

Stacey L. Dogan

Boston University School of Law
765 Commonwealth Ave.
Boston, MA 02215
(617) 353-3142; sdogan@bu.edu

EMPLOYMENT

Academic Positions

Boston University School of Law, Boston, MA
Professor & Law Alumni Scholar (2009-present); Visiting Professor
(2007-08; spring 2005)
Courses: Intellectual Property; Trademark Law; Advanced Topics in
Trademark Law; Copyright Law; Property; Internet Law; University
Honors College Sophomore Course (research methodologies).

Northeastern University School of Law, Boston, MA 1998-2009
Professor (2005-2009); Associate Professor (2002-2005); Assistant
Professor (1999-2002); Visiting Assistant Professor (1998-99)
Courses: Intellectual Property; Trademark Law; Software and Internet
Law; Antitrust Law; Patent Law.

Boston College Law School, Newton, MA 2003-04
Visiting Associate Professor; taught courses in Intellectual Property,
Advanced Copyright Theory (seminar), and Trademark Law.

Georgetown University Law Center, Washington, DC Spring 1998
Adjunct Professor of Law
Co-taught Computers, Technology & the Law.

Harvard University Department of Economics, Cambridge, MA 1991-1992
Teaching fellow
Primary instructor for full-year course in macro- and microeconomics.

Other Relevant Professional Experience

Covington & Burling, Washington, DC Jan.-Aug. 1994; 1995-1998
Associate
Specialized in trademark, copyright, and antitrust law.

United States Court of Appeals, D.C. Circuit, Washington, DC 1994-1995
Law Clerk for the Honorable Judith Rogers

Heller, Ehrman, White & McAuliffe, San Francisco, CA 1992-93
Associate

EDUCATION

HARVARD LAW SCHOOL

J.D., *magna cum laude*, June 1992

Managing and Technical Editor, *Harvard Civil Rights-Civil Liberties Law Review*

Executive Board Member and Programs Coordinator, Women's Law Association

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

B.S. in Economics, June 1988

Thesis: *The Occupational Mobility of Women: Whites vs. Nonwhites* (econometric analysis)

PROFESSIONAL ASSOCIATIONS AND COMMUNITY SERVICE

- President (2009), Executive Board Member (2006-2010), Intellectual Property Section of the Association of American Law Schools.
- Co-Editor in Chief, *Journal of the Copyright Society of the U.S.A.* (2008-September 2011).
- Peer reviewer, *Review of Law & Economics*.
- Prepublication reviewer for Aspen Publishers.
- Admitted to the Bar in California (1992), U.S. District Court and Court of Appeals for Ninth Circuit (1992), Washington, DC (1994).

PUBLICATIONS

Articles and Essays

"We Know it When We See it": *Intermediary Trademark Liability and the Internet*, __ STANFORD TECH. L. J. __ (forthcoming 2011)

Judicial Takings and Collateral Attacks on State Court Property Decisions (with Ernest Young), 6 DUKE J. CONST'L L. & PUB. POL. 107 (2011)

Brand or Anti-Brand? (review of Sonia K. Katyal, *Stealth Marketing and Anti-Branding: The Love that Dare Not Speak its Name*, 58 BUFF. L. REV. 795 (2010)), JOTWELL, December 2010, available at <http://ip.jotwell.com/brand-or-anti-brand/>

Trademark Remedies and Online Intermediaries, 14 LEWIS & CLARKE L. REV. 467 (2010)

Beyond Trademark Use, 8 JOURNAL ON TELECOMMUNICATIONS AND HIGH TECHNOLOGY LAW 135 (2010)

Antitrust Law and Regulatory Gaming (with Mark Lemley), 87 TEXAS LAW REVIEW 685 (2009)

The Trademark Use Requirement in Dilution Cases (with Mark Lemley), 24 SANTA CLARA HIGH TECHNOLOGY LAW REVIEW 541 (2008)

Grounding Trademark Law Through Trademark Use (with Mark Lemley), 92 IOWA L. REV. 1669 (2007), reprinted in 98 THE TRADEMARK REPORTER 1345 (2008)

Trademarks and Consumer Information, in NOUVELLES APPROCHES EN PROPRIETE INTELLECTUELLE DANDS UN MONDE TRANSSYSTEMIQUE [INTELLECTUAL PROPERTY AT THE EDGE: NEW APPROACHES TO IP IN A TRANSSYSTEMIC WORLD] 321 (2007)

What Is Dilution, Anyway?, 105 MICHIGAN LAW REVIEW FIRST IMPRESSIONS 103, available at <http://students.law.umich.edu/mlr/firstimpressions/vol105/dogan.pdf> (2006)

What The Right of Publicity Can Learn from Trademark Law (with Mark Lemley), 58 STANFORD LAW REVIEW 1161 (2006)

