



# The Yale Information Society Project

*Technology and Law  
at Yale Law School*



## 2008-2009 Accomplishments

May 6, 2009



**The Yale Information Society Project**

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## TOP 20 ACCOMPLISHMENTS IN 2008-2009

1. Third Access to Knowledge Conference in Geneva, Switzerland
2. Ten-Year Yale ISP Alumni Reunion and Conference
3. Library 2.0 Symposium at Yale Law School
4. Global Standards Summit at Yale Law School
5. New Book: *Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation and Development*
6. New Book Series: The MIT Press *Information Society Series*
7. Thursday Yale ISP “Ideas Lunches” at Yale Law School
8. Yale ISP Lunch Speaker Series
9. Copyright Lecture Series Co-sponsored with Yale University Library
10. Internet Video Innovation Roundtable at Yale Law School
11. Open Video Alliance Workshop and Launch at Yale Law School
12. Harvard-MIT-Yale Cyberscholar Working Group
13. Genomic Freedom Reading Group
14. Civil Liberties Online Reading Group
15. Access to Knowledge Course
16. Technical Standards Recommendations to the Obama Administration
17. ISP Workshops Organized at the United Nations Internet Governance Forum
18. Alliance with Yale University Computer Science Department
19. New Research Program on Intellectual Property and Innovation
20. New Funding from the Kauffman Foundation, Google, the Rockefeller Foundation, the Open Society Institute, and the Ford Foundation.

<Insert Tab “2. ISP SPONSORS”>

2008-2009 ISP SPONSORS



Ford Foundation



**The Oscar M. Ruebhausen Fund at Yale Law School**



<Insert Tab "3. A2K3">

**<Insert A2K3 Poster on this Page>**



**<Insert A2K3 Program on this Page>**

## Yale ISP Reaches New Milestones in Hosting Access to Knowledge Conference

*September 3, 2008. New Haven.* The Information Society Project (ISP) at Yale Law School is hosting its third Access to Knowledge Conference (A2K3) September 8-10 in Geneva, Switzerland. ISP student and postdoctoral fellows will join approximately 400 scholars and practitioners from 40 countries to discuss key issues in global knowledge policy. The conference, the largest of its kind, will consider how, in a global knowledge economy, the ability to access and produce information and control its dissemination increasingly determines wealth, innovation, human development, and individual freedom. Panels will address such topics as media and communication rights, electronic health issues, open access to science and scholarship, copyright exceptions and limitations, prizes as alternative innovation models in areas such as health and climate change, access to knowledge and global trade, open business models, and the development agenda at the World Intellectual Property Organization (WIPO).

Yale ISP Executive Director Laura DeNardis said this year's conference has reached several new milestones. "The organization of the conference itself has involved worldwide collaboration with ten global partners and the generosity of seven sponsoring corporations and foundations," explained DeNardis. "Emphasizing the Yale ISP's commitment to access to knowledge advocacy and scholarship, the conference will highlight our research programs in eHealth, communication rights, and open innovation models and will include major announcements such as the launch of our new Access to Knowledge book series and the Access to Knowledge Global Academy."

Highlights of the new developments are as follows:

### *Launch of New Book Series and A2K Global Academy*

At the conference, the Yale ISP will release a new book, *Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation and Development*. The book, edited by Yale ISP Access to Knowledge Program Director Lea Shaver in collaboration with the Fundação Getulio Vargas Law Schools in Rio de Janeiro and São Paulo, is the first of seven forthcoming books on access to knowledge. Research for the books is made possible by a three-year grant from the MacArthur Foundation. The inaugural volume marks an important institutional milestone for the ISP—its first venture in the role of publisher. At the conference, the ISP will also formally announce the A2K Global Academy, a new network of academic centers dedicated to research, education, and policy analysis promoting access to knowledge. The Global Academy already counts as partners Brazil, China, Egypt, India, South Africa, and the United States but intends to expand to include more academic centers.

### *Kaltura Prize and Writing Award in Access to Knowledge*

At the conference, the Yale ISP and the International Journal of Communications Law and Policy (IJCLP) will present the Kaltura Prize to Victoria Stodden, winner of the fifth interdisciplinary writing competition in access to knowledge and communications law and policy. The IJCLP will publish a special volume of selected access to knowledge conference papers in memory of former IJCLP lead editor Boris Rotenberg. This year's writing competition features a cash stipend sponsored by Kaltura—the first open-source platform for video creation, management, interaction, and collaboration.

### *eHealth Session*

The conference will close with a special session and reception on eHealth and access to knowledge, sponsored by the Rockefeller Foundation and featuring a presentation by Rockefeller's Managing Director Claudia Juech. The session will discuss the promise of electronic information networks for improving access to healthcare and health information for the poor and underprivileged as well as the challenges of electronic access to health information, including privacy and security concerns, lack of open standards for eHealth in the developing world, the proliferation of closed digital eHealth repositories and scholarship, and technical infrastructure barriers to access.

### *Worldwide Collaboration*

This year, the Yale ISP has organized the conference in collaboration with the Electronic Information for Libraries (eIFL.Net), Electronic Frontier Foundation (EFF), Centre for Technology and Society at the Fundacao Getulio Vargas School of Law (FGV) – Rio, International Centre for Trade and Sustainable Development (ICTSD), International Federation of Library Associations and Institutions (IFLA), IQsensato, Knowledge Ecology International (KEI), Library Copyright Alliance (LCA), UNU-MERIT, and 3D Trade, Human Rights, and Equitable Economy.

### *Conference Sponsorship*

The Third Access to Knowledge conference is made possible by generous support from the Ford Foundation, the Electronic Frontier Foundation, Google, Kaltura, the MacArthur Foundation, Open Society Institute, and the Rockefeller Foundation. For more information about the A2K3 conference, including detailed panel descriptions and registration, visit the

**THIRD ACCESS TO KNOWLEDGE CONFERENCE**

**September 8-10, 2008 in Geneva, Switzerland**



**Members of the Yale ISP in Geneva, Switzerland**



**Yale ISP International Research Partners  
from Egypt, South Africa, China, India, and Brazil**

<Insert Tab “4. Standards Summit”>

## Yale ISP Submits Technical Standards Recommendations to the Obama Administration

*March 2, 2009. New Haven.* The Information Society Project at Yale Law School has submitted recommendations to the Obama administration for a new U.S. strategy addressing the technical standards underlying the Internet and information and communication technologies. These recommendations are an outgrowth of a Global Standards Summit the Yale ISP convened at Yale Law School on November 21, 2008. The summit brought together industry leaders, standards practitioners, scholars, and legal experts from around the world to discuss problems and recommend solutions in the current global context of technical standardization. The proceedings for the Global Standards Summit are available online.

Yale ISP Executive Director Laura DeNardis said, “The administration’s technology policy priorities create a moment of opportunity to rethink U.S. strategy on technical standards, an invisible form of technological rulemaking with consequences for U.S. innovation policy, national security, and government efficiency and openness.”

The Yale ISP submitted the following high-level standards strategy recommendations:

- **Develop a Government Open Standards Strategy.** The government should make unclassified information publicly accessible in open formats that promote transparency, user choice, and civic engagement. The CTO should assess whether the standards architecture for government systems enables maximum interoperability and efficiency and should review areas in which standards establish policy about electronic medical records, civil liberties online, and critical infrastructure protection. Government standards-setting efforts should be open and transparent.
- **Form a United States Standards Advisory Council** drawing upon U.S. standards experts from industry, academia, and non-governmental organizations to advise the OMB, the CTO, the USTR, and the Department of Commerce on federal standards strategy.
- **Strengthen International Standards Collaboration.** The U.S. should strengthen the legitimacy and transparency of the diverse international standards-setting processes and redouble efforts to ensure that standards and the underlying intellectual property arrangements of standards are not used to close markets, restrict freedoms, limit competition, or create barriers to trade.
- **Encourage the Formation of a Global Multi-stakeholder Standards Advocacy Group** in which private industry and institutions take the lead in establishing voluntary criteria for what constitutes quality, efficiency, and openness in technical standards-setting processes.

As part of its ongoing open standards research program, the Information Society Project will offer to help and support the administration’s efforts to realize these strategic objectives. The Yale ISP’s longstanding open standards research program has consistently advocated for approaches to information and communication standards that encourage innovation and support the broader public interests of interoperability, open government, and access to knowledge. More information about the Yale ISP can be found at <http://isp.law.yale.edu/>.

## Technical Standards Recommendations for the Obama Administration

March 2, 2009

The Obama administration's technology policy priorities place a renewed emphasis on the transformative power of information technology to reshape the U.S. economy and improve the lives of citizens. This new focus creates a moment of opportunity to rethink U.S. strategy for the technical standards underlying information and communication technologies.

In today's economic context, America needs a national standards strategy. Open technical standards are a critical ingredient to enabling both economic innovation and a connected democracy focused on openness, transparency, and direct civic engagement. Open standards improve economic competitiveness and efficiency by lowering barriers to entry into complex IT markets and fostering technological innovation. As evidenced by the history of the Internet, technologies based on open standards unlock new global markets and provide opportunities for American leadership in information technology. A strategy to promote open standards can help the Administration achieve both efficiency goals and the objective of increasing opportunities for public access to government information and civic engagement in policy making. The administration should also be concerned with technical standards because they are a form of technological rulemaking with direct public interest implications in areas such as national security, smart grid, electronic medical records, privacy, public safety, disaster response, law enforcement, and critical information infrastructure protection.

The Yale Information Society Project recently convened a *Standards Summit at Yale Law School* bringing together industry leaders and scholars to discuss problems and recommend solutions in the current global context of technical standards. As an outgrowth of this summit, the Yale Information Society Project wishes to submit the following high-level standards strategy recommendations, all of which seem consistent with the technology policy directions of the Obama administration.

- 1) **Develop a Government Open Standards Strategy.** The government should make unclassified information publicly accessible in open formats that promote transparency, user choice, and civic engagement. The CTO should assess whether the standards architecture for government systems enables maximum interoperability and efficiency and should review areas in which standards establish policy about electronic medical records, civil liberties online, and critical infrastructure protection. Government standards-setting efforts should be open and transparent.
- 2) **Form a United States Standards Advisory Council** drawing upon U.S. standards experts from industry, academia, and non-governmental organizations to advise the OMB, the CTO, the USTR, and the Department of Commerce on federal standards strategy.
- 3) **Strengthen International Standards Collaboration.** The U.S. should strengthen the legitimacy and transparency of the diverse international standards-setting processes and redouble efforts to ensure that standards and the underlying intellectual property arrangements of standards are not used to close markets, restrict freedoms, limit competition, or create barriers to trade.
- 4) **Encourage the Formation of a Global Multi-stakeholder Standards Advocacy Group** in which private industry and institutions take the lead in establishing voluntary criteria for what constitutes quality, efficiency, and openness in technical standards-setting processes.

