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<http://www.tushnet.com>

Blog: 43(b)log, <http://tushnet.blogspot.com>

Experience:

Professor, Georgetown University Law Center, 2007-present

Visiting Professor, University of Chicago Law School, fall 2012

Associate Professor, Georgetown University Law Center, 2005-2007

Visiting Associate Professor, Georgetown University School of Law, 2004-2005

Assistant Professor, New York University School of Law, 2002-2005

Attorney, Debevoise & Plimpton, Washington, DC, 2000-2002

Clerk, Associate Justice David H. Souter, Washington, DC, 1999-2000

Clerk, Chief Judge Edward R. Becker, U.S. Court of Appeals for the Third Circuit,
Philadelphia, PA, 1998-1999

Education:

J.D., Yale Law School, 1998

B.A., Harvard University, 1995

Online Resources:

Creator and maintainer, Georgetown IP Teaching Database

43(b)log, <http://tushnet.blogspot.com>: covering copyright, trademark, and false advertising law (ABA Journal's Blawg 100 of top law blogs, 2012, 2013 and 2014)

Publications:

A Mask that Eats into the Face: Images and the Right of Publicity, COLUM. J.L. & ARTS (forthcoming 2015).

Intellectual Property as a Public Interest Mechanism, in THE OXFORD HANDBOOK OF INTELLECTUAL PROPERTY LAW (forthcoming 2015).

Content, Purpose, or Both?, WASH. L. REV. (forthcoming 2015).

Free to Be You and Me? Copyright and Constraint, HARV. L. REV. FORUM (online) (forthcoming 2015).

COOL Story: Country of Origin Labeling and the First Amendment, FOOD & DRUG L.J. (forthcoming 2015).

Self-Publishing a Casebook Benefited Our Readers—And Us, WASH. J.L. TECH. & ARTS (forthcoming 2015). With Eric Goldman.

The Romantic Author and the Romance Writer: Resisting Gendered Concepts of Creativity, in *IP AND DIVERSITY* (Cambridge University Press, Irene Calboli & Srividhya Ragavan, eds., 2015).

Transformative Works: Young Women's Voices on Fandom and Fair Use, in *EGIRLS, ECITIZENS: PUTTING TECHNOLOGY THEORY, POLICY AND EDUCATION INTO DIALOGUE WITH GIRLS' AND YOUNG WOMEN'S VOICES* (Jane Bailey & Valerie Steeves eds., forthcoming 2015). With Betsy Rosenblatt.

Stolen Valor and Stolen Luxury, in *THE LUXURY ECONOMY AND INTELLECTUAL PROPERTY: CRITICAL REFLECTIONS* (Oxford University Press, Barton Beebe et al., eds., forthcoming 2014).

THE LAW OF ADVERTISING AND MARKETING (2d ed., 2014). With Eric Goldman.

More than a Feeling: Emotion and the First Amendment, 127 *HARV. L. REV.* 2392 (2014).

All of This Has Happened Before and All of This Will Happen Again, *BERKELEY TECH. L.J.* (forthcoming 2014).

The Yes Men and The Women Men Don't See, in *A WORLD WITHOUT PRIVACY? WHAT CAN/SHOULD LAW DO* (Cambridge University Press, Austin Sarat ed., 2014).

The Indian Arts and Crafts Act: The Limits of Trademark Analogies, in *INDIGENOUS INTELLECTUAL PROPERTY: A HANDBOOK OF CONTEMPORARY RESEARCH* (Matthew Rimmer ed., 2014).

Make Me Walk, Make Me Talk, Do Whatever You Please: Barbie and Exceptions, in *INTELLECTUAL PROPERTY AT THE EDGE* (Rochelle Dreyfuss & Jane Ginsburg eds., 2014).

How Many Wrongs Make a Copyright?, 98 *MINN. L. REV.* 2346 (2014).

I'm a Lawyer, Not an Ethnographer, Jim: Textual Poachers and Fair Use, 2 *J. FANDOM STUD.* 21 (2014).

Performance Anxiety: Copyright Embodied and Disembodied, 60 *J. COPYRIGHT SOC'Y U.S.A.* 209 (2013). Received the Copyright Society's Seton Award.

Judges as Bad Reviewers: Fair Use and Epistemological Humility, 25 *LAW & LITERATURE* 20 (2013).

Surveying Recent Scholarship on Fair Use: A Conversation moderated by Peter Decherney, 52 *CINEMA J.* 138 (2013) (with Bill Herman and Jessica Silbey).

The Eye Alone Is the Judge: Images and Design Patents, 19 J. INTELL. PROP. L. 409 (2012).

THE LAW OF ADVERTISING AND MARKETING (casebook, 2012). With Eric Goldman.

Worth a Thousand Words: The Images of Copyright Law, 125 HARV. L. REV. 683 (2012).

Looking at the Lanham Act: Images in Trademark and Advertising Law, 48 HOUSTON L. REV. 861 (2011).

Scary Monsters: Hybrids, Mashups, and Other Illegitimate Children, 86 NOTRE DAME L. REV. 2133 (2011).

Towards Symmetry in the Law of Branding, 21 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 971 (2011).

Remix Nation, COMMUNICATIONS OF THE ACM, vol. 54, no. 9, at 1 (September 2011).

