

# BERKELEY TECHNOLOGY LAW JOURNAL

---

VOLUME 39

ISSUE 2

2024

## ARTICLES

OUR MORE-THAN-TWENTY-YEAR PATENT TERM .....	681
<i>Mark Lemley &amp; Jason Reinecke</i>	
INTENTIONALITY IN TRADE SECRET LAW .....	721
<i>Charles T. Graves</i>	
THE RIGHT OF PUBLICITY CAN SAVE ACTORS FROM DEEPPFAKE ARMAGEDDON .....	783
<i>Matthew Kugler &amp; Alice Preminger</i>	
DANCE OF THE BIOLOGICS .....	841
<i>Robin Feldman &amp; Gideon Schor</i>	
THE “CEREMONIAL USE” DEFENSE TO INFRINGEMENT OF PSYCHEDELIC PATENTS .....	917
<i>Forrest Tahdoobnippah</i>	

## SPONSORS

### 2023–24

The *Berkeley Technology Law Journal* and the Berkeley Center for Law & Technology acknowledge the following generous sponsors of Berkeley Law's Law and Technology Program:

ALLEN & OVERY LLP

ARENTFOX SCHIFF LLP

AXINN, VELTROP & HARKRIDER LLP

BAKER BOTTS L.L.P.

CHARLES RIVER ASSOCIATES

COOLEY LLP

CORNERSTONE RESEARCH

COVINGTON & BURLING LLP

CROWELL & MORING LLP

DESMARAIS LLP

DLA PIPER

DURIE TANGRI LLP

FENWICK & WEST LLP

FISH & RICHARDSON P.C.

GENENTECH, INC.

GEN LAW FIRM

GIBSON, DUNN & CRUTCHER LLP

GILEAD SCIENCES, INC.

GOODWIN PROCTER LLP

GREENBERG TRAURIG, LLP

GTC LAW GROUP PC

HAYNES AND BOONE, LLP

HOGAN LOVELLS

IRELL & MANELLA LLP

JINGTIAN & GONGCHENG

JONES DAY

KEKER, VAN NEST & PETERS LLP

KILPATRICK TOWNSEND &  
STOCKTON LLP

KING & SPALDING LLP

KING & WOOD MALLESONS

# SPONSORS

## 2023–24

KIRKLAND & ELLIS LLP	KNOBBE MARTENS
LATHAM & WATKINS LLP	MARKS & CLERK
MCDERMOTT WILL & EMERY	MICROSOFT
MORGAN, LEWIS & BOCKIUS LLP	MORRISON & FOERSTER LLP
MUNGER, TOLLES & OLSEN LLP	OCEAN TOMO
ORRICK HERRINGTON & SUTCLIFFE LLP	PAUL HASTINGS, LLP
QUALCOMM TECHNOLOGIES, INC.	QUINN EMANUEL URQUHART & SULLIVAN, LLP
ROBINS KAPLAN LLP	ROPES & GRAY LLP
SIDLEY AUSTIN LLP	TENSEGRITY LAW GROUP LLP
VAN PELT, YI & JAMES LLP	VIA LICENSING CORPORATION
WANHUIDA INTELLECTUAL PROPERTY	WEIL, GOTSHAL & MANGES LLP
WESTERN DIGITAL CORPORATION	WHITE & CASE LLP
WILMER CUTLER PICKERING HALE AND DORR LLP	WILSON SONSINI GOODRICH & ROSATI
WINSTON & STRAWN LLP	WOMBLE BOND DICKINSON

