ENGELBERG CENTER
on Innovation Law & Policy
NYU School of Law

NYU | LAW

Year in Review

2023

ENGELBERG CENTER
on Innovation Law & Policy
NYU School of Law

The **Engelberg Center on Innovation Law & Policy at NYU School of Law** provides a unique environment where scholars and policymakers examine the law and policy that best support innovation. The center has attracted legal scholars and practitioners, government officials, economists, physical scientists, engineers, historians, industry experts, and others who study—theoretically and empirically—the incentives that motivate innovators, how those incentives vary among different types of creative endeavor, and the laws and policies that help or hinder creativity. The Engelberg Center facilitates programming, publications, and other interactions that refine our understanding of the legal and policy implications of this research and that communicate those implications to stakeholders and decision-makers, both nationally and internationally.

In addition to the world-class faculty and scholars it attracts, the Engelberg Center draws on the diversity of New York City, which is a center for creativity in advertising, art, cuisine, entertainment, fashion, financial services, graphic design, law, life sciences, literature, marketing, music, and technology, among other fields. We seek to enhance the ecosystem that supports close connections among legal scholars and the innovator community in and around the city.

Alfred B. Engelberg '65 generously endowed the Engelberg Center on Innovation Law & Policy in 1994. He has enjoyed an unusually varied career in the field of intellectual property, having served as a patent examiner, a patent agent, a patent attorney in the Department of Justice, a member of a law firm, a representative for the generic pharmaceutical industry, and a principal negotiator during the legislative process that led to the Patent Term Restoration Act of 1984 (the "Hatch-Waxman Act").
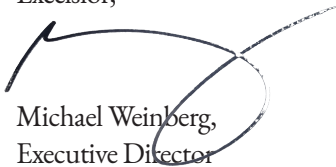
Contents

Foreword

This past year at the Engelberg Center was defined by a return to being in-person. We held over two dozen events, workshops, gatherings, dinners, presentations, and discussions during the 2022–23 academic year. Those ranged from intimate presentations of works in progress and get-to-know-you happy hours to tentpole events like the Fake Symposium and DreyFEST. Each of these provided the Engelverse an opportunity to reconnect, grow, and seek out new opportunities.

The Engelberg Center continues to grow in other ways. We welcomed Library Futures to the Engelberg Center, and expanded the work of ENRICH, the GLAM-E Lab, and Knowing Machines. We complemented these larger initiatives with new research focusing on women's representation at the highest level of patent litigation, the development of open access collections at galleries, archives, museums, and libraries, and analysis of why the ebook economy is oriented away from concepts of ownership.

All of this was possible because of the Engelberg Center community itself. The collaboration between the GLAM-E Lab and Technology Law & Policy Clinic gave Student Fellows an opportunity to work directly with cultural institutions navigating the world of open access. Fellows at Library Futures and Knowing Machines powered the impactful work of those initiatives. Visiting Scholars helped us broaden our thinking on the ever-expanding world of technology law and policy, both here in the United States and around the world.

While it is impossible to capture everything that makes the Engelberg Center special in a single annual report, creating it provides those of us who are already part of the Engelverse an opportunity to reflect on all of the pieces that come together to make the Engelberg Center the Engelberg Center. I hope it also serves as an invitation to those of you who are Engelberg Center curious to join us.

Excelsior,

Michael Weinberg,
Executive Director
Engelberg Center on Innovation Law & Policy

Disclosure Under Section 112 in Policy and Practice. Left to right: Hon. Kathleen O'Malley, Lisa Pensabene, Jonathan E. Singer, and John Desmarais '88.

The Equality Machine FUNTIME BOOK PARTY. Orly Lobel in conversation with Jeanne Fromer.

Celebrating the career of Rochelle Dreyfuss at DreyFEST. Left to right: Gustavo Ghidini, Peter Yu, Pamela Samuelson, Rochelle Dreyfuss, Margaret Chon, and Sharon K. Sandeen.

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Faculty
Co-Directors

Barton Beebe

John M. Desmarais Professor of Intellectual Property Law

Barton Beebe specializes in the doctrinal, empirical, and cultural analysis of intellectual property law. He has been the James S. Carpentier Visiting Professor of Law at Columbia Law School, the Anne Urowsky Visiting Professor of Law at Yale Law School, a Visiting Professor of Law at Stanford Law School, and a Visiting Research Fellow at Merton College, Oxford. He has also taught courses at the Center for International Intellectual Property Studies at the Université de Strasbourg, the Munich Intellectual Property Law Center, the State Intellectual Property Office of the People's Republic of China, and the Hanken School of Economics in Helsinki, Finland. Professor Beebe was a Special Master in the case of *Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, No. 04 Civ. 2990 (SAS) (S.D.N.Y.). He is the author of *Trademark Law: An Open-Source Casebook*, which is a free online trademark casebook now in use in over 70 law schools around the world. In 2020, he received the NYU School of Law Podell Distinguished Teaching Award. He clerked for Judge Denise Cote of the United States District Court for the Southern District of New York. BA (Chicago); JD (Yale); PhD (Princeton).

Recent & Forthcoming Publications

- *Charting Limits on Trademark Rights* (with Haochen Sun) (2023)
- "Consumer Uncertainty in Trademark Law: An Experimental Investigation," 72 *Emory Law Journal* 489 (2023) (with Roy Germano, Christopher Jon Sprigman, and Joel H. Steckel)
- *Trademark Law: An Open-Access Casebook*, v. 10 (free textbook, 2023)
- "The Future of Trademarks in a Global Multilingual Economy: Evidence and Lessons from the European Union," 114 *Trademark Reporter* 902 (2022) (with Jeanne Fromer)
- "Clearing Up Some Confusion About Dilution: A Reply to Hal Poret," 112 *Trademark Reporter* 684 (2022) (with Roy Germano, Christopher Jon Sprigman, and Joel H. Steckel)
- "Less as More in Intellectual Property Law," 102 *Boston University Law Review Online* 61 (2022)
- "The German Misappropriation Origins of Trademark Antidilution Doctrine: A Translation of the 1924 Odol Opinion of the Landgericht Elberfeld," in *Transition and Coherence in Intellectual Property Law: Essays in Honor of Annette Kur* (Niklas Bruun, Graeme B. Dinwoodie, Marianne Levin, and Ansgar Ohly eds., 2021)
- "An Empirical Study of U.S. Copyright Fair Use Opinions Updated, 1978-2019," 10 *NYU Journal of Intellectual Property & Entertainment Law* I (2020)
- "Fake Trademark Specimens: An Empirical Study," 121 *Columbia Law Review Forum* 217 (2020) (with Jeanne Fromer)

Rochelle C. Dreyfuss

Pauline Newman Professor of Law Emerita

A trained research chemist, Rochelle Cooper Dreyfuss focuses her research and writing on the intersection between patents and science and examines the implications of technological change on patent law and policy. Her other interests include international intellectual property law and procedural issues arising in intellectual property litigation, particularly in the international context. After graduating from Columbia Law School, she clerked for Chief Judge Wilfred Feinberg (Second Circuit) and Chief Justice Warren Burger (US Supreme Court). A member of the American Law Institute, Professor Dreyfuss was Reporter for its project on Intellectual Property: Principles Governing Jurisdiction, Choice of Law and Judgments in Transnational Disputes. She is currently an adviser on the ALI's Restatement Third of Conflicts of Laws project. She has been a consultant to the Federal Courts Study Committee, the Presidential Commission on Catastrophic Nuclear Accidents, and the Federal Trade Commission. She has served on committees of the National Academies of Science and the Department of Health & Human Services. She is a past chair of the Intellectual Property Section of the American Association of Law Schools. In addition to articles in her specialty areas, Professor Dreyfuss has co-authored books on intellectual property law and international intellectual property law.
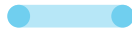
Recent & Forthcoming Publications

- "Human Rights in a Technological Age: The Right to Participate in Science," *Journal of International Law & Politics* (forthcoming)

- "The Past and Future in International Patent Law," 41 *Cardozo Arts & Entertainment Law Journal* 425 (2023) (symposium issue on 100 Years of Intellectual Property Law)

- *International Intellectual Property Law and Policy* (3d ed., forthcoming) (with Graeme B. Dinwoodie, Graeme Austin, and Shira Perlmutter)

- "Patents and Economic Inequality" in *Innovation and Global Inequality* (Daniel Benoliel ed., forthcoming) (with Daniel Benoliel)

- "From Parallel Play to Constructive Engagement: A Proposal for Plan B," in *Reforming IP* (Gustavo Ghidini and Valeria Falce eds., 2022)

- "The Complex Terrain of Intellectual Property Governance," in *Patents as an Incentive for Innovation* (Zaneta Zemla-Pacud and Rafal Sikorski eds., 2022)

- *The Rise (and Fall?) of Trade Secrecy Protection*, ALTI Forum, Cybersecurity; International Governance (June 15, 2022)

- "Self-Executing International Intellectual Property Obligations?" in *Intellectual Property Ordering Beyond Borders* (Axel Metzger and Henning Grosse Ruse-Khan eds., 2022)

- "Technological Self-Sufficiency and the Role of Novelty Traps," 24 *Vanderbilt Journal of Entertainment & Technology Law* 441 (2022) (with Daniel Benoliel)

- "International Law Association's Guidelines on Intellectual Property and Private International Law ("Kyoto Guidelines"): Jurisdiction," 12 *Journal of Intellectual Property, Information Technology and E-Commerce Law* 13 (2021) (with Joost Blom, Paulius Jurcys, Axel Metzger, Dário Moura Vicente et al.)

