Welcome from Dean Maureen O’Rourke

Boston University School of Law is home to a strong and vibrant intellectual property law community that includes experts in all three of the core fields of IP law: patent, copyright and trademark. Our IP faculty includes acclaimed scholars Wendy Gordon, Stacey Dogan and Michael Meurer, who publish internationally and appear as keynote speakers and presenters at conferences worldwide.

In addition to our core IP faculty, other scholars at BU are writing on related issues. For example, Professor Keith Hylton, an authority on antitrust law, edited a collection of original essays by several antitrust authors, including a chapter by Professor Michael Meurer, in the recently published book Antitrust Law and Economics. Professor Hylton also examines the economic logic behind IP law in his forthcoming book Laws of Creation: Property Rights in the World of Ideas, which he is co-writing with former BU Law Dean Ronald Cass. Health law scholar and Associate Professor Kevin Outterson, whose work focuses on global pharmaceutical markets, recently received a grant from the Robert Wood Johnson Foundation to explore the unique IP environment of antibiotics. I continue to teach IP and to publish and present work, particularly regarding IP rights and software.

In June, BU Law welcomed IP professionals to Professor Meurer’s IP Workshop “Communication of Technical Knowledge,” which explored various channels used to communicate technical knowledge among inventors and innovators, and how law and policy affect such communication.

On September 10-11, we sponsored the workshop “Medicines for Neglected Diseases Workshop (MeND): Overcoming Funding, Organizational & Scientific Challenges for ND Tool Development in Academic Partnerships.” On September 21, Wendy Gordon, the Philip S. Beck Professor of Law, delivered the lecture “Changing Views of Copyright Theory: One Scholar’s Evolution.”

I hope you’ll enjoy reading this issue, in which we also feature a few BU Law alumni who are prominent IP professionals. Two stories focus on anti-counterfeiting crusaders: Edward Kelly (‘91) talks about the nexus between IP and humanitarian efforts to fight human trafficking, while luxury goods lawyer Todd Kahn (‘88) shares Coach’s aggressive stance against knockoff pirates. Bostonian Law Group attorney and BU Lecturer in Law Jerrold Neeff (‘95) offers a fascinating look at online defamation and entertainment law. Russell Beck (‘89) tells us why he founded a boutique IP firm after years of large-firm success.

BU Law’s IP program draws the globe’s brightest students who eagerly engage in an exploration of intellectual property law issues. Accomplished scholars themselves, our graduates have published books and journal articles, received faculty appointments and pursued careers in private practice as IP specialists.

I hope this overview of our IP program will give you a sense of the dynamic intellectual property community at BU Law.

Maureen A. O’Rourke
School of Law Dean
Michaels Faculty Research Scholar
Professor of Law

B.S., summa cum laude, Marist College
J.D., Yale Law School

Interests: intellectual property; commercial law
A world leader in copyright law, Professor Wendy J. Gordon is one of the most cited scholars in the field of intellectual property today. Renowned for her application of philosophy and economics to copyright and related areas, and for her groundbreaking work on fair use, she has published on four continents, received numerous honors and grants, and spoken to audiences worldwide. Her articles are often anthologized and translated. The U.S. Supreme Court has cited her work in three cases, and the influence of her articles is pervasive in legal scholarship. Her work is frequently a topic in law school coursework as well; for example, her corpus has been the subject of a full-term seminar at the University of Hokkaido in Japan.

A BU Law faculty member since 1993, she was recently named the Philip S. Beck Professor of Law for her scholarly achievements in the fields of copyright, trademark, and theory of torts and property. Her focus is on the foundations of these fields, where she asks, “What are the justifications for and proper limits on the law’s provisions?” She also investigates areas such as data ownership, free speech, the intersection of patent law with human rights, the law of unjust enrichment, and the relations between copyright on one hand, and on the other, regimes of property and tort.


Professor Gordon is participating in symposia at George Washington University School of Law and at various conferences. She will address the Association of American Law Schools (AALS) IP Section as part of the panel at the next annual meeting. She chaired the panel “Copyright and the Public Sphere” at the Philosophy and Intellectual Property Conference at the University of London last summer, and she delivered a paper at the “Roundtable on Intellectual Property and Religious Thought” at the University of St. Thomas School of Law in September. She has made a presentation on philosophic issues within copyright to the University of Cambridge (U.K.) (co-sponsored by the Faculty of Law and the Philosophy Department), to the Chicago IP Colloquium, and to the American Philosophical Association’s 2010 meeting in Chicago.


In 2009, Professor Gordon served as the Bacon-Kilkenny Distinguished Visiting Professor of Law at Fordham University School of Law. She also has taught as a visiting professor at the law schools of the University of Chicago, Georgetown, the University of Illinois at Champaign/Urbana (where she served as the Raymond and Mildred Van Voorhis Jones Visiting Professor of Law), and the University of Michigan. She also has been the Visiting Senior Research Fellow at St. John’s College, Oxford (U.K.). A former Fulbright scholar and the recipient of a Bellagio residency from the Rockefeller Foundation, she twice served as chair of the Association of American Law School’s IP Section.

She has co-edited two books on the economics of copyright and more than 30 articles. Among other honors, she has received a Lon L. Fuller Prize in Jurisprudence, a New Jersey Fellowship in the Humanities, and recognition for her teaching.

In addition to her work at the law school, she co-teaches (along with a professor from the philosophy department) a seminar on property theory in the University Honors College.

For Professor Gordon, the dynamic field of IP provides rich soil for scholarship. “Working with copyright has been tremendously exciting, as terrain shifts continually,” she said. “Changes in media, business strategies and technologies pose novel conundrums virtually every day. But there is also great challenge in investigating the underlying and recurring questions that arise in this subtly different area of law.”

Professor Gordon, who prefers the term “intangible products” over “intellectual property,” blends the insights of philosophy, economics and political theory, examining some of the foundational presumptions that explain the design, enforcement and limits that should be placed on the legal regulation of intangibles.
Economics background informs Dogan’s scholarship in trademark, copyright and antitrust law

Professor Stacey L. Dogan is a leading scholar in intellectual property law, with a special emphasis on trademark and copyright law. Her economics training as well as her experience practicing law inform her teaching and scholarship.

Professor Dogan’s research emphasizes the foundational role that competition plays in our marketplace economy. Her work in trademark law has pressed courts to maintain fair competition as the ultimate objective of the law and, in so doing, to protect the ability of competitors and others to use trademarks in information-facilitating ways. Current projects include an article on intellectual property protection for product design, co-authored with Professor Wendy Gordon, and an article exploring the normative foundations of European trademark law compared to that of the United States.

This past year, she published two trademark-related articles: “Beyond Trademark Use” in the journal on Telecommunications and High Technology Law and “Trademark Remedies and Online Intermediaries” in the Lewis & Clark Law Review. She has written many articles on the application of trademark and copyright law to the online environment, with a focus on the role of intermediaries such as Napster and Google.

Recent non-trademark projects reflect a similar emphasis on the ways in which the law can promote—and sometimes frustrate—competitive markets. A recent Texas Law Review article co-authored with Stanford Law School Professor Mark A. Lemley, “Antitrust Law and Regulatory Gaming,” contends that antitrust law has a continuing role to play in preserving competition in regulated markets. The article received an honorable mention in the Jerry S. Cohen Memorial Fund Writing Award competition and was recognized at the annual conference of the American Antitrust Institute in June.

Before she began teaching law, Professor Dogan served as a law clerk to Judge Judith Rogers of the U.S. Court of Appeals for the District of Columbia Circuit. She also spent several years working at the Washington, D.C. law firm of Covington & Burling, where she specialized in antitrust, copyright and trademark law. She is admitted to the bar in California, Washington, D.C., and the U.S. District Court for the Northern District of California and the Court of Appeals for the Ninth Circuit.