Comment: Sony, Fair Use, and File Sharing, 55 CASE WESTERN RESERVE LAW REVIEW 971 (2005)

The Merchandising Right: Fragile Theory or Fait Accompli? (with Mark Lemley), 54 EMORY LAW JOURNAL 461 (2005)

Copyright Law and Subject Matter Specificity: The Case of Computer Software (with Joseph P. Liu), 61 NEW YORK UNIVERSITY ANNUAL SURVEY OF AMERICAN LAW 203 (2005)

Trademarks and Consumer Search Costs on the Internet (with Mark Lemley), 41 HOUSTON LAW REVIEW 777 (2004)

Code Versus the Common Law, 2 JOURNAL ON TELECOMMUNICATIONS & HIGH TECHNOLOGY LAW 73 (2003)

An Exclusive Right to Evoke, 44 BOSTON COLLEGE LAW REVIEW 291 (2003)

Infringement Once Removed: The Perils of Hyperlinking to Infringing Content, 87 IOWA LAW REVIEW 829 (2002)

Essay, *Where's the Middle Ground? – The Battlefield Over Copyright*, NORTHEASTERN LAW MAGAZINE 2 (Summer 2002)

Is Napster A VCR? The Implications of Sony for Napster and Other Internet Technologies, 52 HASTINGS LAW JOURNAL 939 (2001)

Book chapters

Right of Publicity, in ROCHELLE COOPER DREYFUSS & JANE C. GINSBURG (EDS.), INTELLECTUAL PROPERTY AT THE EDGE: THE CONTESTED CONTOURS OF IP (forthcoming 2012)

A Search Costs Theory of Limiting Doctrines in Trademark Law (with Mark Lemley), in GRAEME B. DINWOODIE & MARK D. JANIS (EDS.), TRADEMARK LAW AND THEORY: A HANDBOOK OF CONTEMPORARY RESEARCH (2008, Edward Elgar Publishers), *reprinted in* 97 THE TRADEMARK REPORTER 1223 (2008)

Peer-to-Peer Technology and the Copyright Crossroads, chapter in PEER-TO-PEER COMPUTING: THE EVOLUTION OF DISRUPTIVE TECHNOLOGY (Brian Goodman & Ramesh Subramanian, eds., 2005)

Copyright in Cyberspace, in TEACHING CYBERLAW IN CYBERSPACE (online resource for cyberspace courses), *available at* www.cyberspacelaw.org (1999)

Amicus Briefs

Brief of *Amici Curiae* Intellectual Property Law Faculty in Support of Affirmance, *Rescuecom Corp. v. Google, Inc.*, No. 06-4881-CV (2d Cir., filed Feb. 22, 2007) (co-authored with Eric Goldman)

PRESENTATIONS AND PROCEEDINGS

Mass Copyright Infringement Litigation (moderator), Copyright Society (USA) Annual Meeting, Bolton Landing, NY, June 7, 2011.

Advanced Trademark, Copyright and Other Intellectual Property Issues in Entertainment Law Worldwide (panelist), ABA Forum on the Entertainment and Sports Industries Second Annual International Legal Symposium, South Beach, April 29, 2011.

Participant, Third Trademark Scholars Roundtable, Indiana University, April 22-23, 2011.

Functionality (co-presented with Wendy Gordon), Works-in-Progress-in-Intellectual-Property Conference, Boston University, February 11, 2011.

The Product Design Quandary, Fordham Intellectual Property and Innovation Colloquium, March 28, 2011.

Emerging Issues in Secondary Liability in Trademark Law, Secondary and Intermediate Liability on the Internet conference, Stanford Law School, March 3, 2011.

Judicial Takings and Collateral Attacks on State Law Property Decisions, at “Takings, the Fifth Amendment, and *Stop the Beach*,” Duke Law School, Feb. 4, 2011.

Federalism and the United States Trademark System, presented at workshop, “A Study on the Overall Evaluation of European Trademark Law,” Max Planck Institute, Munich, Germany, June 1, 2010.

Participant, Second Trademark Scholars Roundtable, DePaul University, April 16-27, 2010.

Secondary Liability in U.S. Trademark Law, at “Widening the Net: Contributory/Accessorial/Secondary Liability for Facilitating, Authorising and Inducing Infringement of Intellectual Property Rights,” Cambridge University, U.K., March 13, 2010.

Trademarks in Cyberspace, presented at conference, “Signifiers in Cyberspace: Domain Names and Online Trademarks,” Center for Law, Technology & Arts, at Case Western Reserve University School of Law, Cleveland, Ohio, November 13, 2009.

Panel member, *Keywords and Search Engine Liability*, “The Brand as Property: Trademark Law and its Challenges in the New Era,” University of San Francisco, November 4, 2009.

Remedies in Contributory Trademark Infringement Cases, Lewis & Clarke Law School, October 2, 2009.