Jeanne Fromer

Walter J. Derenberg Professor of Intellectual Property Law

Jeanne Fromer specializes in intellectual property, including copyright, patent, trademark, trade secret, and design protection laws. She is the co-author, with Chris Sprigman, of a free copyright textbook, *Copyright Law: Cases and Materials*, which is in use at over 75 law schools around the world. In 2023, she received the NYU School of Law Podell Distinguished Teaching Award. In 2011, she was awarded the American Law Institute's inaugural Young Scholars Medal for her scholarship in intellectual property. Professor Fromer was a Visiting Professor at Harvard Law School and also previously taught at Fordham Law School. She was a law clerk to Justice David H. Souter (US Supreme Court) and Judge Robert D. Sack (Second Circuit). After working at Hale and Dorr (now WilmerHale) in intellectual property, she was an Alexander Fellow with the NYU School of Law and a Resident Fellow with Yale Law School's Information Society Project. She earned her BA summa cum laude in computer science from Barnard College and her SM in electrical engineering and computer science from MIT for research in artificial intelligence and computational linguistics, and worked at AT&T (Bell) Laboratories in those same areas. She received her JD magna cum laude from Harvard Law School, serving as Articles and Commentaries Editor of the *Harvard Law Review* and Editor of the *Harvard Journal of Law and Technology*.

Recent & Forthcoming Publications

- "A Psychology of Trade Secrecy" (forthcoming)
- "A Theory of Legal Protection for Industrial Design" (forthcoming) (with Christopher Sprigman)
- "Amazon's Quiet Overhaul of the Trademark System" (forthcoming) (with Mark McKenna)
- "First" (forthcoming)
- "Playful Innovation" (forthcoming) (with Mark Lemley)
- "Trademark Ownfringement," *Singapore Journal of Legal Studies* (forthcoming 2023)
- "Fashion and Intellectual Property" (2023) (with David Tan)
- *Copyright Law: Cases and Materials* (v5.0) (free textbook, 2023) (with Christopher Jon Sprigman)
- "Against Secondary Meaning," 98 *Notre Dame Law Review* 211 (2022)
- "The Future of Trademarks in a Global Multilingual Economy: Evidence and Lessons from the European Union," 112 *Trademark Reporter* 902 (2022) (with Barton Beebe)
- "Memes on Memes and the New Creativity," 97 *NYU Law Review* 453 (2022) (with Amy Adler)
- "Retelling Copyright: The Contributions of the Restatement of Copyright Law," 44 *Columbia Journal of Law & the Arts* 341 (2021) (with Jessica Silbey)
- "Fake Trademark Specimens: An Empirical Study," 121 *Columbia Law Review Forum* 217 (2020) (with Barton Beebe)
- "The New Copyright Opportunist," 67 *Journal of the Copyright Society of the U.S.A.* 1 (2020)

Scott Hemphill

Moses H. Grossman Professor of Law

Scott Hemphill teaches and writes about antitrust and intellectual property. His scholarship ranges broadly, from drug patents to digital platforms to the use of trademark law to thwart competition. His recent work examines the anticompetitive acquisition of startups by dominant firms in the technology sector and probes how institutional investors might weaken competition among their portfolio companies. Professor Hemphill's scholarship on tactics to delay the marketing of inexpensive generic drugs has been widely cited by the US Supreme Court and other courts. His writing has appeared in leading law reviews and peer-reviewed journals of economics, science, and law, and he has testified before the US Congress about mergers and proposals to incentivize new drug development, among other matters. Professor Hemphill holds a JD and PhD in economics from Stanford, an AB from Harvard, and an MS in economics from the London School of Economics, where he studied as a Fulbright Scholar. He clerked for Judge Richard Posner and Supreme Court Justice Antonin Scalia. On public service leave from academia, he served as Antitrust Bureau Chief for the New York Attorney General. Professor Hemphill joined NYU from Columbia University, where he was a Professor of Law.

Recent & Forthcoming Publications

- "The Coca-Cola Bottle: A Fragile Vessel for Building a Brand," in *Cambridge Handbook of Marketing and the Law* (Jacob Gersen and Joel Steckel eds.) (forthcoming) (with Jacob Gersen)
- "Antitrust and Trademark Settlements," 85 *Antitrust Law Journal* 67 (2023) (with Erik Hovenkamp)
- The NBER Orange Book Dataset: A User's Guide, 52 *Research Policy* 104791 (2023) (with Maya Durvasula, Lisa Larrimore Ouellette, Bhaven Sampat, and Heidi Williams)
- "Endogenous Choice of Stakes Under Common Ownership," 1 *University of Chicago Business Law Review* 217 (2022) (with Marcel Kahan)
- "Fixing The FDA's Orange Book," 41 *Health Affairs* 797 (2022) (with Bhaven Sampat)
- *Teacher's Manual for Antitrust Analysis: Problems, Text, and Cases* (8th ed., 2022) (with Phillip Areeda, Louis Kaplow, and Aaron Edlin)
- *Antitrust Analysis: Problems, Text, and Cases* (8th ed., 2021) (with Phillip Areeda, Louis Kaplow, and Aaron Edlin)
- "Assessing Strategies to Delay Generic Drug Entry," 11 *New York University Journal of Intellectual Property and Entertainment Law* 60 (2021) (with Robin Feldman et al.)
- "Nascent Competitors," 168 *University of Pennsylvania Law Review* 1879 (2021) (with Tim Wu) (awarded the American Antitrust Institute's Jerry S. Cohen Writing Award; recognized by *Concurrences* as 2021's best paper in general antitrust)
- "The Strategies of Anticompetitive Common Ownership," 129 *Yale Law Journal* 1392 (2020) (with Marcel Kahan) (recognized as one of the best articles of 2020 by *Corporate Practice Commentator*)
- "A Study of Exclusionary Coalitions: The Canadian Sugar Coalition, 1888-1889," 83 *Antitrust Law Journal* 99 (2020) (with John Asker)
- "What Role for Antitrust in Regulating Platforms?" *Communications of the ACM* 36 (May 2020)

Jason M. Schultz

Professor of Clinical Law

Jason M. Schultz is a Professor of Clinical Law and Director of NYU's Technology Law & Policy Clinic. His clinical projects, research, and writing primarily focus on practical frameworks and policy options to help traditional areas of law such as intellectual property, privacy, consumer protection, and civil rights adapt in light of new technologies and the challenges they pose. His most recent work focuses on the social and legal implications of machine learning, artificial intelligence, and the Internet of Things. During the 2016–17 academic year, Professor Schultz was on leave to work at the White House Office of Science and Technology Policy, where he served as Senior Advisor on Innovation and Intellectual Property to US Chief Technology Officer Megan Smith.

With Aaron Perzanowski, he is the author of *The End of Ownership: Personal Property in the Digital Economy* (MIT Press 2016). Prior to joining NYU, Professor Schultz was an Assistant Clinical Professor of Law and Director of the Samuelson Law, Technology & Public Policy Clinic at the UC Berkeley School of Law (Boalt Hall). Before joining Boalt Hall, he was a Senior Staff Attorney at the Electronic Frontier Foundation (EFF).

Recent & Forthcoming Publications

- "The Right of Publicity: A New Framework for Regulating Facial Recognition," 88 *Brooklyn Law Review* 1039 (2023)

- "A Framework for Deprecating Datasets: Standardizing Documentation, Identification, and Communication," *Proceedings of the ACM Conference on Fairness, Accountability & Transparency* 199 (2022) (with Alexandra Sasha Luccioni, Frances Corry, Hamsini Sridharan, Mike Ananny et al.)

- "Dirty Data, Bad Predictions: How Civil Rights Violations Impact Police Data, Predictive Policing Systems, and Justice," 94 *NYU Law Review Online* 192 (2019) (with Rashida Richardson and Kate Crawford)

Chris Sprigman

Murray and Kathleen Bring Professor of Law

Chris Sprigman teaches intellectual property law, antitrust law, competition policy, and comparative constitutional law. His scholarship focuses on how legal rules affect innovation and the deployment of new technologies. He is the author of numerous articles both in law reviews and in the popular press, as well as a book, *The Knockoff Economy: How Imitation Sparks Innovation* (Oxford 2012), co-authored with Kal Raustiala of the UCLA School of Law. He also serves as the Reporter for the American Law Institute's Restatement of Law: Copyright. Professor Sprigman received his BA with honors from the University of Pennsylvania in 1988. He attended the University of Chicago Law School, serving as a Comment Editor of the *University of Chicago Law Review* and graduating with honors in 1993. Following graduation, Professor Sprigman clerked for Judge Stephen Reinhardt of the US Court of Appeals for the Ninth Circuit, and for Justice Lourens H. W. Ackermann of the Constitutional Court of South Africa. Professor Sprigman also taught at the law school of the University of the Witwatersrand, in Johannesburg, South Africa. From 1999 to 2001, Professor Sprigman served as Appellate Counsel in the Antitrust Division of the US Department of Justice, where he worked on *US v. Microsoft*, among other matters.