As a litigator and counselor, she was struck by the prevalence of economic concepts in both the theory and practice of law. Her background in economics—an undergraduate degree from the Massachusetts Institute of Technology, a stint as a research assistant at the Federal Reserve Bank of San Francisco, and experience teaching an undergraduate economics course at Harvard—prepared her for projects ranging from damages assessment to policy advocacy to antitrust market definition to working with economics experts. In 1998, Professor Dogan left her practice to join the faculty at Northeastern University School of Law. This is her second year as a full-time professor at BU Law. Her courses include intellectual property, trademark, copyright, property and Internet law.

Through her teaching, research, practice, and conversations with lawyers and scholars, Professor Dogan has grown increasingly convinced of the importance of creating intersections between the variety of people—lawyers, scholars, judges, technologists, policymakers and others, both here and abroad—who help shape intellectual property law and policy. In addition to teaching at BU Law, Professor Dogan has participated in several organizations and initiatives dedicated to facilitating debate about IP law and its role in our society.

She is the co-editor-in-chief of the peer-reviewed Journal of the Copyright Society. “I enjoy working on the journal because it provides a great opportunity for copyright specialists of all stripes—lawyers, academics, jurists and policymakers—to present their ideas,” she said. The Fall 2010 Journal issue focuses on fair use. The issue, which Professor Dogan coordinated along with co-editor Jay Dougherty of Loyola Law School, will explore international/comparative fair use and the increasing use of “best practices” guides for those who use others’ copyrighted material.

Professor Dogan was the chair of the Intellectual Property Section of the Association of American Law Schools (AALS) in 2009. She has participated in trademark policy workshops in the United States and Europe, and recently presented her work at scholarly and practitioner oriented conferences in Boston, San Francisco, Cleveland, Portland (Oregon), Cambridge (England) and Munich. She is a leader of seminars and discussions for the Boston Bar Association, Massachusetts Continuing Legal Education and the Massachusetts Volunteer Lawyers for the Arts.

Stacey L. Dogan
Law Alumni Scholar
Professor of Law

B.S., Massachusetts Institute of Technology
J.D., magna cum laude, Harvard Law School

Interests: intellectual property, trademark, copyright
Professor Michael J. Meurer uses his background in economics and law to study how patent law affects innovation in the United States. With both a Ph.D. in economics and a J.D., he is well versed in the two fields.

In June, Professor Meurer organized “Communicating Technical Knowledge,” a conference funded by a grant from the Ewing Marion Kauffman Foundation, with BU Law lecturer Jim Bessen. The conference acknowledged the collaborative nature of invention and innovation, and explored the communication between participants that is vital to effective invention and innovation. Topics included: employee movement and innovation; labor/employment law and intellectual property; intellectual property and academic research; free exchange of knowledge; tracking technical communication; and patent disclosure. At the conference, Meurer presented his paper “Patent Search and Cumulative Innovation.” Cumulative innovation, he explained, “is the process of one innovator building on the efforts of earlier innovators.” This practice has become more common in recent times and is important to address because it presents issues in determining the proper division of profit by early and late innovators.

Last fall, Professors Meurer and Outterson helped organize the conference “Dialogs in Knowledge and Technology Transfer 2009: Optimizing KTT Pathways for Unmet Therapeutic Needs,” funded by the Kauffman Foundation through the Law, Innovation and Growth Initiative and held at BU’s School of Management. The workshop examined the challenges facing knowledge and technology transfer pathways in therapeutic treatments, with a focus on neglected diseases, and treatment provision to poor and developing countries. Professor Meurer moderated a session focused on the role of not-for-profit organizations and other intermediaries in fostering open innovation and diffusion.

Professor Meurer participated in the September 10-11 “Medicines for Neglected Diseases Workshop (MeND): Overcoming Funding, Organizational & Scientific Challenges for ND Tool Development in Academic Partnerships,” hosted and co-presented by BU Law and sponsored in part by a Kauffman grant. Panelists, who also included Professor Kevin Outterson, presented the foremost scientific and technical challenges in neglected disease research. They also discussed priority medical needs in developing countries and how to make ensuing medical technologies affordable, field-adapted and relevant.

He has served as a panelist at a number of other events and conferences within the past year. Most notably, he served as a panelist at the Joint Workshop on Promoting Innovation held by the U.S. Department of Justice, the Federal Trade Commission, and the U.S. Patent and Trademark Office. The workshop examined the role of patent policy and competition policy in creating innovation. Professor Meurer participated in the discussion of the current patent application backlog and the competitive challenges for innovators.

He was a panelist at the Innovation Symposium of the American Bar Association’s Antitrust Section, and at a conference on patent policy and innovation at Harvard Law School’s Petrie-Flom Center. Professor Meurer was also a keynote speaker at the Massachusetts Continuing Legal Education’s 13th annual IP conference.


An economics professor at Duke University and later a law professor at the University of Buffalo, Professor Meurer came to BU Law in 1999. He has received several grants and fellowships, including two grants from the Pew Charitable Trust, a Ford Foundation grant, an Olin Faculty Fellowship at Yale Law School and a postdoctoral fellowship at AT&T Bell Labs. He has served as an expert witness for the Federal Trade Commission on a merger case presenting issues related to patent licensing. He also has consulted with officials from developing countries about antitrust law, and taught short courses in American intellectual property law at the law faculties of the University of Victoria and the National University of Singapore.
Professor Keith N. Hylton, the Honorable Paul J. Liacos Professor of Law, is widely recognized in the fields of law and economics. Some of his current research focuses on antitrust and intellectual property law, often studying how the two fields are related to economics.

In the forthcoming *Laws of Creation: Property Rights in the World of Ideas*, which he co-authored with former BU Law Dean Ronald Cass, he examines the relationship of economics to intellectual property law.

He edited the recently published book *Antitrust Law and Economics*, a collection of original essays by several antitrust authors, including himself and fellow BU Law Professor Michael Meurer. The book explores the evolution of antitrust law over the past decade and its close relationship to economic analysis. Essays cover topics such as predatory pricing, essential facilities, tying, vertical restraints, enforcement, mergers, market power, monopolization standards and facilitating practices.

“What has become of the old antitrust doctrine? What are the new issues for the immediate future? This book brings together the leading experts to examine this silent revolution at the core of U.S. domestic policy,” said Mark Grady, law professor at the University of California, Los Angeles School of Law.

His article “Intel and the Death of U.S. Antitrust Law” was recently published in the *CPA Antitrust Journal*. The article discusses the Federal Trade Commission’s claim that Intel violated FTC regulations by giving discounts and rebates to customers in ways that harmed its main rival AMD, by designing its products to disadvantage rivals, and by acting too aggressively in protecting its intellectual property. In the article, Professor Hylton argues that “the FTC expects to prove that by threatening litigation based on theories that are outside of the law, the agency can effectively impose regulation on firms that are also outside of the established law.”


In October 2009, Professor Hylton delivered the inaugural Paul J. Liacos Professorship lecture at BU Law, “Torts Scholarship: Past and Future.” In the lecture, he gave an overview of the development of torts scholarship, offered candid assessments of the successes and failures of interdisciplinary research, and suggested ways in which the University could advance the future development of torts scholarship.

Professor Hylton joined BU Law in 1995 after teaching for six years and receiving tenure at Northwestern University School of Law. In addition to teaching, he serves as co-editor of *Competition Policy International* and editor of the SSRN’s *Torts, Products Liability and Insurance Law Abstracts*. A member of the American Law Institute, he has also served as chair of the Association of American Law Schools (AALS) Section on Torts and Compensation Systems, chair of the AALS Section on Antitrust and Economic Regulation, director of the American Law and Economics Association, secretary of the ABA’s Labor and Employment Law Section, and on the editorial board of the *Journal of Legal Education*.
Outterson’s latest work on antibiotics and IP law is funded by grant

Professor Kevin Outterson’s work focuses on global pharmaceutical markets, including the nexus among intellectual property law, access and innovation.

His research focuses on two areas: global pharmaceutical markets and health disparities. His latest work, supported in part by a grant from the Robert Wood Johnson Foundation, explores the unique IP environment of antibiotics, where antibiotic resistance undermines the assumption that knowledge is nonrivalrous.

