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[SSRN page](#)

ACADEMIC EMPLOYMENT

WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW, Lexington, VA.

Associate Professor of Law (tenured July 2017), 2015 – Present.

Director, Frances Lewis Law Center, 2017 – Present.

Assistant Professor of Law, 2012 – 2015.

- Courses Taught: Intellectual Property; Patent Law; Intellectual Property Practicum; Property; Civil Procedure; Election Law and Voting Rights; Legal Writing I and II.
- Honors and Awards:
 - John W. Elrod Law Alumni Fellowship (for excellence in teaching), 2019-2020 and 2014-2015.
 - Ethan Allen Faculty Fellowship (for excellence in scholarship), 2015-2016.
 - University Nominee, Virginia Outstanding Faculty “Rising Star” Award, State Council of Higher Education for Virginia (SCHEV), 2015.
 - Student Bar Association Faculty Member of the Year, 2013-2014.
 - Order of the Coif (admitted 2013).
- Law School Committees: Appointments (Chair, 2018-2019); Educational Policy and Curriculum (2019-Present); Judicial Clerkship (2012-2018; Chair, Fall 2013-Spring 2018); Frances Lewis Law Center (2015-Present; Director, Fall 2017-Present); ABA Self-Study/Strategic Planning (2014-2015); Admissions (2013-2014); Academic Standards (2012-2013).
- University Committees and Service: Law Faculty Representative, Board of Trustees (2017-2018); University Board of Appeals (2013-2015); Information Technology Advisory Committee (2013-2015).
- Other Service: Co-Faculty Advisor, American Constitution Society, W&L Student Chapter (2014-Present); Faculty Advisor, *Washington and Lee University Law Review* (2014-2017); Faculty Advisor, Phi Alpha Delta (2013-2015).

IIT CHICAGO-KENT COLLEGE OF LAW, Chicago, IL.

Visiting Assistant Professor, 2009 – 2012.

- Courses Taught: Intellectual Property Litigation; Intellectual Property and Antitrust; Legal Writing I and II.

LOYOLA UNIVERSITY CHICAGO SCHOOL OF LAW, Chicago, IL.

Adjunct Professor, 2007 – 2009.

- Courses Taught: Legal Writing I and II.

PUBLICATIONS

INTELLECTUAL PROPERTY

ARTICLES:

Noncompetes and Other Post-Employment Restraints on Competition: Empirical Evidence from Trade Secret Litigation, 72 HASTINGS LAW JOURNAL (forthcoming 2021).

An Inside History of the Burger Court's Patent Eligibility Jurisprudence, 53 AKRON LAW REVIEW 915 (2019) (with Sheena X. Wang) (symposium contribution).

The DTSA at One: An Empirical Study of the First Year of Litigation Under the Defend Trade Secrets Act, 53 WAKE FOREST LAW REVIEW 106 (2018) (with David S. Levine).

Toward a Federal Jurisprudence of Trade Secret Law, 32 BERKELEY TECHNOLOGY LAW JOURNAL 829 (2017) (with Sharon K. Sandeen).

Patent Injunctions on Appeal: An Empirical Study of the Federal Circuit's Application of eBay, 92 WASHINGTON LAW REVIEW 145 (2017) (with Ryan T. Holte).

- Winner, Federalist Society Young Legal Scholars Paper Competition (2016).

Permanent Injunctions in Patent Litigation After eBay: An Empirical Study, 101 IOWA LAW REVIEW 1949 (2016).

The Case Against Federalizing Trade Secrecy, 101 VIRGINIA LAW REVIEW 317 (2015).

- Reprinted in INTELLECTUAL PROPERTY LAW REVIEW—2016 (Thomson Reuters) as one of the top law review articles related to intellectual property.

Ongoing Royalties in Patent Cases After eBay: An Empirical Assessment and Proposed Framework, 23 TEXAS INTELLECTUAL PROPERTY LAW JOURNAL 203 (2015) (symposium contribution).