Recent & Forthcoming Publications

- "Intellectual Property and the Manufacture of Aura," 36 *Harvard Journal of Law and Technology* 291 (2023) (with Stefan Bechtold)

- "Self-Nudging Contracts and the Positive Effects of Autonomy — Analyzing the Prospect of Behavioral Self-Management," 19 *Journal of Empirical Legal Studies* 594 (2022) (with Stephan Tontrup)

- "Privacy Decisions Are Not Private: How the Notice and Choice Regime Induces Us to Ignore Collective Privacy Risks" (work in progress) (with Stephan Tontrup)

- "Statutory Damages under the Copyright Act: An Empirical Study," *Michigan State University Law Review* (invited contribution) (forthcoming) (with Benjamin K. Brady and Roy Germano)

- *Antitrust: Principles, Cases, and Materials* (American Bar Association, 2023) (with Daniel Francis)

- "Are Negative Spaces Likely to Be Fragile?" in *Improving Intellectual Property: A Global Project* (Susy Frankel, et al, eds., 2023)

- "Consumer Uncertainty in Trademark Law: An Experimental Investigation," 72 *Emory Law Journal* 489 (2023) (with Barton Beebe, Roy Germano, and Joel H. Steckel)

- *Copyright Law: Cases and Materials* (v5.0) (free textbook, 2023 (with Jeanne C. Fromer)

- "Clearing Up Some Confusion About Dilution: A Reply to Hal Poret," 112 *Trademark Reporter* 684 (2022) (with Barton Beebe, Roy Germano and Joel H. Steckel)

- *The Indigo Book: A Manual of Legal Citation* (version 2.0) (Public.Resource.Org, Inc., 2022) (with Jennifer Romig et al.)

- "Faster Fashion: *The Piracy Paradox* and Its Perils," 39 *Cardozo Arts & Entertainment Law Journal* 535 (2021) (with Kal Raustiala)

- "Jurisdiction Stripping as a Tool for Democratic Reform of the Supreme Court: Written Testimony for the Presidential Commission on the Supreme Court of the United States" (available at https://www.whitehouse.gov/wp-content/uploads/2021/08/Professor-ChristopherJohn-Sprigman.pdf)

- "What Does Antitrust's Revival Mean for Copyright? (The 50th Annual Brace Memorial Lecture of the Copyright Society of the USA)," 68 *Journal of the Copyright Society U.S.A.* 401 (2021)

Katherine Strandburg

Alfred E. Engelberg Professor of Law

Katherine Strandburg concentrates her teaching and research in the areas of patent law and innovation policy and information privacy law. Her scholarship considers how the law in these areas should reflect the importance of collaboration and social interactions and respond to technological change. Her legal analysis is informed by studies of user innovation and of knowledge commons governance. She is the Faculty Director of the interdisciplinary NYU Information Law Institute. She is currently co-leading (with Brett M. Frischmann, Michael J. Madison, and Madelyn Sanfilippo) the National Science Foundation-supported project RCN: The Governing Knowledge Commons Research Coordination Network.

Professor Strandburg obtained her law degree from the University of Chicago Law School with high honors in 1995 and served as a law clerk to the Honorable Richard D. Cudahy of the US Court of Appeals for the Seventh Circuit.

Prior to her legal career, Professor Strandburg was a research physicist at Argonne National Laboratory, having received her PhD from Cornell University in 1984 and conducted postdoctoral research at Carnegie Mellon. She was a visiting faculty member of the physics department at Northwestern University from 1990 to 1992.

Recent & Forthcoming Publications

- "Legitimacy in Context" (forthcoming) (with Ashley Gorham, Helen Nissenbaum, Madelyn Sanfilippo, and Mark Verstraete)
- "Privacy Regulatory Dodges" (forthcoming) (with Salome Viljoen and Helen Nissenbaum)
- "When Does Gaming Justify Algorithmic Secrecy?" (forthcoming) (with Ignacio Cofone)
- "The Great Regulatory Dodge" *Harvard Journal of Law and Technology* (forthcoming 2024) (with Salome Viljoen and Helen Nissenbaum)
- "Privacy and Contact Tracing Efficacy, 19 *Journal of the Royal Society Interface* art no. 20220369 (2022) (with Sebastian Benthall, Erez Hatna, and Joshua M. Epstein)
- "Too Much of a Good Thing? A Governing Knowledge Commons Review of Abundance in Context," 7 F*rontiers in Research Metrics & Analytics* art no. 959505 (2022) (with Michael J. Madison, Brett M. Frischmann, and Madelyn R. Sanfilippo)
- "Trade Secrecy and Innovation in Forensic Technology," 73 *Hastings Law Journal* 773 (2022) (with Eli Siems and Nicholas Vincent)
- "Adjudicating with Inscrutable Decision Rules," in *Machines We Trust: Perspectives on Dependable AI* (Teresa Scantamburlo and Marcello Pelillo eds., 2021)
- "Agent-Based Modeling as a Legal Theory Tool," 9 *Frontiers in Physics, Research Topic: The Physics of the Law: Legal Systems Through the Prism of Complexity Science* art. no. 666386 (June 21, 2021) (peer reviewed)
- "At the Boundary of Law and Software: Toward Regulatory Design with Agent-Based Modeling," 3182 *CEUR Workshop Proceedings* (2021) (with Sebastian Benthall, Michael Carl Tschantz, Erez Hatna, and Joshua M. Epstein)
- "Generalizability: Machine Learning and Humans-in-the-Loop," in *Research Handbook on Big Data Law* (R. Vogl ed., 2021) (with John Nay)
- *Governing Privacy in Knowledge Commons* (2021) (ed. with Madelyn Rose Sanfilippo and Brett M. Frischmann)
- "Privacy Governing Knowledge in Public Facebook Groups for Political Activism," 24 *Information, Communication & Society* 960 (2021) (with Madelyn Rose Sanfilippo)
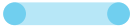
Center Staff

Nicole Arzt

Operations Staff

Nicole Arzt has overseen the daily operations of the Engelberg Center on Innovation Law & Policy since 2000 and coordinates the Center's various programs.

Jennie Rose Halperin

Director, Library Futures

Jennie Rose Halperin (she/her/hers) is a digital strategist, community builder, and librarian. She is focused on growing the organization and its reach and fostering a culture of open, inclusive leadership to support equitable library policy, technology, and advocacy.

Michelle Reed

Research Manager, Library Futures

Michelle Reed is an advocate for the legal, political, cultural, and technological change necessary to open access to scholarship and education.

Katrina Southerland

Program Manager

Katrina received her BS in Media, Culture, and Communications from NYU Steinhardt School of Culture, Education, and Human Development, where she studied Global Communication and Images and Screens Studies.

Michael Weinberg

Executive Director

Before joining the Center, Michael served as General Counsel at Shapeways, a 3D printing marketplace and service company, where he also oversaw strategic partnerships and developed new business initiatives. Prior to Shapeways, Michael held a number of roles at Public Knowledge, a nonprofit public interest advocacy organization dedicated to representing consumers in technology policy debates in Washington, DC. He is also the President of the Board of the Open Source Hardware Association.

Affiliated Faculty

Amy Adler

Emily Kempin Professor of Law

Amy Adler, the Emily Kempin Professor of Law at NYU School of Law, is one of the leading scholars of art law in the US. She teaches Art Law, First Amendment Law, and Feminist Jurisprudence at NYU Law, and lectures about these topics to a wide range of audiences in both art and law.

Richard Epstein

Laurence A. Tisch Professor of Law

Richard A. Epstein is the inaugural Laurence A. Tisch Professor of Law at NYU School of Law, where he serves as a Director of the Classical Liberal Institute, which he helped found in 2013.

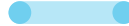### Daniel Francis

Assistant Professor of Law

Daniel Francis is an Assistant Professor of Law at NYU. He writes and teaches about regulation and competition, particularly in complex and high-tech markets.

Harry First

Charles L. Denison Professor of Law

Harry First is Co-Director of the Competition, Innovation and Information Law Program and a specialist in antitrust and business crime. His scholarly work has focused on various aspects of antitrust enforcement and theory.

Eleanor Fox LLB '61

Walter J. Derenberg Professor of Trade Regulation Emerita

Eleanor Fox LLB '61 is a prominent antitrust and comparative competition law scholar. She has a special interest in developing countries, poverty, and inequality, and explores how opening markets and attacking privilege, corruption, and cronyism can alleviate marginalization and open paths to economic opportunity and inclusive development.

Deepak Hegde

Professor of Management and Organizations, NYU Stern School of Business; Founding Director, Endless Frontier Labs

Deepak Hegde's research focuses on the unique challenges posed by innovation to business strategy and public policy (principally the production and commercialization of new ideas). He studies high-tech industries including biomedical and information and communication technologies.

Daniel Hemel

Professor of Law

Daniel Hemel joined NYU School of Law in June 2022 as a Professor of Law. His wide-ranging research explores topics in taxation, intellectual property, administrative and constitutional law, and nonprofit organizations.

Benedict Kingsbury

Vice Dean and Murry and Ida Becker Professor of Law; Director, Institute for International Law and Justice; Faculty Director, Guarini Institute for Global Legal Studies

Benedict Kingsbury's major current projects focus on large-scale global ordering such as TPP and the Belt and Road Initiative (MegaReg); physical, digital, and informational infrastructure (InfraReg, with Sally Merry); and global data/tech law.

Florencia Marotta-Wurgler '01

Boxer Family Professor of Law; Faculty Director, NYU Law in Buenos Aires

Florencia Marotta-Wurgler focuses on contracts, consumer privacy, consumer law, electronic commerce, empirical legal studies, and law and economics. Her research has studied consumer contracts and privacy policies online, such as whether disclosure and information privacy regimes are effective and whether people read fine print.