Since 2004, he has also written extensively concerning patent and trademark issues in global pharmaceutical markets, focusing on problems of access, innovation, counterfeiting, and compulsory licensing under Article 31 of TRIPS.

Professor Outterson has published 20 scholarly articles and seven book chapters, including:

• An examination of disease-based limitations to Article 31 of the World Trade Organization’s TRIPS Agreement in Carlos Correa’s Research Handbook on Intellectual Property Law and the WTO (Edward Elgar, 2010);
• A critique of the Anti-Counterfeiting Trade Agreement in Import Safety: Regulatory Governance in the Global Economy (Cary Coglianese, Adam Finkel and David Zaring, editors, 2009, The University of Pennsylvania Press); and
• An ethical analysis of compulsory licensing and TRIPS flexibilities in global pharmaceutical markets in Helga Kuhse and Peter Singer’s A Companion to Bioethics (second edition, Blackwell 2009).

Professor Outterson’s recent journal publications exploring IP law include:

• Published works in the 2009 Journal of Law, Medicine & Ethics, as symposium editor for “Pharmaceutical Innovation: Law and the Public’s Health,” which included sophisticated commentary on compulsory licensing in the context of access to medicines.
• Extensive writing on the IP issues surrounding HPV vaccines. In 2009 he hosted a BU Law symposium—co-sponsored by the Harvard Interfaculty Initiative on Medications & Society—on “Will HPV Vaccines Prevent Cervical Cancers Among Poor Women of Color?” Proceedings were published in the American Journal of Law & Medicine (2009). Related work appeared in the January/February 2008 issue of Health Affairs. The article “Market-Based Licenses for HPV Vaccines in Developing Countries” (with Aaron S. Kesselheim) proposes a licensing tool to promote global access to new high-cost vaccines, such as the HPV vaccine for cervical cancer.
• “Death from the Public Domain?” responds to an article by Harvard Law’s Ben Roin in the 2009 Texas Law Review. Roin proposes an expansion of IP law (new use exclusivity) to include obvious pharmaceutical inventions. Professor Outterson’s critique re-examines Professor Roin’s data, particularly on the patent history of the pain medication Ultracet.
• “How Medicare Could Get Better Prices on Prescription Drugs” (Health Affairs July 2009) discusses alternatives that do not directly threaten IP incentives, and addresses the concern that direct federal price negotiations under the Medicare Part D drug program could undermine IP incentives in drugs and devices.
• “The Legal Ecology of Resistance: The Role of Antibiotic Resistance in

Pharmaceutical Innovation” (Cardozo Law Review 2010) is a significant attempt to bring coherence to emerging theories of pharmaceutical innovation in the face of antibiotic resistance. The presence of resistance makes some categories of pharmaceutical innovation contentious, and otherwise upends conventional wisdom. The theoretical framework is supported with extensive data from major hospital-based antibiotics, including vancomycin. This article was the basis for a successful Robert Wood Johnson Foundation grant. The follow-up article “Improving Antibiotic Markets” (with Aaron S. Kesselheim, to appear in Yale Journal of Health Policy, Law & Ethics 2010) proposes supplementing the insurance reimbursement system with prizes, both as a demand-rationing device and an incentive to new production. Related work also appears in Health Affairs September 2010.

Prior to joining BU Law, Professor Outterson was a professor of law at West Virginia University; an income partner in the Tax and International Groups at McDermott Will & Emery; and a capital partner in the Health Law group at Baker Donelson. He recently served as a speaker on global pharmaceutical intellectual property issues for WIPO, WHO and the government of Brazil. He serves on the board of the American Society of Law, Medicine & Ethics and Prescription Policy Choices. Professor Outterson also consults with governments and NGOs concerning pharmaceutical pricing and access to medicines, particularly with regard to TRIPS and related regional and bilateral agreements.
Ed Kelly found a 9-year-old Thai slave who was hand-stitching Puma knockoffs, working 20 hours a day, 365 days a year, to earn $5 a month. “The youngest are often assigned to assemble the tiny piecework where small hands are most efficient, such as fake jeweled watches, sneakers and leather goods,” Kelly said.

Kelly (‘91) is the founder of the Atherton Group, which provides commercial legal services to clients doing business in Thailand, and includes the IP firm LGP Asia Co. Ltd. in Bangkok. (LGP Asia is the Asian sister firm to LaRiviere, Grubman & Payne LLP of Monterey, San Jose and Seattle.) His job is to work with law enforcement and government agencies in high-risk countries throughout Asia to enforce criminal and civil penalties against those trafficking in pirate and counterfeit goods.

Because he and his Thailand-born wife live in a village near Krasang, Buriram, one of the poorest areas of Thailand, Kelly sees child labor exploitation first-hand. In the Boston Herald op-ed piece “Human cost not bogus,” he tells of governments looking the other way as child slaves live and work in filthy, dilapidated factories:

“When you buy a knock-off Prada bag on the street corner you—and maybe only you—know what you have; a fake. What you may not know is there’s an increasing likelihood the bag and millions like it were manufactured by children … and smuggled in through a nasty network of organized crime.”

Many of these factories place workers in dangerous, substandard working conditions. It doesn’t end at handbags. There’s also a vibrant counterfeit trade in pharmaceuticals, food, alcohol, cosmetics and auto parts—all of which can place the consumer’s health and safety at risk. The counterfeit trade has been linked to funding terrorist groups, organized crime and drug cartels. Kelly explains that it’s not the victimless crime many consumers are led to believe.

For his efforts over the years, Kelly recently earned BU Law’s Victor J. Garo Public Service Award. “He has a special interest in developing cost-effective strategies to suppress illicit trafficking operations run by organized crime syndicates,” said Dean Maureen O’Rourke.

Kelly didn’t start out chasing counterfeiters. After graduation from BU Law, he first worked in New York to develop civil litigation skills, trying more than 30 cases to jury verdicts. He moved to California intending to work in high-tech law, but instead gravitated to a position as a defense contractor licensing military communication technology. He didn’t anticipate it at the time, but the fact that his work required travel to Asia led to a life-changing career move.

In one case, he was asked to investigate a case of suspected reverse-engineering of copyrighted software belonging to a U.S. defense firm. He worked the case with investigators who were former FBI and Customs law enforcement officers, and who considered theft of military-grade communication technology a potential threat to U.S. national security. Kelly was sent to Thailand for what was supposed to be a two-week inquiry that in fact lasted six months. He finally resolved the case by finding the culprits and settling the dispute quietly with the Thai government; by then, he had developed strong relationships there.

He was recruited by Tilleke & Gibbins International Ltd., where he became a partner and the chief client relationship officer. Kelly loved training new attorneys, and he helped the firm develop the top IP practice in Thailand. After eight years, he left Tilleke for a brief stint as a private contractor on matters in Pakistan, Dubai and Iran. While there, he was brought into a network of concerned professionals and activists who were working to support Swiss diplomats in their effort to help free Roxana Saberi, the American journalist arrested on espionage charges in Iran in 2009. “These people were very high-caliber individuals. I made a lifelong friendship with a young woman named Tengku Alina Ibrahim-Eddy, the daughter of the Sultan of one of the Malaysian states. Her insights on negotiation in the context of Islam were brilliant,” he said.

His next career move was to launch Asian offices for a California IP firm, LaRiviere, Grubman & Payne LLP, as head of Foreign Operations. He opened LGP Asia offices in Bangkok and Hong Kong, and is looking into Dubai and other regional locales. He also founded The Atherton Group to provide IP portfolio management and commercial investigative strategies for those doing business in Asia.

His work is mainly in IP enforcement, litigation and transactions, with a significant percentage of his time spent in lobbying and government relations on behalf of the pharmaceutical, software and entertainment industries.

While his clients appreciate his no-nonsense manner, one of the keys to his success is his immersion in Southeast Asian culture. After living in Thailand for nearly a decade, he is a committed Buddhist, proficient in the language, and tries to live like the local people as much as possible. His wife, Saisithorn, works as an interpreter for law enforcement and industrial groups. He also knows a little Khmer (Cambodian), Japanese and Spanish.