# BOARD OF EDITORS

## 2023–24

---

### *Executive Board*

---

#### *Editors-in-Chief*

WILL KASPER  
YUHAN WU

#### *Managing Editor*

RYAN CAMPBELL

#### *Senior Executive Editor*

AL MALECHA

#### *Senior Articles Editors*

KEATON BLAZER  
BRIGITTE DESNOES  
ELIZABETH OH

#### *Senior Student Publication Editors*

ZHUDI HUANG  
JELENA LAKETIC

#### *Senior Life Sciences Editors*

CHRISTINE O'BRIEN LARAMY  
CARESSA TSAI

#### *Senior Scholarship Editor*

KERMIT RODRIGUEZ

#### *Senior Production Editors*

SEUNGHAN BAE  
ALEX LE

#### *Senior Online Content Editor*

LINDA CHANG

---

### *Editorial Board*

---

#### *Articles Editors*

GULNUR BEKMUKHANBETOVA  
XUEJIAO CAO  
ALEX CHOI  
MICHELLE D'SOUZA  
GARIMA KEDIA  
JOSHUA KUHN  
SARAH LUNT  
MARLEY MACAREWICH  
JOSH MIMURA  
BANI SAPRA  
SANDEEP STANLEY  
NICOLE ZEINSTR

#### *Student Publication Editors*

MAYA DARROW  
JOHN MOORE

#### *Notes & Comments Editor*

NINA ZHANG

#### *Submissions Editors*

WILLY ANDERSON  
JENNIFER CHENG  
VERNON ESPINOZA VALENZUELA  
HYEMI PARK

#### *Technical Editors*

ASHLEY FAN  
EDLENE MIGUEL  
BEN PEARCE  
ANDREW STONE  
CARESSA TSAI

#### *Podcast Editors*

ERIC AHERN  
JULIETTE DRAPER  
MEGHAN O'NEILL

#### *Alumni Relations Editor*

EMMA BURKE

#### *Member Relations Editor*

JAEOYOUNG CHOI  
CYRUS KUSHA

#### *Life Sciences Articles Editors*

TIM DABROWSKI  
DUANE YOO

#### *Web & Technology Editors*

EMILY WELSCH  
LISA YOUNES

#### *External Relations Editor*

HUNTER KOLON

#### *Web & Technology Editors*

EMILY WELSCH  
LISA YOUNES

#### *LLM Editor*

FERNANDA GONZAGA

#### *Production Editors*

BEN CLIFNER  
SARAH DAVIDSON  
KELSEY EDWARDS  
LAUREL MCGRANE

#### *Symposium Editors*

MARIT BJÖRNLUND  
NICOLE BOUCHER

# MEMBERSHIP

## 2023–24

### *Members*

---

SANSKRITI AGARWAL	AYESHA AHUJA	NOOSHA ALIABADI
REEM ALMUAITHER	AYESHA ASAD	AISHWARYA ATHAVALE
CEREN AYTEKIN	DAVID BERNSTEIN	HANNAH BORROWS
OSMANE CAILLEMER	ALYSON CHIE	ANGELA CHUNG
WILLIAM CIEL	SKYLAR CUSHING	EVELINA DASH
HALA EL SOLH	IMAN ESLAMI	PAYTON FONG
MAX FRIEND	DAN GRUSHKEVICH	ANANT GUPTA
RUI HAN	ANNIKA HANSEN	MARIA HARRAST
ANGELA HERBOSA	MENGRUO HUANG	ROGER HUANG
NAMAMI JAIN	MONICA JEUNG	CORINNE JOHNSTON
YASAMEEN JOULAEI	AARON KAMATH	NAT KAVALER
SRISHTI KHEMKA	TYLER KOTCHMAN	DHANYA SETLUR
JOSEPH KYBURZ	JOSHUA LEE	KRISHNAN
WANYI LIN	WENHUI LIU	KARISSA LIN
MAXWELL MELNIK	MARIA MILEKHINA	LILLY MAXFIELD
LEA MOUSTAKAS	GRACE MURPHY	AUDREY MITCHELL
NIYATI NARANG	NICHOLAS NAVARRO	SAIAISWARYA
ANTONY NOVAK	NADIA ORCHID GHAFARI	NAGENDARA
YUNFEI QIANG	DEVANGINI RAI	TUONG-VI NGUYEN
SANIDHYA RAO	EMILY REHMET	ALLEN PARK
ABBY SANDERS	JULIAN SANGHVI	UDAYVIR RANA
GAYATHRI SINDHU	ANKUR SINGHAL	KARINA SANCHEZ
SARAH SISNEY	HAILEY STEWART	PRIYADARSINI
LESLEY SUN	AMANDA SUZUKI	SHANMUGAM
ERIC TING	ITAI TISMANZKY	MATTHEW SIOSON
SIMON WAGNER	JESSE WANG	LORENZ STRUB
TIANA WANG	XINRUI WANG	TRISTAN THREATT
TIANQI WEI	ETHAN WISEMAN	AYA TOYA
LUCAS WU	TWINKLE YE	SOPHIA WANG
VINCENT ZHAI	TERRY ZHAO	DANIEL WARNER
		PAUL WOOD
		LISA YOUNES
		FAYE ZOU