Arthur Miller

University Professor and Warren E. Burger Professor of Constitutional Law and the Courts
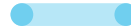
Arthur Miller, CBE, is one of the nation's most distinguished legal scholars in the areas of civil litigation, copyright, unfair competition, and privacy. A renowned commentator on law and society, he won an Emmy for his work on PBS' *The Constitution: That Delicate Balance* and served for two decades as the legal editor for ABC's *Good Morning America*.

Joel Steckel

Professor of Marketing, Vice Dean for Doctoral Education, NYU Stern School of Business

Joel Steckel's primary research areas of interest include marketing research, marketing and branding strategy, approaches for one-to-one marketing, managerial decision processes, and methodologies for measuring consumer performance and behavior. Among other accomplishments, he was the Founding President of the INFORMS Society for Marketing Science.

Petra Moser

Professor of Economics, Jules I. Backman Faculty Fellow, NYU Stern School of Business

Petra Moser's research combines methods from empirical microeconomics and economic history to examine the determinants of creativity and innovation. She uses historical variation in patent and copyright laws to examine the effects of intellectual property on science, technological innovation, and artistic creativity.
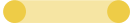
Adjunct Faculty

Jodi Balsam '86

Associate Professor of Clinical Law, Director of Externship Programs, Brooklyn Law School
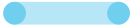
Angelina Fisher

Program Director, Institute for International Law and Justice, NYU School of Law

Megan K. Bannigan

Partner, Debevoise & Plimpton

Hima Gleason '09

Adjunct Assistant Professor, NYU College of Arts and Sciences, Former Senior Deputy Director of Exhibitions and Collections at the Museum of Modern Art

David H. Bernstein

Partner, Debevoise & Plimpton

Zachary Goldman '09

Senior Associate, WilmerHale

Mitch Engler '90, LLM '91

Professor of Law, Cardozo Law School

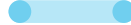**Nicholas Groombridge**

Partner, Paul, Weiss, Rifkind, Wharton & Garrison

Douglas Hand '97

Partner, Hand Baldachin & Associates

Brett Max Kaufman

Senior Staff Attorney, ACLU Center for Democracy

Vinay Jain '09

Vice President and Senior Counsel for Technology & IP, American Express Global Business Travel

Day Krolik '73

Adjunct Professor of Law, NYU School of Law

Michael Kasdan '01

Partner, Wiggin and Dana
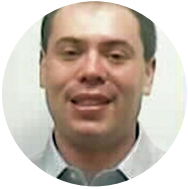
Benjamin Marks '97

Partner, Weil, Gotshal & Manges

Randal Milch '85

Executive Vice President, Strategic Policy Advisor to the Chair and CEO of Verizon Communications (retired)

Engelberg Center on Innovation Law & Policy

Jeffrey Parnass

Vice President & Assistant General Counsel, News Corp/Dow Jones

Rose Schwartz '80

Partner, Franklin, Weinrib, Rudell & Vassallo, LLP

David Pashman '97

General Counsel, JW Player

David Benjamin Stein '22

Adjunct Professor of Law, NYU School of Law

Ira Rubenstein
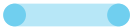
Research Fellow, Information Law Institute, NYU School of Law

Eric Stone '97

Partner, Paul, Weiss, Rifkind, Wharton & Garrison

Melanie Rupert '01

Partner, Paul Hastings

Judge David Strickler

Music Adjunct Faculty, NYU Steinhardt; United States Copyright Royalty Judge

Donn Zaretsky

Partner, Silberman Zaretsky PC

Thomas Streinz LLM '15

Adjunct Professor of Law and Research Scholar, NYU School of Law

Bruce Wexler '92

Partner, Paul Hastings

DreyFEST. Margaret Chon, Susy Frankel, Barbara Lauriat, and Graeme B. Dinwoodie present Rochelle Dreyfuss with the book *Improving Intellectual Property*.

DreyFEST. Left to right: Christine Farley, Justin Hughes, and Ruth Okediji.

DreyFEST. Left to right: Jeanne Fromer, Hon. Raymond Chen '94, Melissa Wasserman '07, John Desmarais '88, and Marketa Trimble.

Our People

Board of Advisors

The Engelberg Center's Advisory Board brings together a corps of accomplished and insightful people from industry, law firms, government, and the non-profit sector, and from every part of the innovation community. The Engelberg Center works closely with the Advisory Board to connect our academic work to real-world knowledge, practice, and wisdom.

John Desmarais '88, Claudia Ray '92, and Bruce Wexler '92 led the effort of bringing the Engelberg Center's Advisory Board together, and we are immensely grateful for their work and dedication.

Board Members

Judges

- Judge Raymond Chen '94, US Court of Appeals for the Federal Circuit
- Judge Denise Cote, US District Court for the Southern District of New York
- Judge Pierre Leval, US Court of Appeals for the Second Circuit
- Judge Pauline Newman '58, US Court of Appeals for the Federal Circuit

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- Doug Cawley, Principal, McKool Smith
- Stephen Coates, Founder, Coates IP
- John Desmarais '88, Founding Partner, Desmarais
- Mark Ferguson, Co-Founder, Bartlit Beck
- Robert Gunther Jr., Partner, WilmerHale
- Keith Hummel, Partner, Cravath, Swaine & Moore
- Benjamin Marks '97, Partner, Weil, Gotshal & Manges
- Christopher Noyes, Partner, WilmerHale
- Joseph Petersen, Partner, Kilpatrick Townsend
- Ashok Ramani, Partner, Davis Polk & Wardwell
- Claudia Ray '92, Partner, Kirkland & Ellis
- Melanie Rupert '01, Partner, Paul Hastings
- Bruce Wexler '92, Partner, Paul Hastings

In-House Lawyers

- Ayala Deutsch '89, Executive Vice President & Deputy General Counsel, NBA Properties, Inc.
- Vladimir Elgort, Chief IP Counsel, American Express
- Henry Hadad, Senior Vice President and Deputy General Counsel, Bristol Myers Squibb
- Noreen Krall, Vice President and Chief Litigation Counsel, Apple Inc.
- Erin Mehta, Senior Intellectual Property Counsel, Northrop Grumman
- Donna Meuth, Associate General Counsel Intellectual Property, Eisai

- Douglas Norman, Vice President and General Patent Counsel, Eli Lilly and Company (retired)
- Benjamin R. Yrun Ostapuk, Vice President and Director of Patent Litigation, Intel Corporation
- Steven Purdy, Senior IP Counsel, IBM Research
- Mark Rachlin, Senior Patent Litigation Counsel, GlaxoSmithKline
- Laura Sheridan, Senior Patent Counsel, Google
- Jule Sigall, Associate General Counsel, IP, Policy & Strategy, Microsoft

Nonprofit, Government, and Policy Lawyers

- Greg Cram, Associate Director of Copyright and Information Policy, The New York Public Library
- Alfred Engelberg '65, Trustee, The Engelberg Foundation
- Judit Rius Sanjuan, International Governmental Organization
- Gigi Sohn, Distinguished Fellow, Georgetown Law Institute for Technology Law & Policy

Our People

Fellows & Visitors

Jane Anderson

Global Fellow

Jane Anderson is an Associate Professor in Anthropology and Museum Studies at New York University, Lenapehoking. Jane has a PhD in Law. She has spent 20 years working on intellectual and cultural property law, Indigenous rights and the protection of Indigenous/traditional knowledge and cultural heritage. Jane is the cofounder of Local Contexts, which delivers the extra-legal digital protocol and provenance mechanism the TK and Biocultural Labels, and is Co-Director of the Equity for Indigenous Research and Innovation Coordinating Hub (ENRICH).

Christo Buschek

Knowing Machines Fellow

Christo Buschek is a programmer and data journalist. His focus lies in data-driven research, which he combines with storytelling to expose human rights abuses and strengthen social justice. Buschek received the Kim Wall Award and the Pulitzer Prize in 2021 for the project "Built to Last," which documented the mass incarceration of Uighurs in China.

Kyle K. Courtney

Library Futures Fellow

Kyle K. Courtney is a lawyer and librarian dedicated to issues surrounding copyright, access, and preservation. He serves as Copyright Advisor and Program Manager at the Harvard Library Office for Scholarly Communication. His "Copyright First Responders" initiative is in its seventh year, spreading from Harvard to libraries, archives, and other cultural institutions in Alaska, Arizona, California, Colorado, Massachusetts, Oregon, Rhode Island, Washington, and soon, internationally.

Melodi Dincer

Knowing Machines Fellow

Melodi Dincer is a tech privacy lawyer, Legal Research Fellow with the Knowing Machines Project, and Supervising Attorney for NYU Law's Technology Law & Policy Clinic. She is endlessly curious about data privacy, biometrics, machine (un)learning, artificial (un)intelligence, and the impacts of exploitative data practices on marginalized communities. Melodi clerked for the Honorable Arenda L. Wright Allen of the US District Court for the Eastern District of Virginia.

Sarah Feingold

Affiliate Fellow

Born an artist, Sarah Feingold decided the best way to protect creative folks like herself was to attend law school. She then cannonballed into Etsy as the 17th employee and first lawyer where she played an integral role in scaling Etsy from an inconspicuous startup to a publicly traded company. After Etsy, Sarah joined Vroom as its General Counsel and first attorney.

Michael Goodyear

Fellow

Michael Goodyear is an Acting Assistant Professor of Lawyering at NYU Law. Michael's research analyzes the potential of copyright and trademark law to spark and stymie technological and cultural change. He also studies the impact of copyright and trademark law on underrepresented populations, especially the LGBTQ+ community. His current projects focus on Web3 technologies, algorithms, and generative AI.