“There are times when I serve as the main liaison between some industry groups and the Thai government,” he said. “One of the biggest compliments I get in Thailand is that I’m not viewed as an American, that I have a Thai heart with an American face, with equal deference to both cultural priorities.”
Edward J. Kelly
BU Law Alumnus: J.D. 1991

This acceptance into the Thai inner circle has led to invaluable contacts for his IP work, as well as his social activism.

He and his wife manage micro-finance projects to incubate sustainable economic development for small and medium-size enterprises at the village level in Thailand and Cambodia. He is also deeply involved in the fight against slave labor and human trafficking.

His involvement started when he met Steve Morrish, who gave up a career as an Australian police officer to battle human trafficking in Cambodia. “Morrish was frustrated that one man could only do so much, so he consulted me for advice on how best to create an organization that would lead to dramatic systemic change for as many children and women as possible,” said Kelly.

Morrish went on to found SISHA (South East Asia Investigations and Social and Humanitarian Activities—www.sisha.org), a not-for-profit that works to ensure justice and the protection of human rights for victims of human trafficking and other forms of exploitation in Southeast Asia. He asked Kelly to join an influential Board of Directors to provide guidance to SISHA on policy and operations.

“We try to get victims integrated into as normal a life as possible for people who have been through such a trauma,” Kelly said. “SISHA has done an incredible job in saving the lives of countless women and children.”

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How to spot a fake?

**The 3 Ps**

**Package:** Look at the quality of the product and its packaging. Watch for things like poor stitching, incorrectly spelled brand names or logos, etc.

**Price:** If the price is too good to be true, it probably is.

**Place:** Brand-name products are sold in stores or through the official company web site, not on the streets or open-air markets.

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In one of its more recent heroic successes, in September SISHA rescued 41 women in two simultaneous raids, one at a brothel near the Thai border and the other at a bonded labor facility in Cambodia’s capital. Meanwhile, other human rights groups are challenging such child labor camps, and the Senate Finance Committee recently considered legislation to expand the existing ban on products made with forced or child labor, as well as to crack down on the infringement of intellectual property rights.

Kelly believes his work in IP is a call to social justice, and fits well with the anti-trafficking work done by SISHA.

Beyond causing obvious economic problems such as lost sales, profits and tax revenues, counterfeit consumer goods rely on and foster exploitation of slaves, including children who “are not treated as human beings,” said Kelly. “They are cogs in a machine to be used up, worn out and thrown away. Any business will be profitable if it eliminates labor costs, and the use of slaves and kids ensures enormous profits.”

As a lawyer with a vast international network and an unstoppable drive for justice, Kelly also turns to his fellow IP legal professionals to help make a difference.

“The linkage between child labor and IP counterfeiting is no coincidence,” said Kelly. “It is all part of the same corrupt criminal network that is growing stronger every day.”

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Edward J. Kelly

**Past employment:**
- **Partner & Chief Client Relationship Officer,** Tilleke & Gibbins International Ltd.
- **Director, Global Contracts and Export Administration** at Harris Corporation
- **Partner** at Kelly Rode & Kelly LLP

**Other side projects:**
- With SISHA, arranged for BU Law students to do pro bono work in Cambodia
- Advisory Board member, Factory Watch
- IP law lecturer before government and law enforcement agencies and trade associations in Thailand, Singapore, Japan, and the United States
- Manager of micro-finance projects to incubate sustainable economic development for small and medium enterprises at the village level in Thailand and Cambodia
- Maintains a working rice farm in rural Burirum, Thailand

**Awards:**
- BU Law’s Victor Garo Award for Public Service, 2009
- Recognized IP lawyer on AsiaLaw’s list of Leading Business Lawyers and in Chambers Asia 2008, 2009

**Publications:**
- Inside the Minds: IP Client Strategies in Asia/Australia (Aspatore Books)
- “The Terrible Human Cost of the Counterfeiting Culture,” the Brief, a publication of the British Chamber of Commerce in Thailand
- “Human cost not bogus” Boston Herald, October 10, 2009

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**Other Education:**
- LL.M. International Legal Studies, Golden Gate University School of Law
- B.A., Duke University
- Certificates in Internet Intelligence (Cambridge University) and Executive Leadership (Center for Creative Leadership)

**Employment:**
- **Director of Foreign Operations**, LaRiviere, Grubman & Payne LLP, a specialist IP boutique firm in Monterey, Calif.; operating out of Bangkok, Hong Kong, Singapore and Tokyo
- **Managing Director**, LGP Asia Co Ltd., Asian sister firm to LaRiviere Grubman & Payne LLP, works with law enforcement and government agencies in high-risk countries in Asia to battle pirate and counterfeit goods
- **Senior Founding Member** with John Fotiadis, Atherton Group of Companies, Bangkok, with associates in Hong Kong and Dubai. Commercial investigative firm with clients including Sanofi-Aventis, Adidas, Diageo, Levi Strauss, Monster Cable Inc., Bell Helicopter, Joint U.S. Military Advisory Group—Thailand (JUSMAGTHAI), and Oakley
- **Founding Board Member and member** of Expert Advisory Board at SISHA Foundation (South East Asia Investigations and Social and Humanitarian Activities)

**Association:**
- International Trademark Lawyers Association
- State Bar of California
- International Anti-Counterfeiting Coalition

**Along with**
Kahn (’88) battles Coach counterfeiters via innovative civil litigation strategy

Consumers buying a fun little $20 Coach purse knockoff at a flea market may think they’re getting a sweet deal. But that little bag isn’t fun anymore when they learn that such a purchase may put them at risk with dangerous metals and dyes, and fund terrorist groups, drug-dealing operations and child labor sweatshops.

Thanks to one BU Law alum’s crusade against Coach counterfeiters, such handbags are becoming extinct. Todd Kahn (’88) brings to Coach a background in retail and years of honing his anti-pirating expertise.

After graduation, Kahn was a corporate attorney at Fried Frank, then left to become general counsel of Salant Corporation, an apparel company with brands such as Perry Ellis. From there, he gained valuable experience in the retail world running InternetCash, Accessory Network, Sean John, and Calypso Christian Celle. In 2008, he joined Coach as senior vice president, general counsel and secretary.

While Kahn is excited about Coach’s expansion into Asia, with a flagship store in Shanghai and 30 additional stores in China and Hong Kong, he’s also very proud of his innovative “Operation Turnlock.”

The “operation” is named after Coach handbags’ iconic turnlock closure device, which also illustrates how Coach is “closing out counterfeiters,” said Kahn.

Selling counterfeit items is a criminal offense. Most firms victimized by brand theft focus on hunting down and seizing the goods. But when Kahn was COO of Sean John apparel, he found a “fair amount of success” using civil litigation as a tool, and seeking injunctions against retailers who sold counterfeit product.

Coach already had developed strong relationships with government agencies, law enforcement, and U.S. Immigration and Customs Enforcement (ICE) in order to enforce its intellectual property rights around the world. When Kahn arrived at Coach, he brought his civil litigation experience with him. “I took the genesis of what I developed with Sean John and I blew it up.”

His strategy is to sue anyone connected to distribution and sale of the fake bags: street vendors, “purse party” operators, Internet sites and large wholesalers.

Recently Kahn sued the City of Chicago, as landlord of the Maxwell Street flea market that was selling the knockoffs. Coach lawyers have raided spots in New York, Los Angeles, Atlanta, Florida, Chicago, Nevada and Ohio, with more raids planned around the country and the world. A recent Houston raid netted lawsuits against seven stores, six landlords and 12 people. In addition, a recent sweep by ICE collected more than 700,000 various brands of counterfeit products valued at more than $26 million in the nationwide crackdown “Operation Holiday Hoax.”

Kahn calls this “an additional component to our trademark enforcement efforts: a comprehensive national civil litigation program.”

“The goal of Operation Turnlock is to make it both more costly and increasingly difficult for vendors to purchase, sell, move, or store counterfeit products in the United States. We have a responsibility to protect the brand’s core values and further enforce our commitment to this global issue, starting with our home market.”