Trademark Law’s Identity Crisis, OECD, Paris, July 17, 2009.

Rights of Publicity and the First Amendment (commentator), Intellectual Property and Reputation Meet the First Amendment, Boston College Law School, April 3, 2009.

A Recipe for Confusion: The Fragmentation of Trademark Rules and Practices Online, The Digital Broadband Migration: Imagining the Internet’s Future, University of Colorado at Boulder, February 9, 2009.

Sports and Intellectual Property: Names, Faces and Money, Boston Bar Association, January 22, 2009.

“*Trademark Use*” in an Internet Age, International Trademark Association Leadership Meeting, Boca Raton, November 15, 2008 (debate with Professor Graeme Dinwoodie).

Antitrust Law and Regulatory Gaming, Minnesota Works-in-Progress Workshop, University of Minnesota, September 19-20, 2008.

Keynote Speaker: Expansions and Contractions in Turn-of-the-Century Trademark Law, Massachusetts Continuing Legal Education's Intellectual Property Law Annual Conference, June 18, 2008.

Participant, Trademark Scholars Roundtable, University of Iowa, April 10-12, 2008.

Is a Trademark Use Requirement Useless?, Evil Twins Debate, University of Richmond, April 4, 2008.

Intellectual Property Rights and Faculty Authors, Northeastern University Libraries Brown Bag Series, March 28, 2008.

Functionality Reconsidered, Boston University School of Law faculty workshop, February 7, 2008; BU Law & Economics Workshop, November 12, 2007.
Reevaluating the Limits of Restrictive License Terms in the Wake of Leegin and Illinois Tool Works, at conference, "Licensing: Seizing Opportunities and Mitigating Risks," Suffolk Law School, November 9, 2007.

Functionality Reconsidered, Michigan Intellectual Property Workshop, November 7, 2007.

Trademarks as Keywords for Paid Search Results and Advertising: Is it Trademark Use?, PLI Advanced Seminar on Trademark Law, New York, May 15, 2007.

Keyword-Triggered Advertising/Sponsored Links -- Is it Trademark Infringement?, AIPLA Annual Meeting Session, Boston, May 10, 2007.

Keyword Advertising and Trademarks on the Internet, VIII European Intellectual Property Institutes Network Congress, Alicante, Spain, May 4, 2007.

Grounding Trademark Law Through Trademark Use, Faculty Workshop, Thomas Jefferson School of Law, April 16, 2007.

Grounding Trademark Law Through Trademark Use, Institute for Global Innovation Management Thought Leadership Seminar Series, March 22, 2007.

The Morality of Copyright Disobedience (panelist), AALS Annual Meeting, Washington, DC, January 4, 2007.

Legislative Developments in Copyright Law: Orphan Works and Beyond, Boston Bar Association, December 7, 2006.

Discussant on paper, "iTunes for Authors, or Napster for Books? Copyright and Antitrust Implications of the Publishing Industry's Campaign Against Google Book Search," by Hannibal Travis, AALS Mid-Year Meeting, Vancouver, BC, June 15, 2006.

By Any Other Name: Intellectual Property as "Property", Panelist, Federalist Society IP Basics Conference, May 17, 2006.

Trademarks as Information, Faculty Workshop, William and Mary School of Law, April 7, 2006.

Trademarks as Information, Meredith Memorial Lectures 2006, McGill University, Montreal, Canada, March 17, 2006.

Intellectual Property and Systems Competition, Systems Competition Workshop, American Antitrust Institute Workshop, Northeastern University, February 10, 2006.

Recent Developments in Trademark Legislation, Boston Patent Law Association's "Hot Topics in Trademark Law" conference, October 19, 2005.

What the Right of Publicity Can Learn from Trademark Law, Colloquium on Technology, Innovation & Intellectual Property, University of Arizona, October 3, 2005.

An Arsenal of Merchandising Rights – Comparing US and EU Law, Intellectual Property in the New Millennium Seminar Series, St. Peter's College, Oxford, U.K., May 24, 2005.

The Merchandising Right: Fragile Theory or Fait Accompli?, Chicago Intellectual Property Colloquium, April 26, 2005.

The Economics of the Middlemen, panelist, Whither the Middleman: Intermediaries in the Information Age, Michigan State University College of Law, April 9, 2005.

The Merchandising Right: Fragile Theory or Fait Accompli?, Boston University School of Law Faculty Workshop, March 31, 2005.

Panelist, *Cutting Edge Copyright Law*, Massachusetts CLE presentation, March 30, 2005.

Is Copyright Law Technology-Specific?, University of Pittsburgh Intellectual Property/Internet conference, March 18, 2005.

Fair Use since Sony, panelist, Case Western Center for Law, Technology, and the Arts, Symposium on the Twentieth Anniversary of *Sony v. Universal City Studios*, February 25, 2005.