*As part of its ongoing Open Standards Research Program, the Yale Information Society Project will offer to help and support the administration's efforts to realize these strategic objectives.*

# S4S

PROCEEDINGS

STANDARDS FOR STANDARDS SUMMIT  
AT YALE LAW SCHOOL



HOSTED BY THE  
YALE INFORMATION SOCIETY PROJECT

November 21, 2008  
New Haven, CT

**S4S Background**



On November 21<sup>st</sup>, the Yale Information Society Project hosted a Standards for Standards (S4S) Summit at Yale Law School. The gathering brought together industry leaders, standards practitioners, scholars, and legal experts from around the world to discuss problems and recommend solutions in the current global context of technical standardization.

This gathering was an outgrowth of a six-week online standards forum facilitated by IBM in the summer of 2008. Through an interactive wiki format, this online discussion brought together approximately 70 standards experts from academia, standards-setting institutions, law, and government. The overarching purpose of the wiki discussion was to assess whether standards and standards-setting institutions are keeping pace with contemporary technical, social, legal, and political realities in the global information society project. The online forum was divided into five topics:

- Transparency and Accountability
- Standards Quality and Creation
- Policy and Society
- Intellectual Property
- Rating and Accreditation.

IBM published the results of the online standards wiki at <http://www.research.ibm.com/files/standardsforstandards.pdf>. Many of the debates and recommendations focused on the need for greater transparency, fairness, openness, and quality in contemporary technical standards contexts.

The impetus for the Standards for Standards Summit at Yale Law School was the need to further reflect upon recommendations from the online discussion and determine some concrete steps for improving the global standards-setting environment.

The participants in the Summit had a range of expectations for the day: some wished to begin creating a set of best practices for national standards organizations; others wished to discuss a model government procurement policy based on open standards; and others hoped to begin creating model intellectual property rights policies. Some of the participants also wished to discuss the formation of a standards for standards organization that advocates for greater openness and others hoped to craft standards recommendations for the Obama administration.

Drawing upon the recommendations and debated topics from the online wiki, much of the day's discussion was divided into three working groups: Standards and the Role of Government; Quality and Creation of Standards; and Standards and Intellectual Property. The following document provides information about this standards event, including a list of participants, the schedule of the day's events, summaries of each of the three working group sessions, and some concluding thoughts and next steps.



**STANDARDS FOR STANDARDS SUMMIT  
AT YALE LAW SCHOOL  
HOSTED BY THE  
YALE INFORMATION SOCIETY PROJECT**

**Summit Schedule**

**November 21, 2008**

- 8:30-9:00 a.m.** Welcome Breakfast
- 9:00-9:30 a.m.** Introductory Remarks  
Professor Jack Balkin  
Dr. Laura DeNardis  
Dr. Robert Sutor
- 9:30-10:00 a.m.** Framing the Topic, Preview + Q&A: "Intellectual Property"  
Andrew Updegrove, Esq.
- 10:00-10:30 a.m.** Framing the Topic, Preview + Q&A: "Standards Quality"  
Gerry Lane
- 10:30-11:00 a.m.** Framing the Topic, Preview + Q&A: "Government"  
Laura DeNardis
- 11:00-11:15 a.m.** Break
- 11:15-2:45 p.m.** Concurrent Breakout Discussions (IP, Quality, and Government)  
and Working Lunch
- 2:45-3:00 p.m.** Break
- 3:00-5:30 p.m.** Participants Regroup;  
Breakout Representatives Present Recommendations;  
Next Steps, facilitated by Laura DeNardis

## Summit Participants

*Chris Andrews*  
IBM

*Jack Balkin*  
Professor Yale Law School; Director, Yale Information Society Project

*Karl Best*  
Standards Consultant

*Sandy Block*  
Counsel, IP Law, IBM

*Elizabeth Cleary*  
Manager, Standards Business Strategy, IBM

*Dave Coryell*  
CEO, Kavi Corporation

*Cui Guobin*  
Associate Professor, Tsinghua University (Beijing, China)

*Laura DeNardis*  
Executive Director, Yale Information Society Project and Lecturer, Yale Law School

*Ari Fishkind*  
IBM Public Affairs

*Melanie Freeman Chernoff*  
Public Policy Manager, Red Hat, Inc.

*Rishab Ghosh*  
Senior Researcher  
UNU-MERIT United Nations University / Maastricht University, Netherlands

*Eduardo Gutentag*  
Director, OASIS, Sun Microsystems

*Ralph Hertlein*  
Vice President of Operations, OAGi

*Brian Kahin*  
Senior Fellow, Computer & Communications Industry Association

*David J. Kappos*

Vice President & Assistant General Counsel, Intellectual Property Law & Strategy, IBM

*Gerry Lane*

Director, Standards and Open Source, IBM

*Peter Lefkin*

COO/CFO, IEEE

*Peter Lord*

Director, Technology Policy, Oracle

*Scott McGrath*

Senior Director of Member Services, OASIS

*Michael R. Nelson*

Visiting Professor, Internet Studies

Communication, Culture and Technology Program, Georgetown University

*Earl Nied*

Program Director of Standards and Intellectual Property Rights, Intel Corporation

*Paul Nikolich*

Chairman, IEEE P802 LMSC

*Steve Nunn*

COO and Chief Legal Counsel, The Open Group

*Zsolt Okanyi*

Yale Law School

*Donald E. Purcell*

Chairman, Center for Global Standards Analysis

*Ronald F. Silletti*

Corporate Program Director of Standards, IBM

*Robert Sutor*

Vice President of Open Source and Open Standards, IBM

*Stéphane Tronchon*

Legal Director, IPR Policy and Compliance Group, EU, Qualcomm

*Andrew Updegrove*

Principal, Gesmer Updegrave LLP

*Jari Vaario*

Director, Technology & Standards IPR, Nokia Corporation

*George T. Willingmyre*

President, GTW Associates

*Richard Wolfram*

Attorney

*Don Wright*

Director of Standards, Lexmark International

Director, ANSI & IEEE-ISTO

*Joseph Ziskin*

TM Forum Board Member

## **Standards and the Role of Government Working Group**

This section describes the findings and recommendations of the Standards and the Role of Government Working Group. The first part of this section includes the background material provided for the working group at the Standards Summit. This background summarizes the key questions and recommendations discussed in the policy and society forum during the online summer wiki discussion. The second part of this section summarizes the problems, recommendations, and next steps discussed in the working group at the November 21<sup>st</sup> S4S Summit.

### ***I. Background Material for Standards and the Role of Government Working Group***

#### **Some Questions**

*The following questions about standards, politics, and society were presented for discussion in the Summer Online Standards Forum.*

#### *The Role of Government*

- How and where does government policy intersect with standards?
- How could or should governments be stronger players in the creation and adoption of standards without necessarily controlling the process?
- As enormous procurers of information and communication technologies, what market role, if any, should governments play in influencing technical standards?
- What are the economic and political implications of different government approaches to standardization (e.g. *laissez-faire* versus government leadership)?
- What is the appropriate relationship between governments and the national standards bodies that feed into international standards-setting processes? On what basis do these national organizations derive the legitimacy to be making decisions on behalf of national governments?

#### *Standards as Public Policy*

- What are the most critical public interest implications of standards?
- If standards establish public policy, what characteristics, processes, and possibly accreditation are necessary to provide the legitimacy for a standards-setting institution to make policy on behalf of publics?
- How can the interests of the public be balanced with the interests of the creators of standards?
- In democratic societies, what are the rights of the citizens to know how national standards are approved and how the country votes for international standards?

- How strong is the linkage between standards and the ability of governments to deliver public services, whether disaster response, eGovernment services, or providing citizens with access to public information?

#### *Standards and Global Trade*

- In what ways are standards currently enabling or impeding global trade?
- Is the World Trade Organization's Agreement on Technical Barriers to Trade (TBT) being effectively implemented in practice?

#### *Standards and Developing Countries*

- Are there special considerations for emerging markets?
- Do the interests of developing countries adequately enter the design, selection, and implementation of standards? What's working and what's not?

#### *Problems in Transnational Jurisdiction*

- What are some problems at the intersection of national standards bodies and the international standards-setting process?
- How could an international standards body provide an appropriate level of guidance to a national standards body and at the same time respect their country's sovereignty?
- What are the current problems with the interactions between consortia and "global" standards development organizations (like the W3C and OASIS) and the international standards organizations (like the ISO and IEC)? What are possible solutions?
- How do standards set by one group of countries affect other countries?
- Could/should national standards policies be harmonized, and if so, how?

### **Selected Recommendations from Online Standards Forum**

*The following collection of recommendations were proffered by individuals during the summer online standards forum and do not necessarily reflect consensus.*

#### *Recommendations to Governments*

- Establish policies to procure and use only information technologies based on open standards.
- Call on lawmakers to regulate intellectual property component of standards.
- Call on governments to review their national standards bodies and require them to adopt process rules that assure accountability and transparency and that limit vulnerability to undue vendor influence.
- Recognize the existence of "Civil Information and Communication Technology Standards" and the need for government to protect them and promote them through procurement policy

- Elevate the importance of standards in the missions of the Departments of Justice and Commerce and the National Institute of Standards and Technology. These agencies would guide the creation, publication, and rewards associated with standards.
- Elevate the priority of protecting standards in the missions of the Federal Trade Commission and the Department of Justice.
- Raise government awareness throughout the world to the deliverables of the Interoperable Delivery of European eGovernment Services (IDABC).

#### *Recommendations for International Coordination and Action*

- Encourage bilateral and multilateral government coordination for the sharing of best practices.
- Reinforce World Summit on the Information Society Declaration of Principles – that open standards are important to IT diffusion in the developing world.
- Take concrete actions to fulfill the extent, reach, and use of information and communication technology flagged by the World Bank and other international organizations through public-private partnerships.
- Encourage better application of the WTO’s Agreement on Technical Barriers to Trade.
- Ask all WTO signatories to accommodate the recent Hague Declaration.
- Reinforce that ISO certification does not make something an open standard.