While their campaign costs money, Kahn says it pays for itself in the long run.

Defendants selling a $5 “Coach” keychain can face up to $2 million per “mark” per product, plus the cost of defending the lawsuit. Most do settle, but the settlement is steep: monetary damages, destruction of any inventory they have, a permanent injunction against selling Coach knockoffs, and complete disclosure of the source of the counterfeit product.

Now this strategy has become a fairly routine process at Coach, with an in-house staff using a lawsuit template, and working with investigators armed with hidden cameras. “It’s a real turnkey process with our outside counsel,” Kahn said. “We have recovered over the past year more than seven figures.”

In the last year and a half, they’ve launched more than 260 civil suits, and haven’t lost any yet, Kahn said. Often the defendants agree to settlements or judgments. “It’s a really innovative broad-based program,” he said. “I’m not sure any other brand has done anything like this.”

Kahn acknowledges that the program can’t eliminate the sale and distribution of all counterfeit handbags, but he said he has noticed a big drop in counterfeit Coach bags, wallets, scarves and sunglasses. “Part of what we wanted to do was basically go out with the message that we have a zero tolerance for counterfeits. It’s really becoming effective as a general deterrent,” he said. “They don’t carry Coach [knockoffs] anymore—it’s too difficult.”

A side benefit to the campaign is consumer education. “You think you’re buying this $20 fun purchase,” he said. “But you may be supporting terrorists.” According to Kahn, many of those bags are funding drug dealing, organized crime and terrorist operations. In addition, he added, many bags are made with low-quality dyes and metals that can actually harm your health.

While counterfeits tap into profits, Coach is more concerned about its reputation. Coach’s aggressive legal tactics also strengthen the brand. They don’t want potential Coach buyers to see someone carrying a bag with flimsy straps, cheap zippers and unraveled stitching.

“The greater damage is that the Coach consumer sees a shoddy product that is confused with Coach,” said Kahn. “I think our customers and shareholders really value our efforts.”

Todd Kahn
BU Law Alumnus: J.D. 1988

Other education:
B.S., magna cum laude, Touro College

Employment:
Senior Vice President, General Counsel and Secretary, Coach, New York City

Past employment:
President and COO, Calypso Christian Celle
Exec. VP and COO, Sean John
President and COO, Accessory Network
President and COO, InternetCash Corp., an Internet payment technology company
Exec. VP and COO, Salant Corp., a public apparel company
Corporate Attorney, Fried, Frank, Harris, Shriver & Jacobson

Bars:
New York
Sex videos, online defamation, and intellectual property

Attorney Jerrold Neeff was fresh out of BU Law when he received a phone call from a client claiming that he was not only Madonna’s former bodyguard and lover, but that he also had a sex video featuring Madonna that he wanted to sell. Neeff confirmed the details and flew that same day to Manhattan to meet with the potential client, and yes, there was indeed such a video.

“The next thing I knew, I was on the phone with a businessman in Thailand who had produced the infamous Pamela [Anderson]-Tommy Lee sex video, and who now wanted to buy the Madonna video,” recalled Neeff, who was just launching his new practice, the Bostonian Law Group, at the time. The businessman in Thailand was willing to pay millions of dollars for the video and to distribute it for a one-time fee online. “Suddenly, we were flooded with phone calls from every tabloid in England and invited to appear on every talk show in the U.S., including Howard Stern. It was my first real IP media case and a bit of trial by fire, to say the least.”

Neeff knew that he could earn millions of dollars from the video, as well as the kind of invaluable publicity that has boosted many attorneys’ careers. “We determined that the market value of the video at the time was somewhere between 5 and 10 million dollars and that we were to receive a significant fee,” he recalled. “We had to make a quick and steadfast decision as to whether our client could sell this video and evaluate the terribly gray perimeters of IP law one so constantly finds in addition to the ethical issues surrounding our representation.”

But then he took a harder look at the complications in the case.

“Our client noted that his girlfriend at the time, Madonna, had systematically sent provocative keepsakes to him while on the road and that this time, she had chosen an actual sex video. We wondered who in fact had produced the video, how our client had acquired it, whether it really portrayed Madonna, and whether the white powder shown being snorted in the video was cocaine or simply a depiction. In short, we found ourselves in a quagmire of IP issues—copyright, rights to publicity, invasion of privacy and defamation. I advised that he could have some serious liability, and Madonna’s lawyers would crush him and file potentially millions of dollars in damages against him—and potentially against me.”

He ended up refusing the case. The video never surfaced, to his knowledge, and his client moved to Thailand. “I could have made a lot of money; it could have been easily sold, and I could have walked away from it all,” he said. “But it seemed like a bad way to start my career.”

Still, it gave him an excellent education in entertainment law and IP, a far different career than the one he began—handling class-action suits related to handguns, tobacco, airlines and computer keyboards. Today, he has become the go-to person not only for the entertainment industry but also for online defamation. His clients are based here and in Europe, Asia, Canada and the Middle East. He also teaches entertainment law at BU Law.

It has only been about 15 years since the average person started surfing Web sites. By mid 2009, an estimated 1.7 billion people were online. “It’s become very common today to see these issues arise online, with YouTube, MySpace, Facebook, Second Life and the myriad of other popular Web sites producing these nebulous yet provocative legal issues in the wonderful, wide open world of IP,” Neeff said. “The trends continue to grow virtually every year, both literally and figuratively—online defamation, improper uses of provocative images, blatant copyright infringement, click-attacking and many other types of technological subterfuge and espionage so prevalently used in our evolving virtual world.”

He represents clients — famous and not so famous — in those areas, as well as invasion of privacy, violations of the right to publicity, accusations of inappropriate and/or excessive use of the Internet in the workplace, Internet fraud and identity theft issues and legalities involving online gambling sites. He has represented some famous clients in the music and film industry, handling cases involving TV shows such as “The Apprentice” and “Fear Factor,” and movies such as

Practitioner and Lecturer in Law
Jerrold Neeff (’95)

But online defamation cases aren’t limited to celebrities—his clients also include doctors, lawyers, business professionals and even college students. In Cronin v. Doe, a case currently pending before the federal District Court of Massachusetts, Neeff’s client, James Cronin, was selling used off-road recreational vehicles. A few days after Cronin opened his business, someone anonymously posted claims on PissedConsumer.com alleging that he did not obtain proper licenses and that he was a fraud. When customers Googled the business, these false accusations appeared.

Cronin received many customer inquiries about the posting and wrote several letters to the Web site owners requesting the identity of the party publishing the comments and the removal of the postings. He received no response and consulted Neeff.

“Clearly, legislation is well behind the alacrity of technological innovation and will truly need to be examined going forward.”

—Atty. Jerrold Neeff

Most often, Neeff resorts to submitting subpoenas to obtain information identifying the anonymous posters, although sometimes a cease-and-desist letter has proven to be sufficient. However, referring to the Cronin case, Neeff said, “We will probably have to go the distance on this one.” In the meantime, Cronin had no choice but to shut down his business.

“It’s very difficult to have any such postings removed due to the Communications Decency Act [CDA],” said Neeff. “The CDA, which was originally enacted to regulate pornography on the Internet, provides a great deal of insulation from liability to any service provider, leaving the victim with very little recourse absent litigation. In the case of Google placements, the results of using the engine as a weapon can be profound.”

For example, Neeff said he is representing a health counselor accused of being a fraud, a child molester and a devil worshipper; and a doctor accused of sexually abusing his former patients. “Anyone who has access to a computer has the ability to inflict this type of damage to the well-being of anyone for any reason,” he added.

“While we cannot understand the motivation [of online defamation], the damage is irreparable and can cause any normal person a tremendous amount of stress,” he said. “These people are nothing more than anonymous assassins with much less than the dignity of a Jonathan Swift. Clearly, legislation is well behind the alacrity of technological innovation and will truly need to be examined going forward.”