Māui Hudson (Whakatōhea)

Global Fellow

Māui Hudson (Whakatōhea) is an Associate Professor and Director of the Te Kotahi Research Institute at the University of Waikato. His work focuses on Indigenous Data Sovereignty and the application of Indigenous Knowledge to decision-making across a range of contemporary contexts. Māui advocates for Indigenous rights and interests through Te Mana Raraunga: Māori Data Sovereignty Network, and the Global Indigenous Data Alliance (GIDA). He is a Co-Director of ENRICH and Local Contexts.

Camilla Hrdy

Visiting Scholar

Camilla A. Hrdy is a Professor of Intellectual Property Law at University of Akron School of Law; an Affiliate Fellow at the Yale Law School Information Society Project; a Scholar at the Center for Intellectual Property x Innovation Policy (C-IP2); and a member of the Sedona Conference Working Group on Trade Secrets.

Jake Karr

Knowing Machines Fellow

Jake is the Teaching Fellow and a Supervising Attorney in NYU's Technology Law & Policy Clinic. His clinical work focuses generally on free expression, surveillance, and transparency, and his research interests include the privacy and speech implications of digital technologies.

Sarah Lamdan

Fellow

Sarah Lamdan is a Professor of Law at CUNY School of Law who specializes in information law and policy across the spectrum from open government to personal privacy.

Matthias Leistner

Visiting Scholar

Matthias Leistner is Professor of Private Law and Intellectual Property Law, with Information and IT-Law (German Association for the Protection of Intellectual Property (GRUR) Chair) at Ludwig Maximilian Unversity (LMU) Munich.

Patricia Martone

Affiliate Fellow

Patricia Martone is an author and speaker in the field of patent law. During her 47 years of law practice, she focused on intellectual property disputes involving technology leaders based in the United States, Europe, and Asia. After 40 years in Biglaw, including partnerships in the firms of Fish & Neave LLP, Ropes & Gray LLP, and Morrison & Foerster LLP, in 2014 she started her own firm.

Claire Woodcock

Digital Ownership Fellow

Claire Woodcock is a graduate student in the Media & Public Engagement program at the University of Colorado Boulder. Her thesis topic revolves around archives, technology, and ethics. She is also an independent journalist who writes regularly for Vice Motherboard about the politics of information access and censorship.

Student
Fellows

Xanthia Hargreaves

Student Fellow

Xanthia is an LLM student at NYU, specializing in intellectual property and entertainment law. Originally from Australia and Hong Kong, she completed her legal education at the University of Oxford and Leiden University, before training and practicing for four years at Freshfields' intellectual property team in London. At NYU, she is a Staff Editor on the *Journal of Intellectual Property and Entertainment Law*.

Lindsay Harris

Student Fellow

Lindsay Harris is a Class of 2023 JD student at NYU Law. She graduated from Johns Hopkins University with a degree in Political Science in 2018. After college, Lindsay worked as a corporate paralegal at Paul, Weiss in New York, where she assisted with private equity transactions. At NYU, Lindsay has been a board member of the Social Enterprise & Startup Law Group and Law Women, and a staff editor on the *Journal of Intellectual Property and Entertainment Law*.

Batya Kemper

Student Fellow

Batya Kemper is a class of 2024 JD candidate at NYU Law. She graduated magna cum laude with a degree in History from Barnard College in 2020. After college, Batya served as an AmeriCorps VISTA at the Santa Barbara Public Defender, where she managed and tracked data. At NYU, Batya is a Birnbaum Women's Leadership Fellow, a staff editor for the *Journal of Intellectual Property and Entertainment Law*, and an Information Law Institute Fellow.

Talya Whyte

Student Fellow

Talya Whyte is a second-year law student who is interested in law and policy related to emerging technologies. Prior to law school, she studied psychology and neuroscience at the University of Alabama. At Alabama, she also worked at the campus' Civic Engagement Center investigating questions related to political dialogues, civic engagement, and threats to democracy.

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Engelberg Center Events

The Engelberg Center organizes and hosts a number of events throughout the year that tackle a wide spectrum of topics and engage diverse audiences.

Kickstarter Union Oral History - Live!

September 15, 2022

We joined workers who voiced the Kickstarter Union Oral History Podcast, along with the Tech Workers Coalition, and the Engelberg Center on Innovation Law & Policy for a special panel discussion centered on Kickstarter United's first contract. We talked about what's happened since the last episode of the podcast, what workers demanded in a contract, how they built consensus, and how the terms of this contract will ripple through the tech industry.

A Conversation with Internet Archive Founder Brewster Kahle

September 20, 2022

Engelberg Center Co-Director Jason Schultz discussed the future of digital ownership with Internet Archive founder Brewster Kahle.

Fake Symposium

September 22–23, 2022

While the law is often forced to make binary distinctions between what is real and what is fake, that distinction can be much more fluid in broader society. The Fake Symposium explored the distinction betweeen the real and the fake across social media movements, goods, art, intellectual property, and news, and how well that understanding in the legal context maps on to societal expectations.

The future of digital ownership. Brewster Kahle (left) with Jason Schultz.

Chokepoint Capitalism FUNTIME BOOK PARTY

September 23, 2022

Corporate concentration (and profits) have breached the stratosphere. An ever-expanding constellation of industries are now monopolies (where sellers have excessive power over buyers), monopsonies (where buyers hold the whip hand over sellers)—or both. Rebecca Giblin and Cory Doctorow argued the result is "chokepoint capitalism": rigged markets where powerful corporations have managed to position themselves between workers and customers in ways that allow them to extract far more than their fair share of value.

Chokepoint Capitalism FUNTIME BOOK PARTY.
Rebecca Giblin and Cory Doctorow.

Realigning Law, Values, & Technology

October 13, 2022

In *Chokepoint Capitalism*, Rebecca Giblin and her co-author Cory Doctorow explored how creative labor markets have been captured and distorted, suggesting interventions to restore the balance that allows them to function as intended.

Jessica Silbey's *Against Progress* examined how intellectual property law's progress has grown separate from art, science, and social justice today, and how they might be reunited.

Rebecca Giblin and Jessica Silbey joined Engelberg Center Faculty Co-Director Jason Schultz to discuss their work.

Public Interest Careers in Law and Technology

October 27, 2022

An alumni panel discussion spoke on careers at the intersection of law and technology with a public interest perspective. Our panel featured Alexia Ramirez '19 of the Knight First Amendment Institute (formerly at ACLU Speech, Privacy & Technology Project) and Clarence Okoh '20, Just Tech Fellow at the Center for Law & Social Policy (formerly at NAACP Legal Defense Fund).

Persistent Barriers Facing Women First Chair Patent Trial Lawyers

November 1, 2022
Cohosted by the Birnbaum Women's Leadership Network and ChIPs

How much progress have women made in becoming first chair trial lawyers in patent litigation?

Drawing on 46 years of practice and data representing hundreds of cases spread out over a decade, Engelberg Center Fellow Patricia Martone explored the current state of affairs and described options for moving forward in her new white paper.

Femtech and Privacy: Striking the Balance in a Post-*Dobbs* Reality

November 2, 2022

In the aftermath of the leaked Supreme Court ruling in *Dobbs v. Jackson Women's Health Organization*, warnings to period tracking app users went viral. This panel discussion with academic, innovation, and advocacy experts explored how exactly such data is already or could be used—and misused. What privacy laws or legislation can be leveraged to protect femtech users? And why does menstrual literacy—with or without tech tools—matter more than ever in our post-*Dobbs* reality?

Beyond the Law: Property and Possession

November 3, 2022
Cohosted by ENRICH

This event engaged topics of property in legal, political, economic, cultural, and environmental contexts. Participants discussed papers and emerging debates around the intellectual use of ancestral knowledge by local communities.

Persistent Barriers. Patricia Martone speaks on the challenges facing women first chair patent trial lawyers.

Data Cartels FUNTIME BOOK PARTY

November 10, 2022

Professor of Law Sarah Lamdan discussed her new book *Data Cartels: The Companies that Control and Monopolize Our Information* with MarketWatch Enterprise Reporter Shoshana Wodinsky.

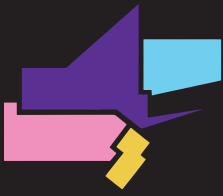**Data Cartels FUNTIME BOOK PARTY.** Sarah Lamdan (right) discusses her book with Shoshana Wodinsky.

Indigenous Data Sovereignty Symposium

March 1, 2023
Cohosted by the Journal of Intellectual Property and Entertainment Law (JIPEL)

Despite Indigenous peoples' long struggle for sovereignty over their lands, they are often excluded from conversations focused on their "data sovereignty." In response, the Indigenous Data Sovereignty, or IDSov, movement has emerged to recognize the fundamental rights and interests of Indigenous peoples relating to the collection, ownership, and stewardship of data relating to their communities, knowledge, and lands. The multifaceted nature of IDSov gives rise to a broad spectrum of legal and ethical concerns, from data storage, ownership, consent, and access, to intellectual property rights and other considerations about how data are used in research, policy, and practice.

The *Journal of Intellectual Property and Entertainment Law* (JIPEL) focused their annual Spring Symposium on IDSov. The event was held in collaboration with ENRICH, a coordinating hub for equity concerning Indigenous research and innovation, co-directed by Jane Anderson (NYU) and Māui Hudson (University of Waikato), and the Engelberg Center on Innovation Law & Policy.