#### *Recommendations to Promote the Public Interest*

- “Open Government Rules” should apply. Standards processes should adopt the equivalent of sunshine laws guaranteeing interested stakeholders greater visibility into the standards development process.
- Civil ICT standards should be properly accountable to all citizens. These are the standards that are necessary to guarantee rights of free speech, free association, and free interaction with government online.
- Reflexive secrecy must end. Traditional closed door, minimal disclosure policies serve the convenience of those involved at the expense of those who are not. Consortia such as the W3C and open source projects demonstrate that far greater transparency can benefit, rather than undercut, good results.

### **Selected Next Steps Mentioned in Online Forum**

#### *Government procurement policies*

- Create a white paper outlining the need for government procurement policies based on open standards and describing actions taken by various countries.
- Suggest a model procurement policy

#### *Coalition of Open Standards*



- Create a standards for standards organization that advocates for greater openness and for solutions to some of the problems listed above.

#### *Best Practices for National Standards Bodies*

- Create a model set of best practices for national standards organizations.

#### *Open Government Principles*

- Create a model set of “open government principles” as guidelines for the creation of national body processes and rules.

## ***II. Summary of Government Working Group Discussion in S4S Summit***

### **The Working Group gave a brief definition of the standards:**

Standards are technical specifications, or blueprints, which provide a common design for products and processes. They are the international language of commerce and the blueprints for the global electronic sphere.

### **The Working Group laid out a framework for why governments should care about technical standards:**

#### 1. Innovation Policy

Standards are central to innovation policy and national economic competitiveness by providing a common platform from which collaborative innovation can proceed, a level playing field on which competition can occur, and through which the risk of experimentation is lowered.

#### 2. Global Trade

Standards play a central role in either enabling or impeding global trade.

#### 3. Government Services

Standards are the underpinning of government functions including, efficient eGovernment services, and the ability of governments to perform national security, law enforcement, public document availability and other functions and services to citizens that rely upon information and communication technologies.

#### 4. Public Interest Effects

Decisions made in standards-setting have public interest effects such as privacy, accessibility, health, safety, environment, and security.

## 5. Critical Information Infrastructure

The degree of security, reliability, and interoperability within standards has significant implications for a nation's critical information infrastructure, including financial systems.

### **The Working Group summarized current problems in standardization:**

In response to the possible response of government policy makers that "everything seems to be working – what are the problems," the working group mentioned the following:

1. Interoperability is not a given.
2. Proprietary standards impede innovation.
3. Some important standards are not adopted because of collective action problems.
4. Standards can impede global trade and be used as technical barriers to trade.
5. It is a problem when eGovernment or critical information infrastructure is locked into a single vendor because of standards.
6. Secure, cloud-based infrastructures can not be built without the use of open standards
7. Closed standards can impede government services.

### **The Working Group described some theoretical disaster scenarios related to standards:**

1. Government becomes locked into a single vendor for critical functions.
2. Foreign competitors lock in a large part of IT infrastructure through proprietary standards, resulting in national security vulnerabilities and competitive disadvantages.
3. Vulnerability in a protocol (or a lack of a protocol) takes down the Internet and other critical information infrastructures.
4. Lack of interoperability impedes critical government service in a national disaster.
5. A critical standard for security and authentication fails to provide adequate privacy for critical information infrastructures such as ecommerce and financial transactions.
6. The public can no longer access public documents because documents are locked into an obsolete legacy standard no longer supported or maintained.

### **The Working Group suggested recommendations to the Obama administration:**

1. For national security reasons, the government should be concerned about the development and adoption of key security standards such as DNSsec

2. The U.S. Government should appoint a high-level advisory committee on technical standardization.
3. U.S. should establish a government procurement policy to prefer open standards that are implemented by at least two independent organizations.
4. Standardization work should be included as part of the R&D tax credit and this should be made permanent.
5. There should be greater U.S. government concern about IPR in standards. The Patent and Trademark Office, in particular, should have greater expertise. (More standards expertise in key technology agencies, beginning with the PTO).
6. Encourage better implementation of the WTO's Agreement on Technical Barriers to Trade.

**The Working Group suggested some next steps:**

1. By inauguration day, submit recommendations to the Obama administration on U.S. technical standards policy.
2. Create an electronic sphere and institutional structure to continue this discussion.
3. Form some kind of open standards U.S. tiger team or standards advisory committee.
4. Create a global open standards advocacy organization
5. Create a white paper outlining the need for (federal and state) government procurement policies based on open standards and describing actions taken by various countries already. Suggest a model procurement policy.
6. Create a model set of best practices for national standards organizations.

## **Quality and Creation of Standards Working Group**

Faced with the challenge of improving  
the quality of Information Technology standards -

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What would your focus be?

The following section summarizes both the online wiki discussion forum on standards quality and creation and the working group on quality and creation of standards at the S4S Summit. The first conversation (Summer 2008), was conducted as an online wiki discussion among seventy experts from academia, standards, law, government and public policy. This forum debated the question of whether standard-setting bodies have kept pace with today's commercial, social, legal and political realities. Actionable suggestions to modernize their processes were offered during the six-week discussion with an eye toward increasing standards transparency, fairness and quality.

A subsequent in person session was conducted by the Information Society Project at Yale University Law School. This discussion focused on key topics arising from the first discussion which seemed to warrant the most attention. In this forum, the intent was to develop action plans and potentially recruit volunteers to continue the discussion and define approaches that address the core issues.

### ***I. Summary of Standards Quality Wiki***

Several discussion threads were introduced to start a broader discussion on the information technology standards-setting process in view of changes across the globe and the reality of information technology's impact on our lives. Two of the threads dealt with potential quality ratings of standards organizations and criteria which could aid in that assessment.

Throughout the discussion, these threads covered many aspects of standards process and quality. The participants brought a wealth of standards-setting and standards-implementation experience to the discussion. They offered many perspectives, driven both by observation and direct involvement.

**At the outset of these two threads, participants addressed some basic questions:**

<b><u>Rating and Accreditation Thread</u></b>	<b><u>Quality &amp; Creation of the Technical Standard Thread</u></b>
<b><i>Is it possible for the standards community to adopt models of stewardship and accreditation required of professionals, products and industries?</i></b>	<b><i>Are common criteria that may help assess the quality of a standard applicable?</i></b>
<p>Organizations like ANSI and ISO already approve and accredit standards (and standards policies) created by others. Can they be improved? Do they reflect present day understanding of the requirements for interdependent, interoperable networked systems?</p> <p>Should we be able to distinguish between a “one-star” and a “five-star” standards setting organization?</p> <p>Is there any benefit to creating a rating system?</p> <p>Who would be the intended audience, vendors, consumers, or standard setting organizations?</p> <p>What kind of rating system could be established? Who would do it, and how?</p> <p>Should accreditation be subjected to the same transparency and quality benchmarks as the standards and standard bodies?</p> <p>What problems or difficulties (e.g. costs, expertise, authority, and neutrality) would be involved in developing or extending rating and accreditation functions?</p> <p>Should accreditation pertain to the standards setting process, or the quality of the standard itself, or both?</p>	<p>Where in the creation of a standard and in the standard itself should we be concerned about quality?</p> <p>How should the attributes of “openness” be considered when thinking about quality?</p> <p>What criteria and metrics define the quality of a standard?</p> <p>What aspects of the standards creation process can be made more consistent and “fair”?</p> <p>How and where can community involvement and democratic processes be encouraged in the creation of a standard?</p> <p>How can ease of independent implementation be improved?</p> <p>What can be done to ensure that standards use the best new or existing technology available?</p> <p>How can the standard creation process be speedy without compromising quality?</p>

It was noted by participants that new members of the community were rapidly emerging with opinions on quality, including those from governments and individuals in the blogosphere. Prior work to identify SSO comparisons or criteria were identified such as work done by IDC to compare various standards organization approaches and work done at the University of Colorado by Ken Krechmer to identify relevant criteria.

Additional referenced sources of opinions were from various government officials, on one hand, and individual standards participants or open source developers on the other. The Wiki

participants pointed to the proliferation of Country Interoperability Frameworks in countries such as Brazil, India, South Africa, Korea, Germany, Japan, Hong Kong, New Zealand and of course there is the European Union trying to develop and interoperability framework to deliver e-government services across all the citizenry of their member states. The EU had published several papers based on commissioned studies, such as “The Way Forward”, the European Interoperability Framework, and their CAMSS (Common Assessment Method for Standards and Specifications).

Overall, the conversation highlighted several criteria in the attempt to define what contributes to the creation of a quality standard. The most important word was “openness” as a prerequisite for an acceptable globally relevant IT standard. In these discussions, further qualifications were “transparency” and “quality” where these words qualified process, availability, interoperability, choice and avoidance of vendor lock-in.

These discussions took many turns including the identification of standards which lacked quality. A key observation was that some of those standards were so important that the quality issues were overshadowed by their timeliness and market relevance. Timeliness and market relevance were deemed to be essential elements in identifying highly successful ICT standards. However, these observations are mostly retrospective and the question of how to anticipate a quality effort remained unanswered

This led to remarks about standards organization rules and procedures by which standards are developed and promulgated.

<p><b><i>Some snippets addressing what were offered as the most important considerations in the development of a quality standard...</i></b></p>	<p>Hygiene factors of openness, transparency, documented methodology, good practices, clarity of IP handling ...</p> <p>Complete, unambiguous, clear, concise, readable, implementable, maintainable...</p> <p>Demonstrably representative of the industry position...</p> <p>Fitness for purpose: good enough and timely..</p> <p>Good, fast, inexpensive – pick two..</p> <p>A good standard is one that is minimalist – the smallest set of normative requirements to achieve the goal.</p> <p>A good set of requirements and working use cases to prove requirements are met.</p> <p>It depends – when participant goals differ, the process is more of a concern.</p> <p>Management of the standards body: schedule, fair opportunity to contribute, focused.</p>
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	<p>Purely objective measurement may produce elegant results that are unused.</p> <p>Quantity is also important – while the public requires standards, will providers have adequate incentives to produce them?</p>
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Certain SSO approaches and processes were highlighted as exceedingly important in predicting a quality outcome. These organizational and process topics are more likely to influence the production of quality results, namely the quality of the standards produced. This conversation coalesced into discussion of quality criteria and best practice considerations, in lieu of quality metrics for ICT standardization. Through these discussions, the topics of testing, requirements definition, due process, openness and transparency were deemed treasured characteristics.