Standards of Proof in Civil Litigation: An Experiment from Patent Law, 26 HARVARD JOURNAL OF LAW & TECHNOLOGY 429 (2013) (with David L. Schwartz).

Best Mode Trade Secrets, 15 YALE JOURNAL OF LAW & TECHNOLOGY 1 (2012) (with Brian J. Love).

- Reprinted in INTELLECTUAL PROPERTY LAW REVIEW—2013 (Thomson Reuters) as one of the top law review articles related to intellectual property.

Willful Patent Infringement and Enhanced Damages After In re Seagate: An Empirical Study, 97 IOWA LAW REVIEW 417 (2012).

Reconsidering the Georgia-Pacific Standard for Reasonable Royalty Patent Damages, 2010 BYU LAW REVIEW 1661.

BOOK CHAPTERS:

Lost Profits and Disgorgement (lead co-author) and *Enhanced Damages, Litigation Cost Recovery, and Interest* (contributing co-author), in PATENT REMEDIES AND COMPLEX PRODUCTS: TOWARD A GLOBAL CONSENSUS (Cambridge University Press, 2019). Supported by a grant from Intel Corp.

Empirical Studies Related to Patents—Presumption of Validity, in RESEARCH HANDBOOK ON THE ECONOMICS OF INTELLECTUAL PROPERTY LAW, VOL. II—ANALYTICAL METHODS (Ben Depoorter, Peter Menell & David Schwartz eds., Edward Elgar, 2019).

COMMENTS, RESPONSES, AND SHORTER WORKS:

Reconciling the Lanham Act and the FDCA: A Comment on Chris Hurley’s Note, 75 WASHINGTON AND LEE LAW REVIEW 647 (2018) (invited comment on student Note for annual Student Notes Colloquium)

Introduction: The Defend Trade Secrets Act of 2015, 72 WASHINGTON AND LEE LAW REVIEW ONLINE 278 (2015) (introduction to online roundtable on Defend Trade Secrets Act).

Comment on “Groove is in the Hart”: A Workable Solution for Applying the Right of Publicity to Video Games, 72 WASHINGTON AND LEE LAW REVIEW 399 (2015) (invited comment on student Note for annual Student Notes Colloquia).

American Innovation and the Limits of Patent Law: A Response to William Hubbard, Competitive Patent Law, 65 FLORIDA LAW REVIEW FORUM 23 (2013) (invited response to Professor Hubbard’s article).

VOTING RIGHTS / ELECTION LAW

ARTICLES:

An Uncertain Future for Section 5 of the Voting Rights Act: The Need for a Revised Bailout System, 30 ST. LOUIS UNIVERSITY PUBLIC LAW REVIEW 9 (2010) (symposium contribution).

The End of Preclearance As We Knew It: How The Supreme Court Transformed Section 5 of the Voting Rights Act, 11 MICHIGAN JOURNAL OF RACE & LAW 275 (2006) (with Peyton McCrary & Richard Valelly).

- Draft entered into record in *Voting Rights Act: Section 5—Preclearance Standards*, Hearing Before the Subcommittee of the Constitution, House Judiciary Committee, 109th Congress (Nov. 1, 2005) (Serial No. 109-69).

BOOK CHAPTER:

The Law of Preclearance: Enforcing Section 5 of the Voting Rights Act, in THE FUTURE OF THE VOTING RIGHTS ACT (David L. Epstein et al. eds. 2006) (with Peyton McCrary & Richard Valelly).

OP-EDS:

The Harmful Myth of Widespread Voter Fraud, ROANOKE TIMES, Feb. 19, 2017.

The Adverse Impact of Pennsylvania's Voter ID Law, CENTRE DAILY TIMES (State College, PA), Sept. 15, 2012, at 6.