**BERKELEY CENTER FOR  
LAW & TECHNOLOGY  
2023–24**

WAYNE STACY  
*Executive Director*

*Staff*

---

ALLISON SCHMITT  
*Director, BCLT Life Sciences  
Law & Policy Center and Senior Fellow*

JANN DUDLEY  
*Associate Director*

RICHARD FISK  
*Assistant Director,  
Events & Communications*

JUSTIN TRI DO  
*Media Coordinator*

ABRIL DELGADO  
*Events Specialist*

ALEXIS GOETT  
*Office Administrator*

*Fellow*

---

RAMYA CHANDRASEKHAR  
*Biometric Regulatory Fellow*

YUAN HAO  
*Senior Fellow*

KATHRYN HASHIMOTO  
*Copyright Law Fellow*

MIRIAM KIM  
*Practitioner Fellow, Generative AI*

ROBERT BARR  
*BCLT Executive Director Emeritus*

# BERKELEY CENTER FOR LAW & TECHNOLOGY

## 2023–24

### *Faculty Directors*

---

KENNETH A. BAMBERGER  
*Rosalinde and Arthur Gilbert  
Foundation Professor of Law*

ELENA CHACHKO  
*Assistant Professor of Law*

COLLEEN CHIEN  
*Professor of Law*

CATHERINE CRUMP  
*Director, Samuelson  
Law, Technology &  
Public Policy Clinic and  
Clinical Professor of Law*

CATHERINE FISK  
*Barbara Nachtrieb Armstrong  
Professor of Law*

CHRIS JAY HOOFNAGLE  
*Professor of Law in Residence*

SONIA KATYAL  
*Roger J. Traynor Distinguished  
Professor of Law*

ORIN S. KERR  
*William G. Simon  
Professor of Law*

PETER S. MENELL  
*Koret Professor of Law*

ROBERT P. MERGES  
*Wilson Sonsini Goodrich &  
Rosati Professor of Law*

DEIRDRE K. MULLIGAN  
*Professor in the School of  
Information and School of Law*

TEJAS N. NARECHANIA  
*Robert and Nanci Corson  
Assistant Professor of Law*

BRANDIE NONNECKE  
*Associate Research Professor  
at the Goldman School of  
Public Policy*

OSAGIE K. OBASOGIE  
*Haas Distinguished Chair and  
Professor of Law*

ANDREA ROTH  
*Professor of Law*

PAMELA SAMUELSON  
*Richard M. Sherman  
Distinguished Professor of  
Law and Information*

PAUL SCHWARTZ  
*Jefferson E. Peyser  
Professor of Law*

ERIK STALLMAN  
*Associate Director, Samuelson  
Law, Technology &  
Public Policy Clinic and  
Assistant Clinical Professor*

JENNIFER M. URBAN  
*Director, Samuelson  
Law, Technology &  
Public Policy Clinic and  
Clinical Professor of Law*

MOLLY SHAFFER  
VAN HOUWELING  
*Harold C. Hobbach  
Distinguished Professor of  
Patent and IP Law*

REBECCA WEXLER  
*Assistant Professor of Law*