**In summarizing the Wiki threads, the standards criteria conversation entailed:**

1. Criteria for a quality standard
2. Criteria for organizations capable of producing quality standards.

A draft of standards development processes and SSO management characteristics was noted and merged with information from other sources to propose a tool to assist in assessments of the relative quality of ICT Standards Setting Organizations. The analysis tool is divided into two sections. The first is an assessment section to address the overall operational and managerial approaches of the SSO. The second section is a matrix to assist in assessment of the processes employed by the SSO to develop standards.

The analysis tool outlines the elements identified to be the major contributors to quality standardization efforts in information technology and facilitates comparison of SSO approaches. This brought the Wiki discussion to a close.

**II. Summary of Standards Quality and Creation Working Group Discussion at S4S**

In this forum, additional interested parties converged on New Haven to discuss the Wiki results. A report similar to the description above was offered about the “Quality Criteria” and a team formed to discuss next steps.

As with any such effort, the participants needed to discuss the existing materials before proceeding. They took issue with the lack of consideration of the important issues of interoperability testing and marketplace adoption. After much discussion, the group agreed both are important indicators of what constitutes a quality standard, when the standard is already available. This led to the observation that no widely accepted cross-SSO or cross-standard mechanism exists to collect community experiences with specific standards. The resulting thought: We need an Amazon or e-bay type review or customer comment mechanism to collect experiences with standards; the criteria developed during the Wiki discussion (with modification to address interoperability) could be offered to potentially inform the commentary.

The group also discussed how governments, through their Interoperability Frameworks, are asking for, or creating, multiple and somewhat overlapping, but unique guidelines (or criteria) to be used as a predictive method and a way to ensure certain standardization process elements are exercised during standards development before using the resultant standards in e-government service implementations. The proposed Quality Criteria was assembled to meet this need and should be made available through as many outlets as possible to assist in elevating the overall quality of ICT standards.

### Suggestions and Ideas

As the team turned its attention to a discussion of next steps, the first suggestion was to explain the importance of multi-source ICT solutions based on open standards of at least two independent interoperable implementations. The team suggested the addition of this requirement to Government Procurement mandates to drive momentum on this point. The next suggestion was to update the Quality Criteria to address interoperability testing and highlight the use of the Criteria package as a predictive mechanism while finding a permanent home for it on the Internet to further publicize and encourage its use. Another important suggestion was the collection and publishing of papers for a “Guide to Best Practices in Standards Development”. These would inform standards developers and government decision makers. The Guide could also include sample guidelines for government procurement agencies. An interim solution to highlight the Quality Criteria, while testing its applicability, would be an Amazon-like review web application. This would encourage standards implementers to capture experience driven opinions. This may have the benefit of encouraging SSO participation in either the creation of essays and practice improvements. Finally, the idea of providing the Quality Criteria to standards developers for a self assessment also received endorsement from attendees of the Yale Summit.

<p><b><i>Summary of suggested actions derived from Yale “Quality” discussion group</i></b></p>	<p><b>Encourage:</b> A US Government Procurement Requirement to drive momentum  <b>Define:</b> Work with a specific widely-accepted definition of “quality” [and other terms]  <b>Prove:</b> Use Case studies and empirical evidence  <b>Focus:</b> Identify where are the hotspots that NEED to be addressed NOW?  <b>Educate:</b> through information  <b>Publish:</b> Best practices  <b>Highlight:</b> Interoperability at implementation (conformance etc)  <b>Develop:</b> a self-assessment tool in partnership w/SSOs</p> <ul style="list-style-type: none"> <li>• Think! AMAZON 2020</li> <li>• Recruit additional SSO participation and publication of results</li> <li>• Raise awareness of the issues</li> <li>• Drive consensus around the solutions</li> </ul> <p><b>Incent:</b> SSO participation (avoid disincentives).  <b>Establish:</b> credibility for the program  <b>FIND A HOME FOR A COMMUNITY ASSESSMENT TOOL</b></p>
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This brought the Yale University Law School Session to a close.

The next phase should be the conversion of the ideas proffered during these conversations into action. The following action items are intended to further open the discussions of Standards Quality Criteria by providing preliminary mechanisms to verify what was learned in the 2008 discussions.

### **Recommended Action Items**

1. Continue the discussion in phase 3 (post Yale Summit) focused on "Best Practices" in SSO Management and governance.

Why: The extent that management and governance influence the quality transparency and fairness of standards is not well understood and documented. This is evident from the proliferation and variation in e-government interoperability frameworks underway.

2. Engage a number of high volume SSOs to contribute their creation/maintenance process maps and related procedural frameworks. This will serve to determine commonalities and differences among this core set. Based on this input, identify best practices in procedures and solicit broad SSO review and more consistent adoption of processes and procedures.

Why: There is likely more diversity in procedures and practices than widely believed. SSOs are usually not for profit organizations and do not necessarily have the budget, staff or motivation to lead in the creation of unbiased views of process frameworks --but could leverage these for overall quality improvements.

3. Begin to automate the "quality" assessment of SSOs, governance, policies and standards through creation of a community based tool soliciting commentary

-- Include the output from step 1 -- as a first iteration of assessment criteria -- which the community can continue to evolve/improve

-- Include the output from step 2 --- with a mechanism for comment and improvement of the process frameworks -- which the community can continue to evolve/improve

## Quality criteria for Standards Organizations

Organization Characteristics proffered during the WIKI conversation

<b>Organizational Characteristic</b>		<b>Definition</b>
Membership & participation rules		Open to any interested party. A collaborative and consensus driven process
Cost of participation		Affordable for individual participation.
Oversight		Operated by an impartial board with board seats open to regularly scheduled elections.
Scope		Well defined charter or scope document at each level from organizational purpose to individual working group activities
Organizational History		A well established, respected organization with experience in the technologies being standardized
Cost		Specifications / standards are available for free or at a nominal charge.
IPR		Disclosure required by participants based on agreed criteria and licenses available to all applicants on a worldwide, non-discriminatory basis.
Geographic Applicability / Utility		Resultant standards / specifications are intended to be used globally
Relevance		New standardization is started upon due analysis of the market needs, including requirements phase (e.g. accessibility, multi-linguist)

## Quality Criteria for standards / specification development

Process Phase Characteristics proffered during the WKI conversation

Elements \ Phase	Standards Activity Initiation	Specification Development	Review	Final Approval	Publication & Availability	Maintenance & Revision
Open Participation - Contributions are accepted from diverse communities.						
Transparency - Information is available, visible, disclosed and those in charge are accountable for a quality process and result.						
Impartiality - Not dominated by narrowly focused interest groups. Guaranteed fairness by the process and the neutral hosting with equal weight for each participant						
Quality Assurance - Test cases or multiple independent implementations available for each specification. Best practice – demonstrated interoperability between implementations from varied and independent sources						
Fairness - Decisions are made based on rules of consensus or voting. Guaranteed fairness by the process and the neutral hosting with equal weight for each participant.						
Clarity /completeness - The standards produced are well formed, free of unnecessary complexity and easy to use by independent implementers.						
Availability - Resultant drafts, specifications and standards are readily available.						
Special Case Processing - Any exceptions or unique case (such as complete specification contribution) must conform to all information and process step criteria.						
Implementation Considerations - Making it easy to use the standard and addressing user requirements (e.g., interoperability, compactness, security, privacy).						

## **Standards and Intellectual Property Working Group**

The following section describes the findings of the Standards and Intellectual Property Working Group. The first part summarizes the background information presented at S4S by Andrew Updegrave to frame the intellectual property problems related to technical standards. The second part provides a summary of the discussion and recommendations discussed during the intellectual property working group.

### ***I. Background Presentation Prior to Intellectual Property Working Group***

#### **What are the Problems?**

1. Vague, ineffective and non-uniform IPR policies
  - Lack of *ex ante* disclosure
  - Lack of effective sanction mechanisms
  - Incompatible with FOSS implementations
  - Lack of enforceability against patent assignees
  - Lack of protection against proprietary extensions
  - Lack of compatibility between consortia and ISO/IEC JTC1 rules
2. Contradictory participant goals (e.g., FOSS vs. RAND vs. Trolls)
3. Inconsistent and tentative government policies, procurement and regulation

#### **What are the Possible Solutions/Tools?**

1. Create model IPR policies with:
  - Multi-track IPR modalities (e.g., RAND, FOSS-friendly, etc.)
  - Consistent openness process rules and values
  - FOSS-friendly non-assertion covenants
2. Institutionalize *ex ante* disclosure
3. Create an “OSI for SSOs” to:
  - Certify their policies and procedures
  - Maintain a registry of certified standards and SSO
4. Integrate with and augment existing mechanisms:
  - OIN, Peer to Patent, Patent Commons, etc.

#### **What about Government?**

1. Recruit governments to:

- Recognize “Civil ICT Standards”
  - Set procurement requirements to require certified standards from certified SSOs
  - Requirements should be uniform across states and nationalities for maximum impact
2. Educate/recruit FTC, DOJ, EC, other regulators to enforce IPR compliance
  3. Create a “lien registry” at the PTO and elsewhere to register patent commitments

### **A Straw Proposal**

1. Create the model ICT IPR policy of the future
  - Multi-modal to address all common IPR tracks
  - Include non-assertion covenants
  - Incorporate “Standards for Standards” values
2. Create an “OSI for Open Standards” which would:
  - Maintain model IPR Policy and non-assertion covenants
  - Certify other IPR Policies and non-assertion covenants of standards organizations
  - Act as a trusted reference for government procurement

## ***II. Summary of Intellectual Property Working Group***

The IPR Session moved forward on three related fronts. First, the group considered what recommendations it could offer the Obama Administration relating to standards. Although standards have global impact, the importance of providing insights to the new U.S. Administration early on was recognized. It was noted that the President-elect relies on technology, published a "technology paper," and would appoint a Chief Technology Officer (whose role was not yet certain). The message to the Administration should contain the following points:

1. Patent quality is of special concern to standards
2. Integrity and certainty are vital to standards, and the process by which standards are created must support these goals
  - a. Standards are essential to society and innovation
  - b. The integrity of the process is essential to its proper operation, and the support of the courts is required to protect this goal
  - c. Administration policy should promote integrity and certainty of the standards development process
  - d. The Administration needs to take a leadership role with the DOJ and in important court cases
3. Standards and open source should be able to peacefully coexist; leadership is needed to educate and supply solutions to achieve this goal

Accordingly, identifying specifics on how standards policy can contribute to the economic recovery would be valuable. Specific topics of interest could include (i) a public registry indicating licensing commitments for patents and associated standards, (ii) actions that might

help address third party patent issues (which will be reviewed by a working group), (iii) re-opening OMB Circular A119 that discusses open standards and transparency, (iv) promote Agency guidance with respect to Standard body IP policies. Brevity of message was stressed. [One observation: European Commission seems way ahead of U.S. in assessing standard policy.]