AMICUS BRIEFS

Counsel of Record and Co-Author, *Brief Amicus Curiae of Intellectual Property Professors in Support of Neither Party*, No. 14-1513, *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, and No. 14-1520, *Stryker Corp. v. Zimmer, Inc.* (U.S. Supreme Court, filed Dec. 16, 2015) (regarding the appropriate standard for awarding enhanced damages in patent litigation).

PRIZES, AWARDS, AND EXTERNAL GRANTS

FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY, Young Legal Scholars Paper Competition (2016).

- Winner of paper competition for co-authored empirical study of permanent injunction decisions by the U.S. Court of Appeals for the Federal Circuit.

LEONARDO DA VINCI RESEARCH GRANT, Center for the Protection of Intellectual Property, George Mason University School of Law (2015).

- Research grant for empirical study of permanent injunction decisions by the U.S. Court of Appeals for the Federal Circuit.

STANFORD-SAMSUNG PATENT PRIZE (2010).

- Award for outstanding new paper related to patent remedies (one of nine winners competitively selected from over 100 entries).

SELECTED PRESENTATIONS AND CONFERENCES

TRADE SECRETS AND INFORMATION POLICY ROUNDTABLE, WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW, Lexington, VA (Jan. 2020). Conference Organizer and Host.

- Paper Presented: *Non-Compete Agreements and Other Post-Employment Restraints on Competition: Empirical Evidence from Trade Secret Litigation*

FACULTY WORKSHOP, AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, Washington, DC (Jan. 2020).

- Paper Presented: *Non-Compete Agreements and Other Post-Employment Restraints on Competition: Empirical Evidence from Trade Secret Litigation*

ROUNDTABLE ON EMPIRICAL METHODS IN INTELLECTUAL PROPERTY, U.S. Patent & Trademark Office (co-sponsored by Northwestern Law School and Cardozo Law School), Alexandria, VA (Apr. 2019).

- Paper Presented: *Non-Compete Agreements and Other Post-Employment Restraints on Competition: Empirical Evidence from Trade Secret Litigation*

PHILADELPHIA INTELLECTUAL PROPERTY LAW ASSOCIATION (PIPLA), CLE Program, Philadelphia, PA (Sept. 2018).

- Paper Presented: *An Empirical Study of Litigation Under the Defend Trade Secrets Act of 2016*

SOUTHEASTERN ASSOCIATION OF LAW SCHOOL (SEALS) 2018 ANNUAL MEETING, Fort Lauderdale, FL (Aug. 2018).

- Paper Presented: *Non-Compete Agreements and Other Post-Employment Restraints on Competition: Empirical Evidence from Trade Secret Litigation* (panel on Intellectual Property and Information Ecosystem)

IP STATISTICS FOR DECISION MAKERS (IPSDM) 2017 CONFERENCE, Mexico City, Mexico (Nov. 2017).

- Paper Presented: *The DTSA at One: An Empirical Study of the First Year of Litigation Under the Defend Trade Secrets Act*

17TH ANNUAL INTELLECTUAL PROPERTY SCHOLARS CONFERENCE (IPSC), Cardozo Law School, New York, NY (Aug. 2017).

- Paper Presented: *The DTSA at One: An Empirical Study of the First Year of Litigation Under the Defend Trade Secrets Act*

TRADE SECRET CONFERENCE, Mitchell Hamline School of Law, St. Paul, MN (Apr. 2017).

- Presentation: *The Defend Trade Secrets Act: Overview and the First Year of Litigation*

PATCON 7: THE PATENT CONFERENCE, Northwestern University Pritzker School of Law, Chicago, IL (Apr. 2017).

- Discussant: *Patent Law Differences Among the Federal District Courts* (by Amy Semet)

AMERICAN BAR ASSOCIATION, 32ND ANNUAL INTELLECTUAL PROPERTY LAW CONFERENCE, Arlington, VA (Apr. 2017).