Thirteenth Annual Tri-State Region IP Workshop
January 13, 2023

The 2023 Tri-State Region IP Workshop brought together intellectual property scholars (including professors, fellows, visitors, graduate students, and practitioners) from New York, New Jersey, Connecticut, and Philadelphia to present their works in progress for commentary in a workshop environment.

Professors Barton Beebe and Jeanne Fromer organized the workshop, which featured the following authors, papers, and commentators:

Patent Law

Jonathan Ashtor, Paul, Weiss; Cardozo School of Law
Patent Limitations
Commentator: Deepak Hegde, NYU Stern School of Business

Sepehr Shahshahani, Fordham University School of Law
Anti-Intellectualism in American Intellectual Property Law
Commentator: Mala Chatterjee, Columbia Law School

Copyright Law

Richard Chused, New York Law School
Mural ©ontroversy
Commentator: Eva Subotnik, St. John's University School of Law

Shyam Balganesh, Columbia Law School
Learned Hand's Copyright Law
Commentator: James Grimmelmann, Cornell Law School

Intellectual Property Litigation

Paul Gugliuzza, Temple University Beasley School of Law
Myths and Realities of Patent Law at the Supreme Court (with Mark Lemley)
Commentator: Gaia Bernstein, Seton Hall Law School

Saurabh Vishnubhakat, Cardozo School of Law
Federal Courts as a Common-Pool Resource
Commentator: Rochelle Dreyfuss, NYU School of Law

Trademarks and Unfair Competition

Michael Goodyear, Weil, Gotshal & Manges
Queer Trademarks
Commentator: Jennifer Rothman, University of Pennsylvania Carey Law School

Daniel Kevles, NYU School of Law; Yale University
Novelties, Frauds, and Protections: The Seed and Nursery Businesses in Nineteenth-Century America
Commentator: Christopher Beauchamp, Brooklyn Law School

The Equality Machine FUNTIME BOOK PARTY

March 23, 2023

Much has been written about the challenges tech presents to equality and democracy. But we can either criticize Big Data and automation or steer it to do better. Orly Lobel argued that while we cannot stop technological development, we can direct its course according to our most fundamental values.

The shoulders of giants. Rochelle Dreyfuss with Rebecca Eisenberg, Pamela Samuelson, Wendy Gordon, and Jessica Litman.

DreyFEST

March 24, 2023

DreyFEST celebrated the career of Professor Rochelle Dreyfuss. Featuring all-star tributes, panels reflecting the range of Professor Dreyfuss' work and impact, as well as the launch of the book *Improving Intellectual Property: A Global Project*, DreyFEST was the highlight of the Engelberg Center's 2022–23 season. It was complemented by a second launch of *Improving Intellectual Property: A Global Project* at the ATRIP Congress in Tokyo, Japan.

Book Talk: More Than a Glitch with Meredith Broussard

March 30, 2023

Cohosted by the Birnbaum Women's Leadership Network

A book talk with Meredith Broussard, Associate Professor at the Arthur L. Carter Journalism Institute at NYU and author of *More Than a Glitch: Confronting Race, Gender, and Ability Bias in Tech*.

Patent Disclosures Under Section 112 in Policy and Practice

April 19, 2023

This half-day conference explored the past, present, and future of patent disclosures under Section 112 across industries. It featured expert panels on *Amgen*, Section 112 in the Life Sciences, and Section 112 in Technology, concluding with a more speculative discussion about the future of Section 112.

Open Hardware Summit 2023

April 28–29, 2023
Cohosted by the Open Source Hardware Association

The Open Hardware Summit is the annual conference organized by the Open Source Hardware Association. It is the world's first comprehensive conference on open hardware, a venue and community in which we discuss and draw attention to the rapidly growing Open Source Hardware movement. Speakers included world-renowned leaders from industry, academia, and the arts and maker community. Talks covered a wide range of subjects from electronics and mechanics to related fields such as digital fabrication, fashion technology, self-quantification devices, and IP law. As a microcosm of the Open Source Hardware community, the Summit provides an annual friendly forum for the community.

The state of Section 112. Laura Sheridan discusses how Section 112 impacts the tech sector.

NYU Law Events

Members of the Engelberg Center community also contribute to the wider NYU Law environment as speakers, organizers, and participants at relevant events throughout the law school.

After *Dobbs*: The Future of Abortion, Privacy Rights, and Equality in the US
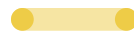
November 2, 2022

A conversation between Chris Hayes (MSNBC) and Melissa Murray (NYU School of Law) about the state of abortion law post-*Dobbs*.

Antitrust and 21st Century Bigness: Dealing with Tech Platforms in a Globalized World

February 24, 2023

Big Tech and Bigness. These issues continue to dominate the antitrust agenda in the United States and throughout the world. Three years ago, we examined these issues at a conference held at NYU School of Law, at a time when US enforcement agencies had yet to act. We returned for a second edition of that conference, at a time when antitrust agencies around the world—including in the US—are taking on the challenge.

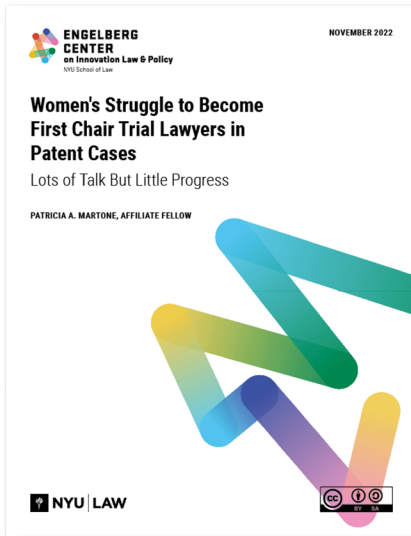## How Will the Law Handle Generative AI?

April 5, 2023

The release of generative AI systems such as ChatGPT, DALL-E, and Stable Diffusion have raised numerous concerns—from copyright infringement to defamation to the unlawful disclosure of personal information. Several lawsuits have already been filed against their makers, with more likely to come. On the input side, artists, photographers, graphic artists, journalists, and software coders have accused tech companies of violating rights in their creative works by using those works to train these systems without permission. On the output side, others have expressed apprehension that, much like social media platforms, these tools will produce a flood of harmful content without any accountability for the companies that make them. So how will the law handle generative AI? At this Forum, experts with backgrounds in law, art, copyright, the First Amendment, and Section 230 of the Communications Decency Act explored these issues, especially in light of three cases currently pending before the Supreme Court, and a Texas content moderation law that has been stayed pending the Court's certiorari decision.

03

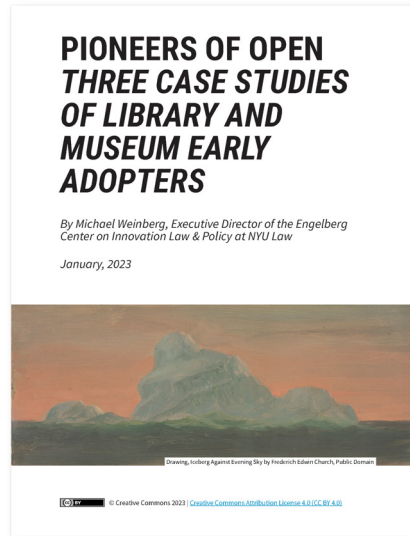# White Papers & Reports

Women's Struggle to Become First Chair Trial Lawyers in Patent Cases

Patricia A. Martone, Affiliate Fellow

Analyzing data starting in 2010 and drawing from 26 years of personal experience as a first chair patent litigator, Engelberg Center Fellow Patricia Martone explores the current state of women at the top of patent litigation.
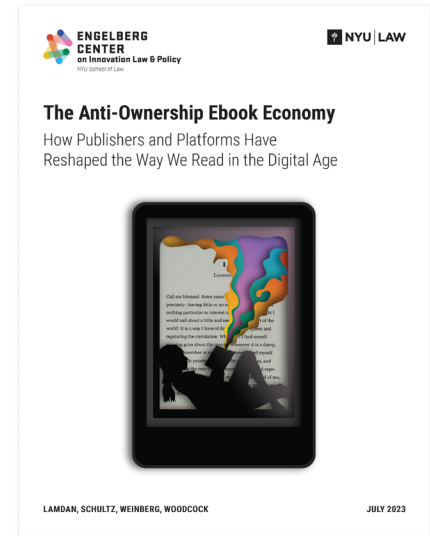
Pioneers of Open

Three Case Studies of Library and Museum Open Adopters

Michael Weinberg

Focusing on the experiences of the Statens Museum for Kunst (SMK), New York Public Library, and National Gallery of Art, Pioneers of Open explores early days in pioneering open access programs.