Second, the group considered what key progressive initiatives relating to IPR and standards warrant attention and action. The topics in rough priority order:

1. Whether license commitments bind successor owners of patents was a vital topic
2. Clear guidance from court decisions was a vital topic
3. Enforceability -- with respect to methods of enforcing SDO rules and consequences for breaches -- was an important topic
4. Patent quality was seen as important in helping ensure that only sound patent issues arise with respect to standards
5. Certainty for standards stakeholders (especially implementers) in SDO policy -- with respect to consensus, efficiency, and disclosure aspects -- was of considerable interest
6. Interplay of Open Source with Open Standards had mixed support
7. Policy diversity was not viewed as important to consider.

\* A topic discussed (but not voted on) was complexity of SDO rules – non-lawyers need to understand policies.

\* A topic discussed (but not voted on) was problems from different policies for referenced and referencing standards.

Third, the group considered what specific next steps could advance those initiatives. The following working groups were proposed:

1. IP: OMB 119A Consider revisions to OMB Circular A119 on what is an open standard -- transparency. (Have list of interested participants)
2. IP: Registry Consider feasibility and features of a (international) registry of patents used in standards akin to assignment recordation at Patent Offices. Legal impact of such registration on future assignees of the patent and on others. (Have list of interested participants)
3. IP: RAND/ex ante Consider meaning of RAND and ex ante disclosure of license terms in conjunction with irrevocability. {Note: Consider effect of ex ante on companies who wish to use patents only defensively.} Recognized as difficult issue..
4. IP: 3rd party patents Consider measures to address essential patents that are not subject to license commitment. Recognized as difficult issue -- SDO has no control over patent holders. (Have list of interested participants)

IP: OSS/FOSS Consider interplay between Open standards and Open Source. (Have list of interested participants)

\* Another topic considered was "model" IP policies for SDOs to help address problems with inconsistent policies. Akin to Creative Commons licenses.

\* Another topic mentioned was an organization for standards akin to Open Source Initiative (OSI) for advancing open standards policies and procedures.

## **Next Steps**

1. Form a global open standards advocacy and evangelism organization
2. By inauguration day, submit recommendations to the Obama administration on U.S. technical standards policy
3. Create a model set of IP policies for standards organizations
4. Develop a model set of best practices for openness in technical standards setting
5. Begin to automate the "quality" assessment of SSOs, governance, policies and standards through creation of a community based tool soliciting commentary
6. Develop an Amazon or eBay type review or customer comment mechanism to collect experiences with standards; the criteria developed during the Wiki discussion (with modification to address interoperability) could be offered to potentially inform the commentary.
7. Develop a list of open standards
8. Advocate for the formation of a standards advisory council in the United States
9. Create a white paper outlining the need for (federal and state) government procurement policies based on open standards and describing actions taken by various countries already. Suggest a model procurement policy.

<Insert Tab “5. ISP Alumni Reunion”>



## Yale ISP Hosts Ten-Year Alumni Reunion and Conference Nov. 15-16

November 5, 2008 New Haven. As part of its ten-year anniversary celebration, the Information Society Project (ISP) at Yale Law School is hosting an alumni reunion and conference the weekend of November 15-16 at Yale Law School.

ISP fellows will travel to New Haven from as far as Brazil, Europe, and Israel to celebrate this first-of-its-kind reunion of Yale ISP alumni and affiliates. The ISP was founded in 1997 by Jack Balkin, Knight Professor of Constitutional Law and the First Amendment at Yale Law School, to address the implications of the Internet and new information technologies on law and society and to engage in scholarship and activities that promote democratic values online. Since that time, the ISP has produced ten years' worth of brilliant scholars and activists who have made a mark on law and technology areas ranging from cyberlaw and civil liberties online to biotechnology and intellectual property law.

Featured speakers at the reunion will include Susan Crawford '89 of the University of Michigan Law School, Anita Allen of the University of Pennsylvania Law School, Guy Pessach of Hebrew University of Jerusalem, Amy Kapczynski '03 of Berkeley Law, Marvin Ammori of Free Press, Michael Froomkin '87 of the University of Miami School of Law, Mike Godwin, general counsel of Wikimedia Foundation, Anupam Chander '92 of the University of Chicago Law School, James Grimmelman '05, Molly Beutz '01, and Beth Noveck '97 of New York Law School, Caio Mario S. Pereira Neto of FGV School of Law in Brazil, Herbert Burkert of the University of St. Gallen in Switzerland, Daniel Benoliel and Tal Zarsky of the University of Haifa School of Law, Eddan Katz, former ISP Executive Director now at the Electronic Frontier Foundation, and a number of current Yale ISP fellows.

ISP Executive Director Laura DeNardis remarked, "The ISP alumni and affiliates converging on New Haven for this reunion represent some of the leading scholars and activists in technology and law. We're excited to be hosting this event to celebrate ten years of ISP accomplishments, to explore the future of the global information society, and to introduce ISP members from the past ten years to the rising community of ISP postdoctoral and student fellows at Yale Law School."

The alumni conference will begin at 9:00 a.m. on Saturday, November 15, at Yale Law School and end at noon on Sunday, November 16. The conference will include "intellectual games" and four panels addressing the history of the information society, civil liberties online and offline, control over information conduits, and access to knowledge.

The event is free and open to the public, but participants must register with Perry Fetterman at [perry.fetterman@yale.edu](mailto:perry.fetterman@yale.edu). To learn more about the Yale Law School Information Society Project, please visit <http://isp.law.yale.edu/>.



**YALE INFORMATION SOCIETY PROJECT  
2008 ALUMNI REUNION  
AND CONFERENCE**

**November 15-16, 2008 at Yale Law School**

**Saturday, November 15, 2008**

- 9:00-9:30 a.m.**                    **Welcome Breakfast**
- 9:30-10:00 a.m.**                **Introductory Remarks**  
Jack Balkin, Yale ISP  
Laura DeNardis, Yale ISP
- 10:00-11:15 a.m.**                **Panel 1: History of the Information Society**  
*Moderator:* Shay David, Kaltura  
*Speakers:*  
Beth Noveck, New York Law School  
Herbert Burkert, University of St. Gallen  
Mike Godwin, Wikimedia Foundation  
Guy Pessach, Hebrew University of Jerusalem
- 11:15-11:30 a.m.**                **Coffee Break**
- 11:30 a.m.-12:30 p.m.**        **Intellectual Games 1: “The Gong Show” and “Wiki Lecture”**  
*Moderator:* James Grimmelman, New York Law School
- 12:30-2:00 p.m.**                **Lunch Break**
- 2:00-3:15 p.m.**                **Panel 2: Civil Liberties Online and Offline**  
*Moderator:* David Thaw, Yale ISP  
*Speakers:*  
Anita Allen, University of Pennsylvania Law School  
Anupam Chander, University of Chicago Law School  
Eddan Katz, Electronic Frontier Foundation  
Chris Mason, Yale ISP  
Clara Sattler de Sousa e Brito, Max Plank Institute, Yale ISP
- 3:15-3:30 p.m.**                **Coffee Break**
- 3:30-4:45 p.m.**                **Panel 3: Control over Conduits**  
*Moderator:* Laura Forlano, Yale ISP  
*Speakers:*

Marvin Ammori, Free Press and University of Nebraska-Lincoln

Susan Crawford, University of Michigan Law School

Caio Mario S. Pereira Neto, FGV School of Law

Michael Froomkin, University of Miami School of Law

**4:45-5:00 p.m.**

**Break**

**5:00-5:45 p.m.**

**Intellectual Games 2: “I Couldn’t Disagree with You More” and “Impersonating on Your Feet”**

*Moderator:* James Grimmelman, New York Law School

**6:00 p.m.**

**DINNER AT UNION LEAGUE**

Cocktail hour, live music, toasts, and dinner

1032 Chapel Street New Haven

**Sunday, November 16, 2008**

**10:00-10:15 a.m.**

**Coffee and Pastries**

**10:15-11:45 a.m.**

**Panel 4: Access to Knowledge**

*Moderator:* Lea Shaver, Yale ISP

*Speakers:*

Amy Kapczynski, UC Berkeley School of Law

Daniel Benoliel, University of Haifa School of Law

Molly Beutz, New York Law School

Tal Zarsky, University of Haifa School of Law

**12:00 p.m.**

**LUNCH AT YORKSIDE PIZZA AND RESTAURANT**

288 York Street, New Haven



**2008-2009 Information Society Project Fellows**



**James Grimmelman leading "ISP Intellectual Games"**



**Some ISP Student Fellows at the Reunion Dinner**



**Celebratory Dinner at Union League**

<Insert Tab “6. Library 2.0 Symposium”>

**<Insert Library 2.0 Poster from pdf file>**

# Library 2.0 Symposium at Yale Law School

## Some Highlights from the Event

### A Record Number of Attendees

Hundreds of participants packed the large auditorium and, at lunch time, we had to move a large overflow crowd from the saturated dining hall into various lecture rooms.

### Intellectual Contributions

The conference laid the groundwork for understanding the problems and potential solutions related to electronic book repositories, digitizing collections, the challenge of copyright, the politics and ethics of Library 2.0, and other topics. We expect the relationships forged at the event to result in a number of joint research and advocacy projects and we plan to produce an edited volume for inclusion in the *Information Society Series* of the MIT Press. Interesting "Birds of a Feather" groups at lunch addressed privacy issues in Library 2.0, PACER (Public Access to Court Electronic Records), and the Google book search settlement.