- Panelist: *The New Landscape of Trade Secrets* (discussing trade secrets law and litigation under the new Defend Trade Secrets Act).

INTERNATIONAL PATENT REMEDIES FOR COMPLEX PRODUCTS (INPRECOMP) PROJECT, King's College London, UK (Oct. 2016) and Arizona State University Sandra Day O'Connor College of Law, Phoenix, AZ (Mar. 2017).

- Group Leader: *Lost Profits Damages and Disgorgement of Defendant's Profits*

VIRGINIA SPORTS AND ENTERTAINMENT LAW JOURNAL, University of Virginia School of Law, Charlottesville, VA (Nov. 2016).

- Moderator: *Panel on Copyright Owners and Copyright Users: The Viability of the Digital Millennium Copyright Act*

PATENT DAMAGES CONFERENCE, University of Texas School of Law, Austin, TX (June 2016).

- Moderator: *Panel on Damages Assessments*

ROUNDTABLE ON EMPIRICAL METHODS IN INTELLECTUAL PROPERTY, U.S. Patent & Trademark Office (co-sponsored by Northwestern Law School and Cardozo Law School), Alexandria, VA (Apr. 2016).

- Presentation: *Patent Renewal Rates After Alice*

PENN INTELLECTUAL PROPERTY GROUP SYMPOSIUM, University of Pennsylvania Law School, Philadelphia, PA (Mar. 2016).

- Panelist: *Debate – The Defend Trade Secrets Act*

SUPREME COURT SERIES, Program on Information Justice & Intellectual Property, American University Washington College of Law, Washington, DC (Feb. 2016).

- Panelist: *Halo Electronics, Inc. v. Pulse Electronics, Inc.* and *Stryker Corp. v. Zimmer, Inc.*
Recording available at: <https://youtu.be/ZMytVTQNrGQ>

2016 WORKS-IN-PROGRESS INTELLECTUAL PROPERTY (WIPIP) COLLOQUIUM, University of Washington School of Law, Seattle, WA (Feb. 2016).

- Paper Presented: *Collaboration and Patentability*

4TH ANNUAL UNIVERSITY OF TORONTO PATENT COLLOQUIUM, University of Toronto Faculty of Law, Toronto, CA (Nov. 2015).

- Panelist: *The Expanding Nature of Patent Infringement Remedies Being Sought* (presentation on recent empirical scholarship on permanent injunctions and ongoing royalties)

4TH ANNUAL MID-ATLANTIC PATENT LAW WORKS-IN-PROGRESS WORKSHOP, American University Washington College of Law, Washington, D.C. (Nov. 2015).

- Paper Presented: *Collaboration and Patentability*

FACULTY WORKSHOP, Elon University School of Law, Greensboro, NC (Oct. 2015).

- Paper Presented: *Permanent Injunctions in Patent Litigation After eBay: An Empirical Study*

VIRGINIA STATE BAR ASSOCIATION, Intellectual Property Fall CLE Weekend Seminar, Alexandria, VA (Sept. 2015).

- Presentation: *Federal Trade Secret Law – An Update on Proposed Legislation*

LAW AND ECONOMICS OF INTELLECTUAL PROPERTY HANDBOOK CONFERENCE, Northwestern University School of Law, Chicago, IL (Aug. 2015)

- Book Chapter Presented: *Empirical Studies Relating to Patents – Presumption of Validity*

PATCON 5: THE 5TH ANNUAL PATENT CONFERENCE, University of Kansas Law School, Lawrence, KS (Apr. 2015).

- Paper Presented: *Permanent Injunctions in Patent Litigation after eBay: An Empirical Study*

SYMPOSIUM: PATENT ASSERTION ENTITIES, *Texas Intellectual Property Law Journal*, University of Texas Law School, Austin, TX (Feb. 2015).