With his entertainment law class, Neeff hopes he can pass on some of what he has learned about online defamation to the social network-savvy students at BU Law. “I love to discuss these hard-hitting legal issues with my students,” he said. “I also really enjoy helping them to focus on the practical aspects of lawyering—particularly learning how to handle ethical issues and to develop meaningful relationships with your clients.”

Some of Attorney Neeff’s higher-profile cases

- **McGee v. Andre Benjamin “3000,” Turner Broadcasting Systems, et. al. (2009):** Neeff recently procured a confidential settlement on behalf of his client against Turner Broadcasting Systems, The Cartoon Network and Andre “Andre 3000” Benjamin of the hip-hop group Outkast. A Boston man said that Benjamin’s “Class of 3000” animated series produced on Cartoon Network was a little too much like his would-be business, these false accusations appeared.

- **A Slice of Pie Productions v. Wayons Bros., et al. (2006):** Neeff represented three screenwriters for the alleged misappropriation of the screenplay “Johnny Bronx,” which was allegedly used later in the movie “White Chicks,” starring Marlon and Shawn Wayans. He argued the landmark decision in which the court agreed that an idea submission claim could survive even where there was no privity between the parties in the submission process.

- **Hit-City Records v. EA Games, et. al. (2006):** Neeff recently obtained a confidential settlement against EA Games for the allegedly unauthorized use of his client’s musical composition on the video game “Fight Night II,” one of the most successful sports video games, sales-wise, in history.

- **Doe v. Lim (Unpublished and Impounded Opinion) (D. Mass. 2006):** A third party had wrongfully obtained nude photographs of Neeff’s client and published them without authorization on MySpace.com. Neeff successfully had the photographs removed from the site and had the decision impounded to protect the identity of his client.

- **Albright v. Morton (2005):** Neeff crossed paths again with Madonna, arguing the seminal decision on defamation before the U.S. Court of Appeals. In the case, he represented another Madonna former bodyguard and lover who was imputed to be gay in Andrew Morton’s unauthorized biography Madonna. This accusation was republished, allegedly wrongfully, in People Magazine and The News of the World. In an interesting turn in the case, despite all prior case precedent, U.S. District Judge Nancy Gertner (Massachusetts) ruled that stating that someone is homosexual does not libel or slander them, saying that “a finding that such a statement is defamatory requires this court to legitimize the prejudice and bigotry that for too long have plagued the homosexual community.”

- **EMC Corp. v. Techtime Inc. (2005):** Neeff defended a small company composed of former employees of EMC Corp. against allegations of trade secret theft and the violation of non-compete agreements. After winning several discovery motions in a vigorous defense, the matter was settled confidentially.

- **Jones v. Vin di Bona Productions (2004):** Neeff obtained restraining orders and settlements for the wrongful use of his clients’ image, including a settlement against “America’s Funniest Home Videos” for the alleged unauthorized use of his client’s image. In the decade-old video, someone shaved a smiley face on his chest while he was asleep. He never approved its airing; he was not only embarrassed but also furious that the clip ended up on a compilation DVD and on the Internet. “Seems like an awful lot of money is being made off others’ public humiliation,” Neeff told the Boston Herald.

- **Davidson v. FMR Corp. (2004):** A software developer sued his employer, Fidelity, for $100 million for copyright infringement in unlawfully using software he had developed. Neeff said it was a case of a small inventor having his creation stolen by a huge corporation. The Boston Business Journal referred to it as “a case of David vs. Goliath.”

- **Fantasia.net v. Home.com (2004):** Neeff received a permanent injunction against a California-based company engaged in copyright infringement and misappropriation of trade secrets obtained by copying the content, graphics and codes of his client’s web sites and restrained the company from engaging in any similar business for five years.
When Russell Beck started at BU Law in 1986, he wasn’t focused on intellectual property law. He didn’t know the first thing about trade secret law. He only knew that he wanted to be a litigator at a small law firm with a sophisticated practice.

Beck had majored in computer science at Tufts University, which proved to be invaluable in law school because he was already used to thinking logically and sequentially. Knowing programming and algorithms would also help him to understand not only the business aspects of many of his cases, but also the underlying technology.

In 1995, he joined Epstein Becker, where he handled his first IP case that involved two former employees who formed a competing business. The new company was up and running so quickly that they were suspected of stealing trade secrets. Beck represented the former company and was granted expedited discovery. During the deposition of the employee who was a computer programmer, Beck walked through the software with him. “The case ended shortly after I asked him to explain the portion of the software labeled ‘stolen code,’” Beck said.

Beck fell in love with trade secrets law. Trade secrets, by definition, give a company an advantage over the competition and therefore have inherent value, while confidential information is similar but tends to be more ephemeral. The disclosure of trade secrets and confidential information enables a competitor to operate more effectively but without the development costs or investment of time. Beck found these cases fast-paced, resolving relatively quickly compared to typical commercial disputes. Over the years, trade secret law cases have increased dramatically with the growth of computers and associated technologies.

Beck spent nine years with Epstein Becker, the Boston office of which merged with Foley & Lardner in 2005. In 2009, Beck published Negotiating, Drafting, & Enforcing Noncompetition Agreements & Related Restrictive Covenants (3rd edition, MCLE, Inc. 2009) and also founded the Trade Secret/Noncompete Practice at Foley & Lardner.

However, he found that being part of a large law firm created too many client conflicts. Many times, the firm was already representing the adverse party or had done underlying work on the matter.

This spring, Beck left the large law firm and started his own boutique firm, Beck Reed Riden LLP, with fellow Foley & Lardner attorney Stephen Riden and Stephen Reed, an attorney previously with Epstein Becker & Green. He said his firm will still be closely tied to Foley & Lardner, drawing on relationships they built together.

After years of experience in trade secrets, Beck has become a local authority in this growing field.
Russell Beck writes and lectures frequently on various intellectual property and other legal issues, including enforcement and defense of non-compete agreements, protection of trade secrets, trademark disputes, copyright issues, arbitration, mediation and binding mediation. Recent presentations and publications include:

February 2009, Author, “Non-compete agreements,” The Corporate Counselor
June 2009, Speaker, “Ask the Attorneys: Non-competes and Restrictive Covenants,” Boston
June 2009, Author, Negotiating, Drafting & Enforcing Non-competition Agreements & Related Restrictive Covenants, MCLE
June 2, 2009, Author, “Beyond the non-compete,” Computerworld
July 22, 2009, Panelist, “Symposium on Non-Competes,” Boston Bar Association
September 3, 2009, Author, “Decision focusing on 93A significant for different reason,” Massachusetts Lawyers Weekly
October 9, 2009, NECN interview, “Mass. non-compete culture to change?”
January 2010, Speaker, “Trade Secrets and Non-competes Year in Review,” Boston Bar Association Intellectual Property Year in Review
February 9, 2010, Panelist, “Non-Competition Agreements,” Roundtable on Proposed Legislation, Massachusetts Bar Association
February 24, 2010, Speaker, “Fit the Bill: Managing the Cost of Litigation While Maintaining Work Quality,” Boston
April 7, 2010, Moderator and Speaker, “Protecting Your Brand, Reputation, and Secrets in the Age of Social Media,” Boston
July 20, 2010, Speaker, Boston Bar Association, “Employee Non-Compete Agreements and Job Creation: The Status of Law Reform a Year Later”

At the request of Massachusetts State Representative Lori A. Ehrlich (D-Marblehead, Eighth Essex District), Beck recently drafted a bill titled “An Act Relative to Non-Competition Agreements” in order to define, codify and improve Massachusetts non-competition law. The bill made significant progress during the legislative session that just ended, and will be considered in the next session.

Seeking to give back to the BU Law community, Beck returned to teach the first-year writing program from 1998 to 2001. This spring, he also began teaching the class Trade Secrets and Restrictive Covenants, which he will teach again next spring.

It’s a class that wouldn’t have been offered when he was at school, he said. “At the time, the real focus in IP was on patents, trademarks and copyrights,” he added. “Trade secret law, in comparison with the more established protections, was shunted to the side. Only in recent years has trade secret law taken on an increasing prominence because of the way that technology has developed. Now, trade secrets are employed and recognized as a critical part of virtually all mainstream business.”
Some recent highlights of our alumni’s honors and accomplishments. For more alumni news, see bu.edu/\nlaw/alumni.