### The Electronic Symposium

The event took place electronically as much as in person through our symposium blog, twitter, Facebook, and Flickr. A videographer filmed the entire symposium and we will make this available on Yale's YouTube channel. We also audio recorded the symposium and will add this to the Yale ISP's online podcasts.

### Impressive Line-up of Speakers and Moderators

The Information Society Project was fortunate to be able to arrange addresses by Harvard's Jonathan Zittrain; Ann Wolpert, head of MIT libraries and the MIT press; attorney Jeff Cunard who represented publishers and authors in the Google book settlement; Josh Greenberg of the New York Public Library; John Palfrey; Laura Gasaway; Guy Pessach; Jonathan Band; Denise Troll Covey; Frank Pasquale; the founder of the Internet Archive Brewster Kahle; and many, many others. A special thanks to the excellent moderation by Blair Kauffman, Ted Byfield, Lea Shaver, and Ann Okerson. Yale ISP student, postdoc, and faculty fellows were able to personally meet and speak with the speakers at Friday night's dinner at Bespoke restaurant.

### The Yale ISP Team

A special thanks to the program committee: Doug Rand, Lea Shaver, Blair Kauffman, Camilla Tubs, Ann Okerson, Ted Byfield, Charles Cronin, and Michael Zimmer.



A special thanks to the efficient operational team of ISP student and postdoc fellows operationally running the symposium and blogging and twittering the event: Janice Ta, Anjali Dalal, Emma Llanso, Chris Suarez, Debbie Sestito, Lauren Henry, Lea Shaver, Jason Eiseman, Laura Forlano, Julia Sonnevend, Ri Pierce Grove, Daniel Silverman, and Adi Kamdar. An enormous thank you to Perry Fetterman for his hard work doing such a spectacular job on all the details of the conference.



## Library 2.0 Symposium to Explore the Future of Digital Collections

February 13, 2009. New Haven. The Yale Information Society Project (ISP) will host the Library 2.0 Symposium on Saturday, April 4, 2009, at Yale Law School. The symposium is especially timely as the confluence of book digitization projects, user-generated content, and social networking applications forces us to rethink the role of libraries. Among the topics to be considered: What counts as a library in the 21st century? And how do digital collections and web 2.0 applications create new challenges to copyright, fair use, and civil liberties online?

“The way we search for and interact with digital collections is in a state of transformation in every possible way,” said Yale ISP Executive Director Laura DeNardis, who noted that Google recently negotiated a \$125 million settlement with book publishers and authors over the use of copyrighted materials in its book search digital library project. “The question of what counts as fair use exceptions to copyright for digital books is certainly in a state of flux, as the Google book settlement indicates, but so are issues of privacy and freedom of expression for library patrons and issues of interoperability and openness in technical architectures for digital collections.”

The symposium will bring together leading thinkers from libraries, academia, and legal practice to lay out a vision for the future of the library in the digital age; the ethical implications of Library 2.0, including data retention and patron privacy; intellectual property rights in user-generated and traditional digital library content; and the future of book digitization. Featured speakers will include Ann Wolpert, head of MIT libraries and the MIT press; John Palfrey, Professor of Law and Dean for Library and Information Resources at Harvard Law School; Josh Greenberg of the New York Public Library; Jeff Cunard of Debevoise and Plimpton; and a host of other luminaries.

The event will take place in Room 127 of Yale Law School, 127 Wall Street, New Haven, Connecticut. It is free and open to the public but is expected to fill up quickly, so early registration is encouraged. If you have questions, please contact Perry Fetterman at [perry.fetterman@yale.edu](mailto:perry.fetterman@yale.edu). More information will be made available on the ISP website.

The Library 2.0 Symposium is made possible by the generosity of the Oscar M. Ruebhausen Fund at Yale Law School.

The Information Society Project at Yale Law School was founded in 1997 by Professor Jack Balkin to study the implications of the Internet and new information technologies for law and society.



# THE YALE INFORMATION SOCIETY PROJECT LIBRARY 2.0 SYMPOSIUM

APRIL 4, 2009  
AT YALE LAW SCHOOL

## SCHEDULE

8:00-9:00 a.m. Breakfast and Registration

### 9:00-9:30 a.m. WELCOME AND OPENING REMARKS

**Jack Balkin**, Knight Professor of Constitutional Law and the First Amendment, Yale Law School, and Director of the Yale Information Society Project

**Laura DeNardis**, Executive Director, Yale Information Society Project and Lecturer in Law, Yale Law School

### 9:30-11:00 a.m. THE FUTURE OF THE LIBRARY

Moderator: **Blair Kauffman**, Librarian and Professor, Yale Law School

**Ann Wolpert**, Director of Libraries, Massachusetts Institute of Technology

**John Palfrey**, Professor of Law and Vice Dean, Library and Information Resources, Harvard Law School

**Josh Greenberg**, Director of Digital Strategy and Scholarship, New York Public Library

**Charles Cronin**, Visiting Fellow, Yale Information Society Project

11:00-11:30 a.m. Coffee Break and Refreshments



**11:30-1:00 p.m. ETHICS AND POLITICS OF LIBRARY 2.0**

Moderator: **Ted Byfield**, Visiting Fellow, Yale Information Society Project  
Assistant Professor, New School University

**Michael Zimmer**, Assistant Professor, School of Information Studies, University of Wisconsin Milwaukee

**Jessamyn West**, Community Technologist, Librarian, and Blogger

**Ted Striphas**, Assistant Professor of Media & Cultural Studies; Director of Film & Media, Indiana University Department of Communication and Culture

**Mary Alice Baish**, American Association of Law Libraries

**Jonathan Zittrain**, Professor of Law, Harvard Law School

1:00-2:00 p.m. Lunch

**2:00-3:30 p.m. THE CHALLENGE OF COPYRIGHT**

Moderator: **Lea Shaver**, Access to Knowledge Program Director, Yale Information Society Project and Lecturer in Law, Yale Law School

**Denise Troll Covey**, Principal Librarian for Special Projects, Carnegie Mellon University Libraries

**Jonathan Band**, Technology and Law Consultant; Author

**Kenneth Crews**, Director of Copyright Advisory Office, Columbia University

**Laura Gasaway**, Associate Dean for Academic Affairs and Professor of Law, University of North Carolina School of Law

3:30-4:00 p.m. Break

**4:00-5:30 p.m. DIGITIZING COLLECTIONS**

Moderator: **Ann Okerson**, Associate Yale University Librarian for Collections and International Programs

**Jeff Cunard**, Partner, Debovoise & Plimpton

**Guy Pessach**, Lecturer, Faculty of Law, Hebrew University of Jerusalem

**Frank Pasquale**, Visiting Professor of Law, Yale Law School

**Brewster Kahle**, Digital librarian and co-founder of the Internet Archive

5:30 p.m. Symposium ends



# THE YALE INFORMATION SOCIETY PROJECT LIBRARY 2.0 SYMPOSIUM

APRIL 4, 2009  
AT YALE LAW SCHOOL

## SPEAKERS AND MODERATORS

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Mary Alice Baish  
American Association of Law Libraries

Jack Balkin  
Knight Professor of Constitutional Law and the First Amendment, Yale Law School  
Founder and Director, Information Society Project at Yale Law School

Jonathan Band  
Technology and Law Consultant; Author

Ted Byfield  
Information Society Project Fellow and Assistant Professor in the Communication Design  
and Technology Department of Parsons the New School for Design, New School University.

Kenneth Crews  
Director of Copyright Advisory Office, Columbia University

Charles Cronin  
Fellow, Information Society Project at Yale Law School

Jeff Cunard  
Partner, Debovoise & Plimpton

Laura DeNardis  
Executive Director, Information Society Project at Yale Law School

Laura Gasaway  
Associate Dean for Academic Affairs and Professor of Law University of North Carolina  
School of Law

Joshua Greenberg  
Director of Digital Strategy and Scholarship, New York Public Library

Brewster Kahle  
Digital librarian and co-founder of the Internet Archive

Blair Kauffman  
Librarian and Professor of Law, Yale Law School

John Palfrey  
Henry N. Ess III Professor of Law  
Vice Dean, Library and Information Resources, Harvard Law School  
Faculty Co-Director, Berkman Center for Internet & Society

Ann Okerson  
Associate Yale University Librarian for Collections and International Programs

Guy Pessach

Lecturer, Faculty of Law, Hebrew University of Jerusalem

Lea Shaver

Access to Knowledge Program Director, Yale Information Society Project and Lecturer in Law, Yale Law School

Ted Striphas  
Assistant Professor of Media & Cultural Studies; Director of Film & Media, Indiana University Department of Communication and Culture

Denise Troll Covey  
Principal Librarian for Special Projects, Carnegie Mellon University Libraries

Jessamyn West  
Community Technologist, Librarian, and Blogger

Ann Wolpert  
Director of Libraries, Massachusetts Institute of Technology

Michael Zimmer  
Assistant Professor, School of Information Studies, University of Wisconsin Milwaukee

Jonathan Zittrain  
Professor of Law, Harvard Law School, co-founder of the Berkman Center for Internet and Society  
Author of *The Future of the Internet and How to Stop It*.



<Insert Tab “7. Kauffman Innovation Roundtable”>

# **INTERNET VIDEO INNOVATION ROUNDTABLE**

**Sponsored by the Kauffman Foundation**

**March 7, 2009 at Yale Law School**

With generous funding from the Kauffman Foundation, the ISP convened a roundtable of leading scholars and practitioners to discuss Internet video innovation. Both traditional and new modes of video - whether television programming, user-generated content on YouTube, Hollywood movies, or newscasts - are rapidly becoming mainstream applications on the Internet. Internet video is in a state of flux in all areas: profitable business models for Internet video; questions about open technical architectures for video; the ability of users to manipulate, access, and create video content with the same freedoms they experience with other types of Internet applications; and questions about what telecommunications policies are necessary to promote innovation in emerging Internet video markets. We discussed these issues with an incredible group of Internet video entrepreneurs and scholars.