- Paper Presented: *Ongoing Royalties as an Alternative to Injunctive Relief for Patent Assertion Entities (PAEs): An Empirical and Theoretical Assessment*

WORKS IN PROGRESS IN INTELLECTUAL PROPERTY (WIPIP) COLLOQUIUM, United States Trademark and Patent Office, Alexandria, VA (Feb. 2015).

- Presentation: *Permanent Injunctions in Patent Litigation after eBay: An Empirical Study*

ATLANTA BAR ASSOCIATION, Intellectual Property and Labor & Employment Law Sections, Atlanta, GA (Jan. 2015).

- Presentation: *Federal Trade Secrets Legislation*

TRADE SECRET SUMMIT, American Intellectual Property Law Association, Intel Corp., Santa Clara, CA (Dec. 2014).

- Panelist: *Should Trade Secrets Law Be Federalized? A Debate on the Need for a Federal Civil Remedy and Its Interplay with the Uniform Trade Secrets Act*

TRADE SECRET INSTITUTE SYMPOSIUM, “Trade Secrets Law at the Edge,” Brooklyn Law School, New York, NY (Oct. 2014).

- Panelist: *Federal Trade Secret Reform*

FACULTY WORKSHOP, Wake Forest Univ. School of Law, Winston-Salem, NC (Oct. 2014).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

VIRGINIA STATE BAR ASSOCIATION, Intellectual Property Fall CLE Weekend Seminar, Alexandria, VA (Sept. 2014).

- Panelist: *Update on Supreme Court Intellectual Property Decisions*

VANDERBILT IP SCHOLARS ROUNDTABLE, Vanderbilt University Law School, Nashville, TN (Apr. 2014).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

TRADE SECRET WORKSHOP, University of Florida Levin College of Law, Gainesville, FL (Feb. 2014).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

CESIP/USPTO EMPIRICAL METHODS IN IP WORKSHOP, IIT Chicago-Kent College of Law, Chicago, IL (Oct. 2013).

- Presentation: *Property Rules vs. Liability Rules in Patent Litigation after eBay: An Empirical Study*

2ND ANNUAL MID-ATLANTIC PATENT LAW WORKS-IN-PROGRESS WORKSHOP, American University Washington College of Law, Washington, D.C. (Sept. 2013).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

13TH ANNUAL INTELLECTUAL PROPERTY SCHOLARS CONFERENCE (IPSC), Cardozo Law School, New York, NY (Aug. 2013).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

VIRGINIA JUNIOR FACULTY FORUM, University of Richmond School of Law, Richmond, VA (Apr. 2013).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

FACULTY WORKSHOP, William & Mary Law School, Williamsburg, VA (Mar. 2013).

- Paper Presented: *The Case Against Federalizing Trade Secrecy*

WORKS-IN-PROGRESS IN INTELLECTUAL PROPERTY (WIPIP) CONFERENCE, Seton Hall University School of Law, Newark, NJ (Feb. 2013).

- Paper Presented: *Improving Patent Joint Ownership*

7TH ANNUAL CONFERENCE ON EMPIRICAL LEGAL STUDIES (CELS), Stanford University Law School, Palo Alto, CA (Nov. 2012).

- Paper Presented: *Standards of Proof in Civil Litigation: An Experiment from Patent Law*

MID-ATLANTIC PATENT LAW WORKS-IN-PROGRESS WORKSHOP, American University Washington College of Law, Washington, DC (Sept. 2012).

- Paper Presented: *Improving Patent Joint Ownership*

INTELLECTUAL PROPERTY SCHOLARS ROUNDTABLE, Drake University Law School, Des Moines, IA (Apr. 2012).

- Paper Presented: *The Presumption of Validity in Patent Litigation: An Experimental Study*

WORKS-IN-PROGRESS IN INTELLECTUAL PROPERTY (WIPIP) CONFERENCE 2012, University of Houston Law Center, Houston, TX (Feb. 2012).