Bruce Keller, ’79, partner at Debevoise &
Plimpton, served as counsel for the publisher sub-
class in the Google Books search copyright case.

Joseph Alhadeff ’85 is the vice president for
global public policy and chief privacy officer for
Oracle Corp. He is chair of the BIAC Committee on
Information, Computer and Communications Policy.
He is also vice-chair of the International Chamber
of Commerce’s Electronic Business and Information
Technology Committee.

Tom Cohn ’85 counsel at Venable LLP, New York,
NY, was interviewed on National Public Radio’s
“Marketplace” about new Federal Trade Commission
blogger rules. He also discussed the FTC’s endorser
guidelines for bloggers on CNN.com.

Anne Gudelfinger ’85 runs her own practice
in California, where she provides consulting and
legal counsel regarding in-house legal department
management and trademark protection and
strategy.

Jay Kogan ’86 and Richard Palermo ’98 handle
intellectual property issues for DC Comics, where
Marcello Santana ’11, president of the BU Law
Communication, Entertainment & Sports Law
Association and Technical Editor for BU Law’s
Journal of Science and Technology Law, interned this
summer.

Stuart Carroll ’89 has a law practice in Los
Angeles, representing copyright holders pursuing
infringement claims, and devotes a significant part
of his practice to copyright litigation in the Central
District of California.

Daniel Offner ’89 is partner and chair of the
Interactive Entertainment practice group at Loeb &
Loeb LLP in Los Angeles, and was quoted in
“Hollywood entertainment law firm Loeb & Loeb
jumps into video games” in the Los Angeles Times
blog.

Hemanshu Nigam ’90 opened safety, security and
privacy firm SSP Blue.

Julia Huston ’92 joined Foley Hoag LLP as chair
of the Trademark and Copyright practice group.
She was also honored as a “Woman in Justice” by
Massachusetts Lawyers Weekly.

Brent C.J. Britton ’94, shareholder and chair of
the Emerging Business and Technology practice
group at GrayRobinson’s Tampa office, was named
to the “Best Lawyers in America” 2011 list and was
also recognized as Florida Trend’s “Legal Elite.”

Robert Plotkin ’96 of Robert Plotkin, P.C., Boston,
published The Genie in the Machine: How Computer
Automated Inventing is Revolutionizing Law and
Business.

Rachelle Dubow ’98 partner at Bingham
McCutchen, Boston, was profiled in Boston Business
Journal, where she discussed her passion for
intellectual property law.

Mika Mayer ’02 was named to Law360’s “10 IP
Attorneys Under 40 to Watch.” Mayer was the
youngest person to make partner at Morrison
Foerster LLP, and co-founded the nation’s first
practice group devoted to investor due diligence of
intellectual property.

Roberta Harding Vespremi ’02 of O’Melveny &
Myers LLP was part of the team representing
Advanced Micro Devices in a worldwide
monopolization suit against Intel. In November
2009, Advanced Micro Devices obtained a $1.25
billion settlement and wide-ranging injunctive relief.
This historic settlement was one of the largest single
plaintiff recoveries ever reported.

Barbara Lauriat ’02 is pursuing a Ph.D. program
and teaching IP-related subjects at the University of
Oxford, where she serves on the law faculty as the
Career Development Fellow in IP Law.

Brandon Michael Ress ’05 is an attorney with
Fulbright & Jaworski LLP, where he concentrates
in trademarks, copyrights, intellectual property,
technology and litigation. He co-authored “Federal
Circuit Clarifies Standard for Fraud on the U.S.
Patent and Trademark Office” with Patrick J.
Gallagher for Fulbright & Jaworski L.L.P. Briefing,
which was published in September 2009.

Yutian Ling ’09, a fellow at the Matsuna Institute
for Peace & Conflict Resolution at the University of
Hawaii at Manoa, discussed intellectual property at
“Google vs. China: The Clash of the Titans” during
Intellectual Property Law Week 2010 at the William
S. Richardson School of Law.

Achal Oza ’09, a litigation fellow at the Lawyers’
Committee for Civil Rights, received the Jan Jancin
Award from the American Intellectual Property
Law Education Foundation. He also wrote “Labeling
and Failure-to-Warn Concerns for FDA-Regulated
Goods Incorporating Nanotechnology,” which was

Kevin Rollins ’09 published his paper
“Nanobiotechnology Regulation: A Proposal
for Self-Regulation With Limited Oversight” in
Nanotechnology Law & Business.

Adam Hoffman ’10 worked on Freedom to
Teach at Harvard University’s Berkman Center for
Internet and Society, which intended to create a
community-driven Statement of Best Practices
regarding fair use in academia. He was also
responsible for writing the copyright law glossary
that accompanied the material he developed.
Hoffman also co-authored an article with Professor
Depoorter, a visiting professor at BU Law from
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Baram’s Biotechnology Law and Ethics seminar.
BU Law’s Guzior and Valle victorious at Oxford International IP Moot

BU Law students Dustin Guzior and Rodrigo Valle, both J.D. ’10, took on fellow law students from around the world and upset past victors (Queensland University of Technology) to win the 8th Annual Oxford International IP Moot. The competition was hosted by the Oxford Intellectual Property Research Centre March 19 and 20, 2010, and took place at St. Catherine’s College, Oxford.

Guzior and Valle were accompanied by coach Professor Robert Volk when they competed against 20 schools, including Oxford, Cambridge, the London School of Economics, University College London, University of Southampton, University of Edinburgh, National University of Singapore, and Hong Kong University. Of 27 entrants to the competition, only 20 schools were selected to compete—the teams had to brief both sides of the case, and a committee scored those papers. BU Law was the only school from the United States invited to attend. It was the first time BU Law competed at the International IP Moot.

The topic of the competition was international copyright law. “The problem involved a number of challenging copyright issues as applied to so-called ‘performance art,’” said Professor Volk, who administers the School’s moot court programs.

Besides learning international copyright law, the team learned about appellate advocacy in the UK and what it’s like to be a barrister. “We didn’t have wigs, but we had ‘bundles’—in the UK, judges don’t have law clerks, and so they rely on advocates to present ‘bundles’ of cases,” said Guzior. “We didn’t know much about this practice until we got to the competition, and I’m really proud of how quickly we adapted to it. By the final round we were citing and using the bundles with ease.”

Added Valle, “The competition was particularly challenging because we were allowed and encouraged to use authorities from multiple international jurisdictions to support our arguments. To that end, we really gained exposure to and experience dealing with statutes, cases and public policy arguments from around the globe.”

Professor Volk expressed pride at his team’s adaptive skills. “Despite severe jet lag, our team was one of eight that advanced to the quarter-finals, where we faced University College London. After defeating that team, we argued against the University of Edinburgh in the semifinals.” The team then advanced to the final round.

Guzior described the final round as “great fun.”

“We were judged by Lord Justice Mummery, Justice Floyd, and Michael Hicks, a famous IP barrister. Our win was largely due to the clarity of our presentation. The judges were intellectually curious, and I think we were better able to engage with their questions. But it was a tough round—Queensland Tech really wanted to continue its two-year winning streak, and the caliber of the competition was very high.”

Valle said that his team’s advantage was their ability to learn as they went. “From our first argument until the finals, we were constantly revising our arguments and incorporating new authorities to bolster our position. Additionally, we worked well as a team—we both knew each other’s arguments well enough to ensure that we were consistently and persuasively advocating for our position.”

He called the final round “exhilarating.”

“Arguing before the incredibly well-respected judges and in front of a large crowd added to the excitement, but I think we rose to the occasion and had our best argument yet,” said Valle.

Professor Volk was impressed by his team’s performance. “In all my years of observing moot court competitions and coaching teams, I have never been involved in a competition with such high-caliber, knowledgeable judges. Our team members were able to meet the challenge head on, referring to cases from the U.S., Canada, the UK and France in their arguments. I was extremely impressed by our students’ ability to take a global approach to the difficult legal issues involved. I received a number of compliments from judges, who stated that our students were very well-prepared, knowledgeable and great presenters.”