Book Review (Making and Unmaking Intellectual Property: Creative Production in Legal and Cultural Perspective), 2 I.P.L. BOOK REV. 1 (2011).

How to Suppress Women's Remix, 77 CAMERA OBSCURA 131 (2011). With Francesca Coppa.

Running the Gamut from A to B: Federal Trademark and False Advertising Law, 159 U. PENN. L. REV. 1305 (2011).

Attention Must Be Paid: Commercial Speech, User-Generated Ads, and the Challenge of Regulation, 58 BUFFALO L. REV. 721 (2010).

I Put You There: User-Generated Content and Anticircumvention, 12 VANDERBILT J. ENT. & TECH. L. 889 (2010).

Hybrid Vigor: Mashups, Cyborgs, and Other Necessary Monsters, 6 I/S: A JOURNAL OF LAW AND POLICY FOR THE INFORMATION SOCIETY 1 (2010).

Unfair Competition and Uncommon Sense: A Comment on Mark McKenna's Testing Modern Trademark Law's Theory of Harm, 95 IOWA L. REV. BULL. 17 (2009).

Fighting Freestyle: The First Amendment, Fairness, and Corporate Reputation, 51 B.C. L. REV. 1457 (2009).

Economies of Desire: Fair Use and Marketplace Assumptions, 51 WM. & MARY L. REV. 513 (2009).

Power Without Responsibility: Intermediaries and the First Amendment, 76 GEO. WASH. L. REV. 986 (2008).

User-Generated Discontent: Transformation in Practice, 31 COLUMBIA J. L. & ARTS 497 (2008).

Truth and Advertising: The Lanham Act and Commercial Speech Doctrine, in TRADEMARK LAW AND THEORY: A HANDBOOK OF CONTEMPORARY RESEARCH (Graeme B. Dinwoodie and Mark D. Janis eds., 2008) (Edward Elgar Press).

It Depends on What the Meaning of “False” Is: Falsity and Misleadingness in Commercial Speech Doctrine, 41 LOY. L.A. L. REV. 101 (2008).

Gone in 60 Milliseconds: Trademark Law and Cognitive Science, 86 TEXAS L. REV. 507 (2008).

Sight, Sound and Meaning: Teaching Intellectual Property with Audiovisual Materials, 52 ST. LOUIS U. L.J. 891 (2007).

Naming Rights: Attribution and Law, 2007 UTAH L. REV. 781.

Payment in Credit: Copyright Law and Subcultural Creativity, 70 L. & CONTEMP. PROBLEMS 135 (2007).

Trademark Law as Commercial Speech Regulation, 58 S. CAROLINA L. REV. 737 (2007).

Copyright Law, Fan Practices, and the Rights of the Author, in FANDOM: IDENTITIES AND COMMUNITIES IN A MEDIATED WORLD 60 (Jon Grey et al. eds., 2007) (NYU Press).

Why the Customer Isn't Always Right: Producer-Based Limits on Rights Accretion in Trademark, 116 YALE L.J. POCKET PART 352 (2007) (online supplement).

Domain and Forum: Public Space, Public Freedom, 30 COLUMBIA J. L. & ARTS 597 (2007).

Creating in the Shadow of the Law, in INTELLECTUAL PROPERTY AND INFORMATION WEALTH: ISSUES AND PRACTICES IN THE DIGITAL AGE, VOL. 1: COPYRIGHT AND RELATED RIGHTS 251 (Peter Yu ed., 2007).

My Fair Ladies: Sex, Gender, and Fair Use in Copyright, 15 AMERICAN UNIV. J. GENDER, SOC. POL'Y & L. 273 (2007).

My Library: Copyright and the Role of Institutions in a Peer-to-Peer World, 53 UCLA L. REV. 977 (2006).

Copy This Essay: How Fair Use Doctrine Harms Free Speech and How Copying Serves It, 114 YALE L.J. 535 (2004).

Even More Parodic Than the Real Thing: Parody Lawsuits Revisited, 94 TRADEMARK REPORTER 979 (2004). With Bruce P. Keller.

Copyright as a Model for Free Speech Law: What Copyright Has in Common with Campaign Finance Reform, Hate Speech and Pornography Regulation, and Telecommunications Regulation, 42 B.C. L. REV. 1 (2001).

Note, *Rules of Engagement*, 107 YALE L.J. 2583 (1998).

Legal Fictions: Copyright, Fan Fiction, and a New Common Law, 17 LOY. L.A. ENT. L.J. 651 (1997).

Professional Activities:

Executive Committee Member, AALS Internet & Computer Law Section, 2011-2013
Co-organizer, IP/Gender: Mapping the Connections, 6th Annual Symposium, Female Fan Cultures and Intellectual Property, Washington College of Law (American University) 2009

Co-chair, ABA Antitrust Section Consumer Protection Conference, 2009

Executive Committee member, Intellectual Property Section, AALS, 2008-2009

Member, Blue Ribbon Panel on Fair Use in User-Generated Video, 2008

Member, Georgetown University Copyright Committee, 2007

Board member, Organization for Transformative Works, 2007-2010; Chair, Legal Committee, 2007-2012; member, Legal Committee, 2012-present

Chair, Art Law Section, AALS, 2005-2006

Selected Presentations: My recent presentations can be found at tushnet.blogspot.com/search/label/presentations.