Recent Developments in Trademark Legislation, Boston Patent Law Association's "Hot Topics in Trademark Law" conference, November 3, 2004.

The Merchandising Right: Fragile Theory or Fait Accompli?, St. Louis University School of Law faculty colloquium, October 28, 2004.

Trademarks and Consumer Search Costs on the Internet, at Stanford Law School technology and law seminar, October 14, 2004.

Is Copyright Law Technology-Specific? (co-presented with Joseph P. Liu), Work in Progress Intellectual Property Colloquium, Boston University School of Law, September 10, 2004.

Trademarks and Consumer Search Costs on the Internet (co-presented with Mark A. Lemley), at 2004 Intellectual Property Scholars Conference, DePaul University College of Law Center for Intellectual Property & Information Technology, August 2, 2004.

Trademarks and Consumer Search Costs on the Internet (co-presented with Mark A. Lemley), at Trademarks in Transition: 2004 IPIL/Houston Santa Fe Conference (sponsored by Institute for Intellectual Property and Information Law, University of Houston Law Center), June 4, 2004.

Privacy and Liberty Implications of Suing File Sharers, panelist, 14th Conference on Computers, Freedom, and Privacy, April 22, 2004.

Trademarks and Consumer Search Costs on the Internet:

Boston University Intellectual Property Speaker Series, Feb. 23, 2004.

Thomas Jefferson Law School Intellectual Property Speaker Series, Feb. 16, 2004.

University of San Diego Faculty Workshop, Feb. 13, 2004.

George Washington University IP Workshop Series, Feb. 4, 2004.

Copyright, Deterrence, and Social Norms, Works-in-Progress Colloquium, Tulane University, Oct. 18, 2003.

Participant in joint workshop on global innovation between Northeastern University's Institute for Global Innovation Management and the Institute of International Business, Stockholm School of Economics, Stockholm, Sweden, June 12-13, 2003.

Code Versus the Common Law, faculty colloquium at Rutgers University, Camden campus, April 14, 2003.

International Industrial Organization Conference, Northeastern University, April 5, 2003:

Session chair, *Sharing the Costs of Copyright Infringement: Secondary Copyright Liability in a Digital Age* (interdisciplinary panel of economists and law faculty).

Presented paper: *Legislating Technology in the Era of Digital Copies: Has the Common Law Failed?* in the session listed above.

Discussant on paper: *Intellectual Property Rights and Innovation in Developing Countries*, by Thitima Puttitanun & Yongmin Chen, in session on *Regional Comparisons of Innovative Activity*.

From Rights to Bytes: Authorship and Copyright in a Digital Era, Northeastern University Economic Policy Forum, March 25, 2003.

Code Versus the Common Law, for Silicon Flatirons Telecommunications Symposium at University of Colorado, February 3, 2003.

Code Versus the Common Law, Northeastern University School of Law Faculty Colloquium, January 22, 2003.

Intellectual Property Challenges for the Global Enterprise, Northeastern University Institute for Global Innovation Management Thought Leadership Seminar Series, December 12, 2002.

An Exclusive Right to Evoke, for Boston College Symposium, "Intellectual Property, Ecommerce and the Internet," October 18, 2002.

A Discussion of Bowers v. Baystate, Boston Bar Association Intellectual Property Subcommittee, October 7, 2002.

Beyond the VCR: Implications of Sony v. Universal City Studios for Internet-Related Actors, presented to the Second International Conference of the Association of Internet Researchers, University of Minnesota, October 13, 2001.

Infringement Once Removed: The Perils of Hyperlinking to Infringing Content
Berkman Center, Harvard Law School, May 2001.
Suffolk Law School faculty colloquium, April 2001.
Northeastern Law School faculty colloquium, January 2001.

Patenting and Financing Bioinformatic Inventions and Data Protection Statutes and Bioinformatic Databases, Moderator, Symposium on Bioinformatics and Intellectual Property Law, Boston University, April 2001.

Linking to Infringement: A Comparative and Cross-Border Analysis, BILETA annual conference on IT and the Law, University of Edinburgh, Scotland, April 2001.

Is Napster A VCR? The Implications of Sony for Napster and Other Internet Technologies, Symposium on Consumers in the Digital Age: Perspectives on the Intersection Between Law, Technological Innovation, and Consumer Protection, Hastings Law School, February 2001.

Copyright Law for Artists, combined presentation for Massachusetts CLE and Massachusetts Volunteer Lawyers for the Arts, December 2000.

Infringement Once Removed, Boston University Intellectual Property Colloquium Series, August 2000.

Copyright Law for Artists, combined presentation for Massachusetts CLE and Massachusetts Volunteer Lawyers for the Arts, December 1998.

Intellectual Property in the New Age of Computers, Northwestern University School of Law Corporate Counsel Symposium, October 7, 1998.