The Anti-Ownership Digital Economy

How Publishers and Platforms Have Reshaped the Way We Read in the Digital Age

Sarah Lamdan, Jason M. Schultz, Michael Weinberg, Claire Woodcock

Something happened when we shifted to digital formats that created a loss of rights for readers. Pulling back the curtain on the evolution of ebooks offers some clarity to how the shift to digital left ownership behind in the analog world.
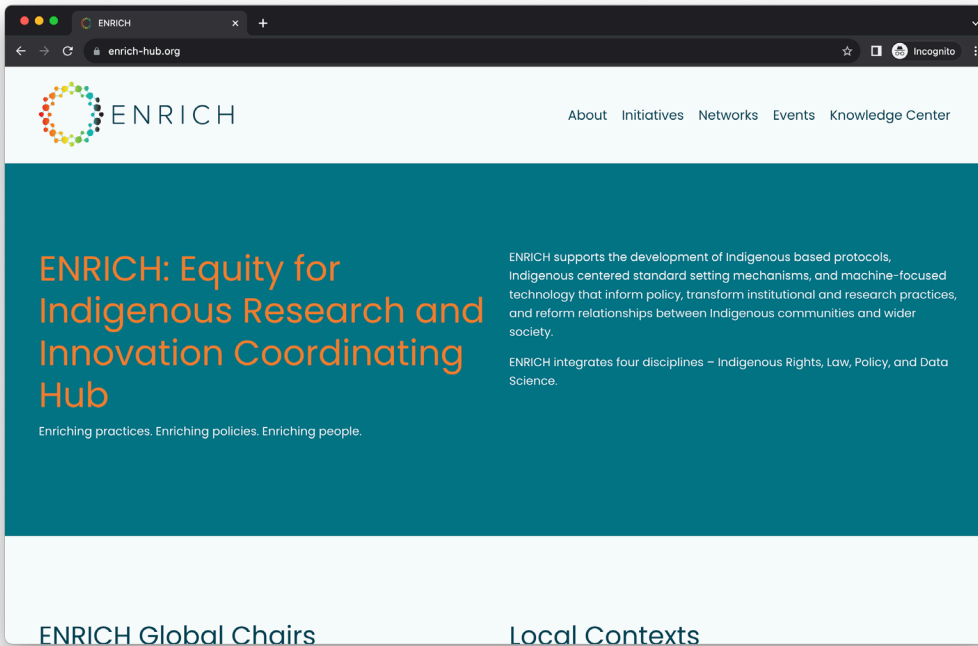
Projects & Initiatives

ENRICH

In collaboration with
University of Waikato

ENRICH supports the development of Indigenous-based protocols, Indigenous-centered standard-setting mechanisms, and machine-focused technology that inform policy, transform institutional and research practices, and reform relationships between Indigenous communities and wider society.

The ENRICH website. Learn more about ENRICH at enrich-hub.org.

News & Developments

- ENRICH has just been awarded $2.5 million from the Mellon Foundation to support the sustainability of networked resources, developed by and for Indigenous communities, for appropriate access to their cultural heritage materials, including data.

- In May 2023, the first Local Contexts Summit was held in Lenapehoking (New York City). The Summit brought together people from across the Local Contexts community with a focus on Indigenous authority, control, and governance of data in the archives and sciences. The Summit also premiered "Awasəwehlɑwəɬətinɑ wikəwɑmok—They Returned Home," a film by the Penobscot Nation and Local Contexts.

- In 2022, ENRICH welcomed their 2022–2023 Global Fellows—Professor Keolu Fox (Kānaka Maoli) and Assistant Professor Krystal Tsosie (Diné/Navajo Nation).

- In May 2023, ENRICH, alongside the Collaboratory for Indigenous Data Governance and Tikanga in Technology, hosted the Indigenous Metadata Symposium, bringing together legal and data specialists from around the world to begin the development of a new Indigenous Metadata Bundle for the inclusion of categories of metadata that reflect Indigenous rights and interests.

News & Developments

This past year, the GLAM-E Lab teams worked with institutions in both the US and UK to develop internal guidelines for identifying works within those institutions' collections that are the best candidates for open access programs. Doing so required students to navigate complex intellectual property questions involving the layers of rights that can be involved with collections that include objects, images of objects, metadata about objects, and scholarly commentary about those objects.

GLAM-E Lab

In collaboration with
Centre for Science, Culture and the Law, University of Exeter

The GLAM-E Lab is a joint initiative between the Centre for Science, Culture and the Law at the University of Exeter to work with smaller and less well-resourced UK and US cultural institutions and community organizations to build open access capacity and expertise. Students at both institutions work directly with cultural institutions as clients to develop internal and external policies to support open access programs. Those policies become part of the GLAM-E Lab playbook, a collection of documents that any institution can use to implement their own open access program.

3D digitization of cultural resources. RTI (shown above) is a computational photographic method that captures a subject's surface shape and color and enables the interactive re-lighting of the subject from any direction.
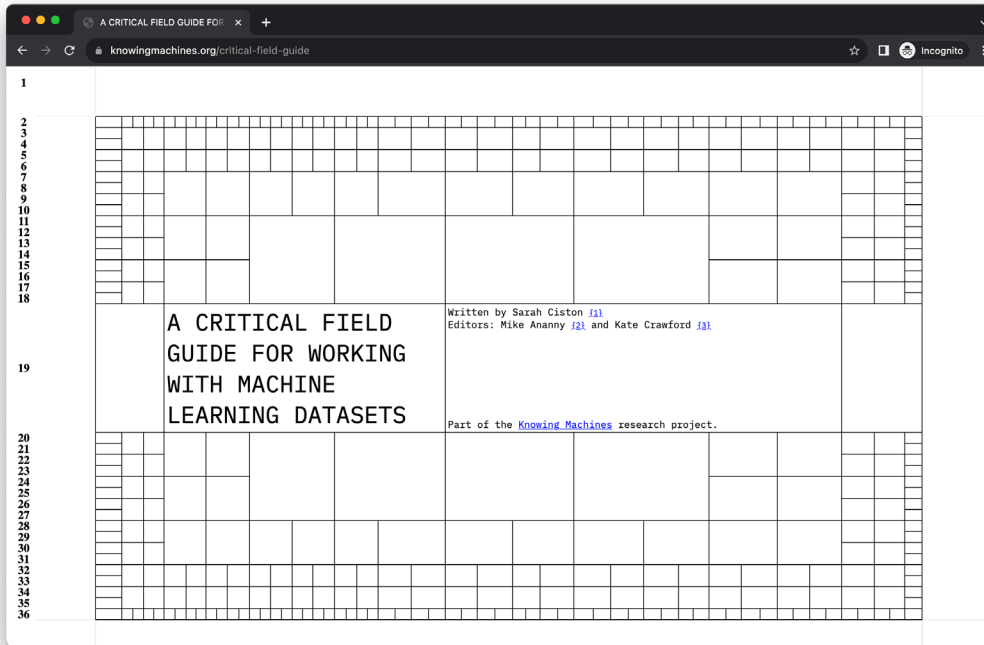
Knowing Machines

Knowing Machines is a multidisciplinary research project tracing the histories, practices, and politics of how machine learning systems are trained to interpret the world. We are developing critical methodologies and tools for understanding, analyzing, and investigating training datasets, and studying their role in the construction of "ground truth" for machine learning. Our research addresses how datasets index the world, make predictions, and structure knowledge cultures.

A Critical Field Guide for Working With Machine Learning Datasets. Read the guide at knowingmachines.org/critical-field-guide.

News & Developments

The Knowing Machines project released a large number of academic papers, legal filings, visual examinations, and popular articles exploring the datasets that are used to create machine learning algorithms, how those datasets shape our world, and the legal and policy implications of those impacts.

Library Futures

News & Developments

- Library Futures received $1 million to support libraries in the digital age.
- Library Futures completed a collaborative news project with the City of Albany.
- Library Futures led in informal library education with 18 webinars, reaching over 1,000 librarians.
- Library Futures filed three amicus briefs and produced four research papers.
- To learn more, read the 2022 Annual Report at 2022.libraryfutures.net.

Library Futures is the vanguard nonprofit organization uncovering and confronting the fundamental policy issues that threaten libraries in the digital age. We believe librarians, policymakers, and community leaders deserve a new approach to digital rights so they can protect, advocate for, and advance a fair digital future for libraries and the communities they serve. Library Futures meets this need with fresh research, visionary policy and advocacy initiatives, and engaging education programs.

The library scholar is in. Library Futures Director Jennie Rose Halperin helming a copyright help booth at the 2022 ALA Annual Conference & Exhibition.

Kickstarter Union Oral History Live!
The wildly successful Kickstarter Union Oral History podcast ends with a special live discussion of the current state of organizing in tech.

Femtech and Privacy. Caitlin Gerdts, Salomé Viljoen, and Ambreen Molitor discuss how femtech data can be used—and misused.

DreyFEST. Margaret Chon (left) and Christopher Sprigman discuss the impact of Rochelle Dreyfuss.

04

Courses, Clinics, & Programs

Course Offerings

Survey

- Survey of Intellectual Property (1L elective)
- Survey of Intellectual Property (2L, 3L, and LLM)

Art Law

- Art Law
- Advanced Topics in Art Law Seminar

Copyright Law

- Copyright Law
- Advanced Copyright Law

Patent Law

- Patent Law
- Patent and IP Licensing Seminar
- Patent Litigation Simulation
- Patent Law and Life Sciences

Trademark Law

- Advanced Trademark and Advertising Law
- Trademark and False Advertising Law

Trade Secret Law

- Trade Secret Law

Advanced Topics in Innovation Law and Policy

- Advanced Technology Law and Policy Clinic
- Advanced Technology Law and Policy Clinic Seminar
- Artificial Intelligence and Administrative Law Seminar
- Communicating Academic Work to Policymakers Seminar
- Cybersecurity Scholars Workshop
- Entertainment Law Seminar
- Fashion Law and Business
- Free Speech
- Global Data Law I
- Global Tech Law: Infrastructures of Digital Economy & Society Seminar
- Guarini Colloquium: Regulating Global Digital Corporations
- Guarini Externship: Global Legal Practice in Digital Society Seminar
- Information Privacy Law
- Innovation Policy Colloquium
- Intellectual Origins of the Constitution Seminar
- Intelligence: Law, Strategy, Ethics Seminar
- International Intellectual Property Law
- Internet Contracts Seminar
- Labor and Employment in the Entertainment Industry
- Law of the Startup Seminar
- Mass Media Law
- Sports Law
- Taxation of Intellectual Property
- Technology Law and Policy Clinic
- Technology Law and Policy Clinic Seminar
- Topics in Museum Studies: Museums & the Law

The Engelberg Center Colloquium on Innovation Law & Policy

Each year, the Engelberg Center sponsors a colloquium on Innovation Law & Policy that is open to students and members of the innovation community, including other faculty at NYU, faculty at other universities, law practitioners, and industry representatives. Topics are chosen on a yearly basis by those serving as the colloquium faculty for that year.