The team’s prize was a trophy and 250 pounds each to spend on law books from Oxford University Press.

The team thanked BU Law IP Professor Stacey Dogan for helping them prepare for oral arguments.

Valle is completing a one-year fellowship with the New York Attorney General’s Office before starting at Ropes & Gray LLP’s New York Office; Guzior joins Sullivan & Cromwell LLP in New York City.
Student spotlight on Can Cui (‘12): A patent agent back in the classroom

Can Cui (‘12) admitted he’s a little sleep deprived; although, he said, any full-time student would say the same. Cui, however, takes the multitasking law student lifestyle to a whole new level.

“I’m pretty sure I’m not the typical law student, or even a typical international student,” said the 32-year-old J.D. candidate from Beijing, also a patent agent and new father.

Cui moved to Boston 10 years ago to pursue graduate studies in biomedical sciences at Harvard University. After earning his Ph.D., the then-scientist chose an alternative career path: patent law.

“At that time, it wasn’t something people thought of,” says Cui, “but I enjoy writing and reading – the essential features of being a good patent agent.”

Now a patent agent in the Boston office at Ropes and Gray, Cui helps clients secure pharmaceutical and biotechnology patents. Getting a law degree, according to Cui, was the natural next step. “It was a big decision, because I’ve already been schooled so many years,” he said. “But now I can apply what I learn here into helping people get patents.”

In agreement with his firm, Cui chose BU Law for its strong intellectual property and international law programs. “After working for a number of years, I’m back in the classroom studying, discussing, debating. I have a fresh perspective to bring to my firm,” says Cui.

With what little free time he has, Cui calls his relatives in China. He’s only been back to visit a handful of times since coming to Boston, but hopes to move back home to China eventually. Thanks to the country’s reputation for piracy – and ensuing infringement issues – China, and Asia in general, has a large market for intellectual property lawyers, says Cui.

“There is a role for someone like myself, with intellectual property knowledge and an international background, to play in China,” said Cui. “So that’s a long-term goal.” Cui takes classes in the mornings before heading to work in the afternoons. At night and on weekends he spends time with his wife and eight-month-old daughter.

“My daughter tries to stay awake until I get home around 10 or 11 p.m.,” Cui said. “Then I put her to bed, spend a precious 20 minutes with her.” In the meantime, Cui focuses on the many facets of his life here in Boston: learning, working and taking care of his family.

“I’m still surviving,” insisted Cui. “It really requires a lot of time management, but it’s worth it.”

Student spotlight on Can Cui (‘12): A patent agent back in the classroom

“Changing Views of Copyright Theory: One Scholar’s Evolution,” The Philip S. Beck Lecture delivered by the Philip S. Beck Professor of Law, Wendy J. Gordon

September 21, 2010
BU Law

The Philip S. Beck Professorship was established through the generosity of Philip S. Beck (’76).
Intellectual Property Law curriculum at BU Law

BU Law recognizes the importance that Intellectual Property Law plays in our society. The School offers an IP Law concentration in the J.D. program, dual degree programs involving IP Law, an IP focus within the Legislation Clinic and a highly selective Master of Laws Degree in Intellectual Property Law. BU Law also annually publishes professional articles and student-written notes in the *Journal of Science & Technology Law*.

**J.D. Concentration in Intellectual Property Law**

At BU Law, Intellectual Property Law brings together expertise in three core areas: patent, copyright and trademark. Intellectual Property Law is one of the most challenging and high-profile areas of the law. Our internationally known faculty of scholars and wide-ranging curriculum choices equip students to address complex intellectual property issues at an advanced level. BU Law’s strong relationships with the legal community and the technology industries in Greater Boston give students additional exposure to top practitioners in the field.

**Other faculty teaching IP at BU Law**

Michael Baram, *Emeritus Professor*
Russell Beck, Lecturer in Law
Partner, Foley & Larder LLP
James E. Bessen, Lecturer in Law
Director and Founder, Research on Innovation
Jeffrey P. Donohue, Lecturer in Law
Corporate Counsel, Novartis Institutes for BioMedical Research
Lisa N. Geller, Lecturer in Law
Associate, Wilmer Cutler Pickering Hale and Dorr
Frances H. Miller, *Emeritus Professor*
Jerrold G. Neeff, Lecturer in Law
Principal, The Bostonian Law Group
Lior Zemer, Visiting Assistant Professor
Lecturer in Law, Radzyner School of Law, Interdisciplinary Centre, Herzliya, Israel; Research Associate, European & International Research Unit, Ghent University, Belgium

**Selected Intellectual Property courses for the 2010-2011 academic year**

- Biomedical Innovation
- Biotechnology Law and Ethics
- Copyright Law
- Drugs, Devices and Diagnostics
- Entertainment Law
- Food, Drug and Cosmetic Law
- Independent Study in Intellectual Property
- Intellectual Property
- Intellectual Property, Legislation Policy and Drafting Clinic
- International Intellectual Property*
- Licensing Law and Practice Workshop
- Medical Research and the Law*
- Patent Law
- Patent Prosecution*
- Technology Commercialization
- Telecommunications Law
- Trade Secrets and Restrictive Covenants
- Trademark and Unfair Competition

*Denotes seminar
IP Law Speaker Series

The Intellectual Property Speaker Series is an important element of BU Law’s comprehensive IP Program. The Speaker Series gives students and faculty the opportunity to interact with leading thinkers from around the world in an exciting workshop setting. Past topics include: Software Patents; Trademarks and Consumer Search Costs on the Internet; IP Law and the Boundaries of the Firm; and Patents and Growth: Empirical Evidence from the States.

IP Law opportunities

The Legislation Policy & Drafting Clinic allows students to work with clients and provide legislative solutions to issues relating to intellectual property. Participants learn client interviewing, fact investigation, legal research, drafting and revision. The end product is a draft bill with extensive accompanying documentation. A board of student editors and faculty advisers guides students through the stages of drafting the bill and writing the supporting memorandum. In the process, the clinic exposes students to issues surrounding the evolving IP field, including problems of privacy, copyright and fair use, patent protection, interstate and international jurisdiction, and free speech.

The Journal of Science & Technology Law publishes scholarship on the interaction between science, technology and the law. This includes the fields of biotechnology law, computer and communications law, intellectual property, technology transfer, and business law for technology-based companies. The Journal annually publishes professional articles and student-written notes in two hard-copy volumes, and condenses the material onto a CD-ROM. In addition, each volume is available online at www.bujstl.org. Some of the most recent articles published include “We Can Work It Out: Co-Op Compulsory Licensing As the Way Forward in Improving Access to Anti-Retroviral Drugs” and “Alternative Intellectual Property for Genomics and the Activity of Technology Transfer Offices: Emerging Directions in Research.”

Dual degrees

J.D./M.B.A. in Law & Management

The joint J.D./M.B.A. in Law and Management is a great option for those interested in combining management and law courses with IP-related subjects such as IP licensing or the strategic management of an IP portfolio. The J.D./M.B.A. program can be completed in as little as four years.

J.D./M.S. in Law & Mass Communication

The growth of new communication technologies has created a need for lawyers with specialized training in the technological, marketing and legal sectors. In response, the School of Law and the College of Communication offer a unique program that allows students to acquire a law degree and a master’s degree in mass communication in three and a half years. Class topics offered through this dual degree opportunity include broadband communications and the Internet.

LL.M. in Intellectual Property Law

BU Law is proud to offer a very select group of lawyers the opportunity to pursue an advanced degree in one of the most dynamic fields of legal practice today: intellectual property. Our world-renowned intellectual property faculty, the breadth of curricular choices in such emerging topics as the Internet and biotechnology, and a graduate student body representing more than 30 nations—with backgrounds in technology, engineering, biotechnology, publishing, the arts and entertainment—create a truly invigorating learning environment for advanced study.
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On the cover: Wendy J. Gordon