## **List of Participants:**

Patricia Aufderheide, Professor, School of Communication, American University

Jack Balkin, Knight Professor of Constitutional Law and the First Amendment and Director, The Information Society Project, Yale Law School

Leah Belsky, Student Fellow, The Information Society Project, Yale Law School

Chris Blizzard, Director of Evangelism, Mozilla

John Carey, Professor in Communications and Media Management, Fordham University

John Clippinger, Director, The Open Identity Meta-system, Berkman Center for Internet and Society, Harvard Law School

Anjali Dalal, Student Fellow, The Information Society Project, Yale Law School

Shay David, CTO and Co-founder, Kaltura

Laura DeNardis, Executive Director, The Information Society Project, Yale Law School

Gali Einav, IDC Hertzelia

Lisa Eisenpresser, CEO and Co-founder, saysmetv

Perry Fetterman, Senior Administrative Assistant, The Information Society Project, Yale Law School



Laura Forlano, Kauffman Fellow in Law, The Information Society Project, Yale Law School

Dean Jansen, Special Projects Team, Participatory Culture Foundation

Ronaldo Lemos, Director, Center for Technology and Society, Fundação Getúlio Vargas (FGV) School of Law

Bob Litan, Vice President, Research and Policy, Kauffman Foundation

Steve Nevas, Senior Research Scholar in Law and Executive Director, Law & Media Program, Yale Law School

Eli Noam, Professor of Economics and Finance, Columbia Business School

Jason Osder, Visiting Assistant Professor, School of Media and Public Affairs, George Washington University

Frank Pasquale, Visiting Professor of Law, Yale Law School

Stanley Pierre-Louis, Vice-President and Associate General Counsel, Viacom Inc.

Steve Rosenbaum, Founder and CEO, Magnify.net

Levi Shapiro, Director, HIRO Media

Lea Shaver, Associate Research Scholar, Lecturer in Law, and A2K Program Director, The Information Society Project, Yale Law School

Aram Sinnreich, Visiting Assistant Professor of Global Media, Department of Media, Culture and Communication, New York University

Julia Sonnevend, Visiting Fellow, The Information Society Project, Yale Law School

Elizabeth Stark, Visiting Fellow, The Information Society Project, Yale Law School

Janice Ta, Student Fellow, The Information Society Project, Yale Law School

Jonathan Zittrain, Professor of Law and Co-founder, Berkman Center for Internet & Society, Harvard Law School

## **Internet Video Innovation Roundtable Agenda**

- 8:30 a.m. Breakfast and Registration (Room 122)
- 9:00-9:15 a.m. Introductions and Opening Remarks (Jack Balkin and Laura DeNardis)
- 9:15-10:45 a.m. **Discussion 1: Emergent Business Models** (Eli Noam, Moderator)
- 10:45-11:00 a.m. Coffee Break and Refreshments
- 11:00-12:30 p.m. **Discussion 2: Technical Architecture** (Laura DeNardis, Moderator)
- 12:30-1:30 p.m. Lunch Buffet
- 1:30-3:00 p.m. **Discussion 3: Legal Design and Intellectual Property** (Jonathan Zittrain, Moderator)
- 3:00-3:15 p.m. Coffee Break and Refreshments
- 3:15-4:45 p.m. **Discussion 4: Telecom Policies** (Bob Litan, Moderator)
- 4:45-5:00 p.m. Concluding Remarks

### **Participant Bios:**

**Patricia Aufderheide** is a professor in the School of Communication at American University in Washington, D.C., and the director of the Center for Social Media there. She is the author of, among others, *Documentary: A Very Short Introduction* (Oxford, 2007), *The Daily Planet* (University of Minnesota Press, 2000), and *Communications Policy in the Public Interest* (Guilford Press, 1999). She has been a Fulbright and John Simon Guggenheim fellow and has served as a juror at the Sundance Film Festival among others. She has received numerous journalism and scholarly awards, including career achievement awards in 2006 from the International Documentary Association and in 2008 from the International Digital Media and Arts Association. Aufderheide serves on the board of directors of Kartemquin Films, a leading independent social documentary production company, and on the editorial boards of a variety of publications, including *Communication Law and Policy* and *In These Times* newspaper. She has served on the board of directors of the Independent Television Service, which produces innovative television programming for underserved audiences under the umbrella of the Corporation for Public Broadcasting, and on the film advisory board of the National Gallery of Art. She received her Ph.D. in history from the University of Minnesota.

**Jack M. Balkin** is Knight Professor of Constitutional Law and the First Amendment at Yale Law School. Professor Balkin received his Ph.D in philosophy from Cambridge University, and his A.B. and J.D. degrees from Harvard University. He served as a clerk for Judge Carolyn D. King of the United States Court of Appeals for the Fifth Circuit and practiced as an attorney at Cravath, Swaine, and Moore in New York City before entering the legal

academy. He has been a member of the law faculties at the University of Texas and the University of Missouri-Kansas City, and a visiting professor at Harvard University, New York University, the Buchman Faculty of Law at Tel Aviv University and the University of London. Professor Balkin is a member of the American Academy of Arts and Sciences. He writes political and legal commentary at the weblog Balkinization (<http://balkin.blogspot.com/>). He has also written widely on legal issues for such publications as the New York Times, the Boston Globe, the Los Angeles Times, the Hartford Courant, Washington Monthly, The New Republic Online, and Slate.

Professor Balkin is the founder and director of the Information Society Project at Yale Law School, an interdisciplinary center that studies law and the new information technologies. His work ranges over many different fields, including cultural evolution, telecommunications and Internet law, reproductive rights, freedom of speech, rhetoric, jurisprudence and legal reasoning, the theory of ideology, and musical and legal interpretation. His books include Cultural Software: A Theory of Ideology, The Laws of Change: I Ching and the Philosophy of Life, Processes of Constitutional Decisionmaking (5th ed., with Brest, Levinson, Amar and Siegel), Legal Canons (with Sanford Levinson), What Brown v. Board of Education Should Have Said, and What Roe v. Wade Should Have Said.

**Leah Belsky** is a third-year student at Yale Law School and a Fellow at the Information Society Project. She also works as the VP of Global Strategy and Product Development at Noank Media, a spin-off start-up of the Berkman Center at Harvard Law School launching a network-based media licensing solution in China. Before law school Leah worked as a filmmaker and distribution consultant to leading film organizations in the US, including PBS and Film Independent. She specializes in leveraging new media tools, online networks, and business models for global media distribution. Leah studied user interface and online collaborative community design at Yale in Yochai Benkler's Cooperation Research Group. She recently presented a paper on new voluntary compensation music distribution models at iCommons iSummit '08. (Co-authored with Byron Kahr and Yochai Benkler) In addition to her research on peer production and cooperation, Leah works on a range of projects involving technology policy, licensing for digital education, and civil liberties online. During law school she worked as a summer associate at the Electronic Frontier Foundation and at Wilson, Sonsini, Goodrich, and Rosati, where she worked on product counseling for new media clients and in IP litigation. Prior to Noank, she worked at the World Bank, managing public-private development and media sector projects in Africa, Asia, and Latin America. She has a BA from Brown University, where she was co-founder of the Internet company InvesTogether.

**Chris Blizzard** hacks on various parts of Mozilla. The straight Xlib port of Mozilla is mostly his fault. He also hacks on the gtk port when it really needs help and people ask really nicely. He dreams of things like adding WebDAV support and other fun network features. He also dreams about the directions the mozilla project could take and what it can accomplish. Chris has been using Linux and open software since the 0.99 days. Starting as a user he self taught himself programming and now hacks on various projects when he has time. He's been working with Mozilla code since the source was released. In the past he's played roles as a sysadmin, web jockey, database programmer and project manager.

**John Carey** is Professor in Communications and Media Management at Fordham University. Professor Carey serves on the Advisory Boards of the Adult Literacy Media Alliance, the Annenberg School for Communications and the Donald McGannon Communication Research Center. He was a Commissioner on the Annenberg Commission on the Press and Democracy, has been an invited lecturer in more than a dozen countries and has presented his research to the boards of major media companies in the U.S. Previously, he taught at Columbia Business School and NYU. John Carey brings 25 years experience in media industry research and product development to his teaching at Fordham. His clients have included American Express, AT&T, NBC Universal, The New York Times, Primedia, A&E Television Networks, Digitas, The Online Publishers Association, PBS, Cablevision, Rainbow Media, Scholastic and XM Satellite Radio, among others.

**John Henry Clippinger** is director of The Open Identity Meta-system at the Berkman Center for Internet and Society at Harvard Law School. The Open Identity Meta-system is a project for the development of Higgins, an open source, inter-operable identity framework that gives people control over their personal information. The Higgins software is also being developed and supported by IBM, Novell, Oracle, Parity Communications, OpenID, and other software developers. Dr. Clippinger co-founded the Social Physics project to conduct multi-disciplinary research and workshops in cooperation with the Gruter Institute and the Aspen Institute on the impact of trust, reciprocity, reputation, social signaling on the formation of digital institutions. He is the author of *A Crowd of One: The Future of Individual Identity*, Perseus, Public Affairs, 2007.

He has consulted to the Command and Control Research Program (CCRP) in the Office of the Assistant Secretary of Defense (Networks, Information and Integration) on the role of trust and distributed control for networked organizations. He has also consulted with numerous other government agencies, including the National Science Foundation, Defense Advanced Research Projects Administration, Federal Communications Commission, National Telecommunications and Information Administration, United States Agency for International Development, and the Office of Technology Assessment. He also been the founder of several software companies, Brattle Research Corporation, Context Media, Lingo Motors, and more recently, Parity Communications, where he is Chairman.

Dr. Clippinger is a graduate of Yale University and holds a Ph.D. from the University of Pennsylvania. He is a regular participant of Renaissance Weekend, and previously was a Senior Fellow at the Boston University School of Management's Institute for Leading a Dynamic Economy, Research Associate at Brandeis University, visiting faculty member for Stanford University Publishing Program and a member of the Publications Board of the Association for Computing Machinery.

**Anjali Dalal** is a 2L at the Yale Law School. In addition to being involved in the ISP, Anjali is the Press Secretary for the national organization of Universities Allied for Essential Medicines (UAEM), and is actively involved with the Yale chapter as well. At YLS, Anjali serves as Submissions Editor for the Yale Journal of Law and Technology, participates in the Workers and Immigrants Rights and Advocacy Clinic, and is the co-chair of the Immigration

Issue Group within the American Constitution Society. This past summer, Anjali interned with Google in Washington, D.C. working on policy and legal issues ranging from broadband access to privacy. She continues to work for Google in a part time capacity. Anjali is a native of Reading, PA. She graduated magna cum laude from the University of Pennsylvania with a dual degree in Philosophy from the College of Arts and Sciences and Economics from the Wharton School.