- Paper Presented: *The Presumption of Validity in Patent Litigation: An Experimental Study*

2011 ANNUAL MEETING, AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION, Washington, DC (Oct. 2011).

- Panelist: *Understanding the Real Value of Your Patent Portfolio* (presented findings from IOWA LAW REVIEW article on willful patent infringement and enhanced damages).

2ND ANNUAL SUPREME COURT IP REVIEW, IIT Chicago-Kent College of Law, Chicago, IL (Sept. 2011).

- Moderator: Panel discussion of *Board of Trustees of Leland Stanford Junior University v. Roche Molecular Systems*, 131 S. Ct. 2188 (2011).

PATCON: 1ST ANNUAL PATENT CONFERENCE, University of Kansas Law School, Lawrence, KS (Apr. 2011).

- Paper: *Toward an Optimal Regime for Joint Ownership of Intellectual Property*

SAMSUNG-STANFORD CONFERENCE ON PATENT REMEDIES, Stanford University Law School, Palo Alto, CA (Feb. 2011).

- Paper Presented: *Willful Patent Infringement and Enhanced Damages After In re Seagate: An Empirical Study*

10TH ANNUAL INTELLECTUAL PROPERTY SCHOLARS CONFERENCE, University of California-Berkeley Law School, Berkeley, CA (Aug. 2010).

- Paper Presented: *The Reports of Willfulness's Demise Are Greatly Exaggerated: An Empirical Study of Willful Patent Infringement After In re Seagate*

SYMPOSIUM: VOTING 45 YEARS AFTER THE VOTING RIGHTS ACT, *Saint Louis University Public Law Review*, Saint Louis University Law School, Saint Louis, MO (Mar. 2010).

- Paper Presented: *An Uncertain Future for Section 5: The Need for a Revised Bailout System*

EDUCATION

UNIVERSITY OF PENNSYLVANIA LAW SCHOOL, J.D. 2004.

- Executive Editor, *University of Pennsylvania Law Review*
- Edwin R. Keedy Award (for most scholarly contribution to the *Law Review*)
- Arthur Littleton & H. Clayton Louderback Legal Writing Instructor
- Lipman Redman Prize (for best first-year appellate brief)
- Semifinalist, Edwin R. Keedy Cup Moot Court Competition

SWARTHMORE COLLEGE, B.A., 2000.

History (major), Public Policy (concentration).

- J. Roland Pennock Fellowship in Public Affairs, 1999
- Public Policy Summer Internship Grant, 1998
- Varsity Men's Swimming, 1995-1999

LEGAL PRACTICE AND OTHER WORK EXPERIENCE

SIDLEY AUSTIN LLP, Chicago, IL.

Associate, Intellectual Property Litigation Practice Group, 2005 - 2009.

- Litigated patent, copyright, trademark, and trade secret matters in federal and state courts.

THE HON. R. BARCLAY SURRICK, U.S. District Court for the Eastern District of Pennsylvania, Philadelphia, PA.

Judicial Law Clerk, 2004 - 2005.

O'MELVENY & MYERS LLP, Washington, DC.

Summer Associate, Summer 2003 (offer of full-time employment extended).

THE HON. CAROL SANDRA MOORE WELLS, Magistrate Judge, U.S. District Court for the Eastern District of Pennsylvania, Philadelphia, PA.

Judicial Intern, Summer 2002.

PROF. NATHANIEL PERSILY, University of Pennsylvania Law School, Philadelphia, PA.

Research Assistant, Summer 2002.

DR. PEYTON MCCRARY, Eugene Lang Visiting Professor of Social Change, Swarthmore College, Swarthmore, PA.

Research Assistant, Summer 1999.

BAR ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court for the Northern District of Illinois (General)
- Illinois
- Pennsylvania

PROFESSIONAL MEMBERSHIPS

- American Bar Association
- Federal Circuit Bar Association
- American Intellectual Property Law Association (AIPLA)
- Society for Empirical Legal Studies (SELS)