The 2023 Colloquium, which was co-taught by Professors Jeanne Fromer and Christopher Sprigman, examined intellectual property and innovation with regard to platforms. In particular, as platforms have matured, the colloquium studied issues that arise with regard to copyright, trademark, trade secrecy, patent, and antitrust in the context of platforms (including social media, ecommerce, and search platforms). The colloquium also explored underlying aspects of innovation theory in relation to platforms.

Previous colloquium topics have included:

- Innovation in the health care field, looking at such matters as the relationship between intellectual property, encouraging medical advances, and assuring appropriate public access

- Intellectual property in traditionally excluded areas such as algorithmic bias, traditional knowledge, and biological heritage

- Alternative forms of intellectual property, including trade secrets, the right of publicity, and geographical indications

- The relationship between intellectual property law and inequality

- Legal and policy challenges posed by society's increasing reliance on Big Data

- The law and economics of intellectual property

- The relationship between design and intellectual property

- The role of incentives in intellectual property law

- Criminal intellectual property laws

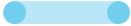- Open source and collaborative production

January 19
Abhay Aneja
Assistant Professor of Law,
UC Berkeley School of Law
Strengthening State Capacity: Public Service
Delivery & Innovation during the Gilded Age

February 23
Martin Husovec
Assistant Professor of Law,
LSE Law School
Will the Digital Services Act Work?

January 26
Eric E. Johnson
Earl Sneed Centennial Professor of Law,
University of Oklahoma College of Law
An Intellectual Property Fix for
Platform Salesjacking

March 2
Evelyn Douek
Assistant Professor of Law,
Stanford Law School
What is the Measure of Good Speech
Governance? The Meta Oversight Board's
2023 Term

February 2
Daniel Francis
Assistant Professor of Law,
NYU School of Law
Making Sense of Monopolization

March 9
Xiyin Tang
Assistant Professor of Law,
UCLA School of Law
Privatizing Copyright

February 9
Christopher Sprigman
Murray and Kathleen Bring Professor of
Law, NYU School of Law
The Paradox of Privacy Regulation: How
Law Meant To Protect Privacy Can Erode It

March 23
Mark McKenna
Professor of Law,
UCLA School of Law
Trademarks in the Metaverse

Technology Law & Policy Clinic

Technological advances are driving greater social, economic, and political change, including in access to information, health care, and entertainment; in impacts on the environment, education, and commerce; and by facilitating greater surveillance by law enforcement agencies. These changes mean that issues related to privacy, consumer rights, free speech, and intellectual property are becoming increasingly critical and complex.

The Technology Law & Policy Clinic is a semester-long, 6-credit course that focuses on the representation of individuals, nonprofits, and consumer groups that are engaged with these questions from a public interest perspective. The clinic is a mixture of fieldwork and seminar discussion, ranging from technology law and policy to the ethical challenges of representing public interest organizations. The seminar includes problem-solving workshops, guest speakers, and other components that expose students to the practice of technology law in the public interest.

The Technology Law & Policy Clinic is directed by Professor Jason Schultz and is co-taught with Adjunct Professor Esha Bhandari, Deputy Director Jake Karr '18, and Supervising Attorney Melodi Dincer '20. In Fall 2022, Adjunct Professor Brett Max Kaufman stepped down from his role in the clinic after more than eight years.

Past representative matters include:

- Counseling the New York Public Library on copyright, privacy, and security issues related to its groundbreaking ebook lending app, SimplyE;

- Filing an amicus brief on behalf of Mozilla, Mapbox, Medium, Patreon, Etsy, and Wikimedia in support of certiorari for the *Google v. Oracle* decision, raising concerns that overprotecting APIs via copyright law could have detrimental impacts on innovation and competition, especially for open source projects and small startups;

- Filing an amicus brief on behalf of two artists in an important copyright case involving the modern practice of appropriation art, arguing that the fair use doctrine should protect artistic, cultural, and political acts of critique and recontextualization that make use of others' copyrighted works;

- Working with the PrEP4All Collaboration, an all-volunteer group of access-to-medicines activists based in New York City, to challenge patent monopolies on life-saving HIV/AIDS and COVID-19 drugs and ensure wide, equitable access to medical technologies;

- Submitting a complaint with the Consumer Financial Protection Bureau on behalf of the Electronic Privacy Information Center seeking to bring to light the allegedly deceptive business practices of a financial technology company affecting millions of consumers; and

- Advising an art museum on the digitization of its reference library containing more than one million photographic records of artworks.

LLM Program in Competition, Innovation, and Information Law

The LLM program in Competition, Innovation, and Information Law (CIIL) trains students by combining advanced policy and technical expertise with sophisticated legal analysis. The program aims to develop an integrated understanding of the dynamic forces that shape contemporary economic activity and innovation. Students in the CIIL LLM program choose one of two areas of principal focus—Intellectual Property and Information Law, or Antitrust and Competition Policy—while gaining an introductory foothold in the other area and exposure to other related areas of law.

The CIIL program also draws on NYU's strength in international law. The faculty includes leading experts in international and comparative aspects of competition policy and intellectual property law. Their courses and seminars enable students to understand the importance of competition policy and intellectual property law in today's global economy.

LLM Program in Competition, Innovation, and Information Law Class of 2023. CIIL trains students by combining advanced policy and technical expertise with sophisticated legal analysis.

A Community of Innovation

Information Law Institute

The Information Law Institute is an academic center for the study of law, policy, and social norms defining and affecting the flow of information in a digitally networked society. Its mission is to encourage and disseminate thoughtful research and commentary, welcoming the participation of faculty, students, and other researchers across the disciplinary spectrum. Katherine Strandburg is its Director. Florencia Marotta-Wurgler, Ira Rubinstein, and Jason Schultz are its Faculty Fellows.
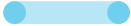
Intellectual Property & Entertainment Law Society

The Intellectual Property & Entertainment Law Society (IPELS) of the NYU School of Law is a student-run organization that sponsors panels, events, and educational and networking opportunities that promote an understanding of entertainment, sports, fashion, information, internet, and technology law. By connecting NYU School of Law students with industry professionals, IPELS helps them obtain valuable career and academic advice. IPELS partners with the Art Law Society, Media Law Collaborative, and Sports Law Association.

Journal of Intellectual Property & Entertainment Law

The NYU *Journal of Intellectual Property & Entertainment Law* (JIPEL) is a student-run academic journal dedicated to encouraging scholarly discourse among academics, practitioners, and students interested in intellectual property and entertainment law topics. JIPEL publishes scholarly articles on timely and cutting-edge topics, along with comments and criticism of those articles by industry professionals. As NYU School of Law's first and only online journal, JIPEL provides a unique opportunity for online dialogue through comments from its readers. In keeping with its goals of open access and discourse, JIPEL makes its content available for free to anyone interested in intellectual property and entertainment law. JIPEL also sponsors academic programs and networking events that bring together members of the Intellectual Property & Entertainment Law Society, the Engelberg Center co-directors and affiliated faculty, innovators, industry and government experts, and practitioners.

Media Law Collaborative

The Media Law Collaborative (MLC) brings together NYU School of Law and the arts programs of the university. It creates a space where law students can address the typical, yet significant, legal issues that students face when engaged in the film, music, software, publishing, or fine art industries. Law students also have the opportunity to work directly with media students, providing legal advice to those vetted by their particular programs, under the supervision of attorneys. MLC also sponsors joint educational events, such as guest lectures and panel discussions, and social activities in conjunction with other student organizations at NYU Law as well as NYU's arts programs.

Art Law Society

The NYU Law Art Law Society was launched in 2011. Its mission is to provide a forum at NYU Law for cutting-edge art law topics through lectures, panel presentations, gallery visits, and conversations with practitioners, academics, students, and artists themselves.

Rights over Tech

Rights over Tech's (R/T) mission is to ensure human and civil rights take supremacy over technology and the power structure that creates it. R/T works against those who sanction, design, or deploy science or technology that violates these rights, especially the rights of those who are vulnerable and marginalized. R/T builds a space where all members of the law school community can have safe but challenging conversations about the development and deployment of technology with perspectives informed by differences in race, gender identity, sexual orientation, age, visibility of disability, religion, immigration status, ability, and class.

Sports Law Association

NYU Law's Sports Law Association (SLA) organizes events to educate its members and the broader NYU community about sports law and its related disciplines and to develop relations with industry-leading institutions (including law firms, leagues, players' associations, and management groups) in order to connect our members with unique career opportunities unavailable through traditional on-campus recruitment. SLA also provides a forum in which the legal issues at the forefront of the profession can be intensively debated.

Engelberg Center on Innovation Law & Policy

DreyFEST. Celebrating the career of Rochelle Dreyfuss.

Chokepoint Capitalism. Rebecca Giblin discusses her new book.

Against Progress. Jessica Silbey discusses her new book.

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