L. J. 783 (2006)

The Generativity of *Sony v. Universal*: The Intellectual Property Legacy of Justice Stevens, 74 Fordham L. Rev. 1831 (2006)

Three Reactions to the *Grokster* Decision, 13 Mich. Telecom. & Tech. L. Rev. 177 (2006),  
republished in ENTERTAINMENT, PUBLISHING, & ARTS HANDBOOK (2007)

Brief Amicus Curiae of Sixty Intellectual Property and Technology Law Professors and US-ACM Public Policy Committee, to the U.S. Supreme Court in *MGM v. Grokster*, 20 Berkeley Tech. L.J. 535 (2005)

Intellectual Property Arbitrage: How Foreign Rules Can Affect Domestic Protections, 71 Chi. L. Rev. 223 (2004),  
republished in INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME (Keith E. Maskus & Jerome.H. Reichman eds. 2005);  
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earlier version published under the title "Copyright, Censorship and Commodification: The Past As Prologue", in COMMODIFICATION OF INFORMATION (Niva Elkin-Koren & Neil Netanel, eds., 2002),  
republished in CONSTRUCTING CYBERSPACE (Birgit Viohl, ed., UNITAR CD-ROM 2003)

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portions republished in MARGARET JANE RADIN, JOHN ROTHCHILD & GREGORY SILVERMAN, INTERNET COMMERCE: THE EMERGING LEGAL FRAMEWORK (2002)

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updated version published in U.S. INTELLECTUAL PROPERTY LAW AND POLICY (Hugh Hansen, ed. 2006)

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first published as a chapter in CAPITAL FOR OUR TIME (Nicolas Imparato, ed. 1998), portions republished in MARGARETH BARRETT, INTELLECTUAL PROPERTY (2d ed. 2001)

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Circumvention Regulations Need To Be Revised, 14 Berkeley Tech. L.J. 519 (1999) (in symposium on e-commerce policy issues), portions republished in YOCHAI BENKLER, WILLIAM FISHER, LAWRENCE LESSIG, CHARLES NESSON, & JONATHAN ZITTRAIN, INTERNET LAW (2005); ELIZABETH MACDONALD & DIANE ROWLAND, INFORMATION TECHNOLOGY LAW (3d Ed. 2005); MARK A. LEMLEY ET AL., SOFTWARE AND INTERNET LAW (2000), (2d Ed. 2003), (3<sup>RD</sup> Ed. 2006); JULIE E. COHEN ET AL., COPYRIGHT IN A GLOBAL INFORMATION SOCIETY (2002), and INTERNET AND E-COMMERCE LAW: CASES AND MATERIALS (Anne Fitzgerald & Brian Fitzgerald, eds. 2002)

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first published as a Technical Memorandum of the Software Engineering Institute (1986); republished in the SEI Technical Review for 1985 and in the Yearbook of Procurement Articles (1988)

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## PUBLICATIONS IN COMPUTING AND SCIENTIFIC JOURNALS

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Are Business Methods Patentable?, 52 Comm. ACM (forthcoming Nov. 2009)

The Dead Souls of the Google Book Search Settlement, 52 Comm. ACM 28 (July 2009), republished at <http://radar.oreilly.com/2009/04/legally-speaking-the-dead-soul.html>

When Is a “License” Really a Sale?, 52 Comm. ACM 27 (March 2009)

*Quantafying* the Value of Patent Exhaustion Rules, 51 Comm. ACM 27 (Nov. 2008)

Revisiting Patentable Subject Matter, 51 Comm. ACM 20 (July 2008)

How to Achieve (Some) Balance in Anti-Circumvention Laws, 51 Comm. ACM 21 (Feb. 2008)

Hacking Intellectual Property Law, 51 Comm. ACM 65 (Jan. 2008)

Does Copyright Law Need to Be Reformed?, 50 Comm. ACM 19 (Oct. 2007)

Software Patents and the Metaphysics of 271(f), 50 Comm. ACM 15 (June 2007)

Patent Reform Through the Courts, 50 Comm. ACM 17 (Feb. 2007)

IBM’s Pragmatic Embrace of Open Source, 49 Comm. ACM 15 (Oct. 2006)

Copyrighting Standards, 49 Comm. ACM 27 (June 2006)

Regulating Technical Design, 49 Comm. ACM 25 (Feb. 2006)

Did MGM Really Win the *Grokster* Case?, 48 Comm. ACM 19 (Oct. 2005),  
republished in Japanese in 11 *Intell. Prop. L. & Policy J.* 53 (2006)

The Supreme Court Revisits the *Sony* Safe Harbor, 48 Comm. ACM 21  
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(March 2005)

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What's At Stake in *MGM v. Grokster*?, 47 Comm. ACM 15 (Feb. 2004)

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on digital rights management technologies)

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(April 2003) (special section on digital rights management technologies),  
republished in *DIGITAL RIGHTS MANAGEMENT TECHNOLOGIES* (2005)

Reverse Engineering Under Siege, 45 Comm. ACM 15 (Nov. 2002)

Anti-Circumvention Rules: Threat to Science, 293 *Science* 2028 (Sept.  
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IN LAW* (David Vaver, ed. 2005)

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2001) (special issue on the future of computing),  
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version published in the online Proceedings of the World Wide Web  
2002 Conference; republished in ICFAI Journal of Intellectual  
Property Rights (2003)

Intellectual Property for an Information Age, 44 Comm. ACM 66 (Feb.  
2001) (introduction to special section on intellectual property issues)

Towards More Sensible Anti-Circumvention Regulations, PROCEEDINGS OF  
FINANCIAL CRYPTOGRAPHY 2000,  
republished in 5 Cyberspace Lawyer 2 (July-Aug. 2000)

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ACM 17 (Sept. 1999),  
republished in INTELLECTUAL PROPERTY IN THE AGE OF UNIVERSAL  
ACCESS (ACM Press 1999)

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(ACM Press 1999); and in INTERNET AND E-COMMERCE LAW: CASES  
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#### BOOKS AND BOOK CHAPTERS

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## SELECTED ACTIVITIES AND HONORS

Fellow, Center for Democracy & Technology, since 2009

Distinguished Teaching Award, School of Information, UC Berkeley, May 2008

Member, World Economic Forum's Global Agenda Council on Geography of Technology Innovation, since June 2008

Member, California Council of Science & Technology 2006-2007; Member, CCST Intellectual Property Study Committee, 2005-06

Anita Borg Institute Women of Vision Award for Social Impact, October 2005

World Technology Network Award for Law, October 2004

Honorary Professor, University of Amsterdam, since June 2002

Fellow of the John D. and Catherine T. MacArthur Foundation, 1997-2002

Distinguished Alumni Award, University of Hawaii, May 2000

Member, Board of Directors, Open Source Application Foundation, 2002-2007

Member, Board of Directors, Electronic Frontier Foundation, since July 2000; Public Policy Fellow 1997-2000

Member, Board of Directors, Public Knowledge, 2002-2004

Member, National Research Council Study Committee on Intellectual Property Rights in the Knowledge-Based Economy, 2000-04

Berkeley Technology Law Journal Pioneer Award, 1999

Fellow of the Association of Computing Machinery, since 1998

Member, American Law Institute, since 1998

Member, Advisory Board, University Connections Project, University of Hawaii, since 1998

Director, Berkeley Center for Law and Technology, University of California at Berkeley, since 1997

Member, National Research Council Study Committee on Intellectual Property Rights and the Information Infrastructure, 1998-2000

Chair, AALS Planning Committee for Workshop on Intellectual Property Rights, 1997-1999

Contributing Editor, Communications of the ACM, 1990- present