**Shay David** is CTO and Co-founder of Kaltura. Shay brings many years of experience in technology ventures, starting companies and helping large enterprises turn ideas into working products. Previous projects included MindEcho, Destinator and consulting with companies like Toyota. Shay wrote his PhD dissertation at Cornell, focusing like many of his other articles on collaborative systems and the reputation economy. Shay loves to travel around the world and meet people that are helping bring the open source revolution to various parts of the economy. Shay is also a fellow at Yale Law School's Information Society Project where he contributes to the global Access to Knowledge movement.

**Laura DeNardis** is the Executive Director of the Yale Information Society Project and a Lecturer in Law at Yale Law School. DeNardis is the author of *Protocol Politics: The Globalization of Internet Governance* (MIT Press: 2009), *Information Technology in Theory* (Thompson: 2007 with Pelin Aksoy), and numerous book chapters and articles. She is an interdisciplinary scholar in technology, culture, and law with a research focus on the political implications of the Internet and new media. DeNardis received a Ph.D. in Science and Technology Studies (STS) from Virginia Tech, a Master of Engineering degree from Cornell University, and a Bachelor of Arts degree in Engineering Science from Dartmouth College.

**Gali Einav** was most recently the Director of Digital Insights and Innovation Research at NBC Universal where she oversaw strategic and consumer research across various digital technologies such as Mobile, VOD, HDTV and online media. Building on her work at Columbia University's Interactive Design Lab, Gali specialized in researching the use and content of interactive media, focusing on the state of interactive television in the US and the UK. She is the author of "Producing Interactive Television" and "The Content Landscape of Internet Television", published in "Television over the Internet: Network Infrastructure and Content Implications". Additional research focused on P2P Video file Sharing among College Students. Gali has worked as a senior producer for the second television channel in Israel where she produced, researched and brought to air numerous investigate reports, documentaries and in depths interviews. She also taught television and media studies at the New School of Communications in Tel-Aviv. Gali holds an M.A. in Communications and Journalism from Hebrew University and a PhD in Communications from Columbia University's School of Journalism. She is a member of NATAS and its New York Chapter Advanced Media Committee. Since 2003 she has been serving as Judge for the Advanced Media Technology Emmy Awards.

**Lisa Eisenpresser** has spent the last seventeen years as a media entrepreneur, executive and producer. She is currently Co-Founder and CEO of SaysMe, funded by Intel Capital and Ashton Kutcher's Katalyst Films. Its mission is to democratize TV advertising by letting everyone create or customize and run targeted ads for as little as \$6 in the markets and on the

networks of their choice. Prior to this, Lisa was Co-Founder and President of Sunshine Direct, a direct response marketing company, where she built Financial Freedom Discoveries, a successful series of infomercials selling products that enable people with no business background to make money in real estate. She also created Keaton Manufacturing Company, a home furnishing and lifestyle brand with Diane Keaton. Prior to Sunshine Direct, Lisa was an executive at Ronald Lauder Investments in New York where she helped build Infinity Holdings, a venture capital group focused on media and technology companies.

From 1991-2001, Lisa created and produced numerous genres of entertainment for leading edge new media companies. As Executive Producer and VP of Strategic Development for Brilliant Digital Entertainment, she oversaw production and distribution of animated movies, music videos and advertisements. As VP of Original Content at iXL, a publicly traded internet consulting company, she led her department in the creation of branding programs for Forbes 500 clients as well as original programming for Microsoft and AOL. Among her creations was "Satori," a visionary series focused on self-improvement, which she conceived, produced and licensed to the Microsoft Network (MSN) in 1997.

Previously, Lisa directed CD-ROM business development at Time Warner and produced interactive TV and Internet content for TCI Cable, including an awarding-winning site for the Getty Museum. Lisa began her career in television and film production at the news show, South Africa Now, and at Roger Corman's Concorde Pictures in Los Angeles. She embarked on a pioneering new media career in 1992 when she co-developed the first real-time digital video sampler, "VuJak." She holds a B.A. with honors from Brown University where she also received a Ford Foundation Grant in Modern Culture and Media.

**Perry Fetterman**, Senior Administrative Assistant, Information Society Project, Yale Law School

**Laura Forlano** is Kauffman Fellow in Law at the Information Society Project at Yale Law School. She received her Ph.D. in Communications from Columbia University in 2008. Her dissertation, "When Code Meets Place: Collaboration and Innovation at WiFi Hotspots," explores the intersection between organizations, technology (in particular, mobile and wireless technology) and the role of place in communication, collaboration and innovation. Forlano is an Adjunct Faculty member in the Design and Management department at Parsons and the Graduate Programs in International Affairs and Media Studies at The New School where she teaches courses on Innovation, New Media and Global Affairs, Technology and the City, Technology Policy, Sustainable Design and Business Ethics. She serves as a board member of NYCwireless and the New York City Computer Human Interaction Association. Forlano received a Master's in International Affairs from Columbia University, a Diploma in International Relations from The Johns Hopkins University and a Bachelor's in Asian Studies from Skidmore College.

**Dean Jansen** is part of the Participatory Culture Foundation (PCF), a non-profit focused on reforming television and video, as it moves online. They develop a free and open source video aggregator, the Democracy Player. Jansen does outreach and community development for PCF. He recently helped develop MakeInternetTV.org, a free and comprehensive

resource for learning the basics of video creation and publishing. Jansen is currently seeking funding to build an open source media publishing tool. This software would enable universities, libraries and individuals to make video easily available in a non-proprietary setting. Jansen gets very excited about copyleft-related stuff - he is an active member of Harvard Free Culture, and helped plan this year's Free Culture National Conference. Nearly all of the art, prose and code Jansen creates is released with a Creative Commons license; in fact, this bio is CC-BY.

**Ronaldo Lemos** is the director of the Center for Technology and Society at the Fundação Getúlio Vargas (FGV) School of Law in Rio de Janeiro. Dr. Lemos is the head professor of Intellectual Property law at FGV Law School. He is also the director of the Creative Commons Brazil and chairman of the Board of iCommons. He has earned his LL.B. and LL.D. from the University of Sao Paulo, and his LL.M. from Harvard Law School. He is the author of three books, including "Direito, Tecnologia e Cultura," published by FGV Press, 2005, and "Tecnobrega", published in 2008. He coordinates various projects, such as the Cultura Livre project, and the Open Business Project, an international initiative taking place in Brazil, Nigeria, Chile, Mexico, South Africa and the UK. He is one of the founders of Overmundo, winner of the Digital Communities Golden Nica, granted by the Prix Ars Electronica 2007. He is also curator of the TIM Festival, the largest music festival in Brazil.

**Robert Litan** is vice president of Research and Policy at the Kauffman Foundation. Litan has been affiliated with The Brookings Institution for nearly 20 years, first as a Senior Fellow and since 1996 as director of Economic Studies and holder of Cabot Family Chair in Economics. At Brookings, he led a team of economists monitoring the global economy and seeking answers to economic policy issues in the U.S. and around the world. The group's rigorous, independent research was designed to increase the public's understanding of how the economy works and how to make it better. During his time with Brookings, Litan authored or co-authored more than 25 books and 200 articles for professional journals and magazines. He co-founded and serves as the Director of the AEI-Brookings Joint Center on Regulatory Studies. Litan has had a distinguished career in public service. He served on the staff of the Council of Economic Advisers (1977-79), as Deputy Assistant Attorney General in the Antitrust Division of the Justice Department (1993-95), and Associate Director of the Office and Management and Budget (1995-96). He also has been a consultant to the Treasury Department on financial policy issues. Litan received his B.S. degree in Economics, graduating summa cum laude, from the Wharton School Department of Finance at the University of Pennsylvania; his J.D. from Yale Law School; and both a Master of Philosophy and Ph.D. in Economics from Yale University.

**Stephen Nevas** is a Senior Research Scholar in Law and Executive Director of the Law and Media program. Since 2003, Mr. Nevas has served as an attorney at the law firm of Nevas, Nevas, Capasse & Gerard in Westport, CT, where he advises media and business clients about media law, privacy, right of publicity, trademarks, copyright, and for-profit and non-profit business strategies. He is a graduate of the University of Connecticut, the Annenberg School of Communications at the University of Pennsylvania, and Northeastern University Law School.

**Eli Noam** has been Professor of Economics and Finance at the Columbia Business School since 1976. In 1990, after having served for three years as Commissioner with the New York State Public Service Commission, he returned to Columbia. He is the Director of the Columbia Institute for Tele-Information. CITI is a university-based research center focusing on strategy, management, and policy issues in telecommunications, computing, and electronic mass media. In addition to leading CITI's research activities, Noam initiated the MBA concentration in the Management of Media, Communications, and Information at the Business School and the Virtual Institute of Information, an independent, web-based research facility. Besides the over 400 articles in economics, legal, communications, and other journals that Professor Noam has written on subjects such as communications, information, public choice, public finance, and general regulation, he has also authored, edited, and co-edited 27 books.

**Jason Osder** is a media educator, producer, and instructional author with a background in documentary, social sciences, and education theory. He joined the faculty of the School of Media and Public Affairs in January 2007 to teach Introduction to Digital Media, a required course for journalism and political communications majors. He also co-teaches an Online Journalism Workshop with Professor Mike Shanahan, a new course that challenges students to apply theoretical concepts such as convergence to real-world reporting and publishing projects. Jason's first book, *Final Cut Pro Workflows: The Independent Studio Handbook* was published in 2007. Jason co-authored the book with his business partner (media colleague/collaborator) Robbie Carman. The two authors and media professionals formed the consulting firm Amigo Media in 2005 to meet a growing demand for professional training, consulting, and execution in the rapidly changing field of creative media technologies. In all aspects of their work, Amigo follows the motto: Relate, Educate, Create. Jason serves on the Advisory Council of The Global India Fund and on the Advisory Board of the film 18 in '08. In these projects, as well as in his work with non-profits such as YouthAIDS and Siamese Rescue, Jason finds opportunities where emerging media technologies empower individuals to affect change. Jason shares these professional experiences with his students to teach the creative skills and theoretical principles needed to make positive impacts in today's dynamic media environment.

**Frank Pasquale** is a Visiting Professor of Law at Yale Law School where he teaches Intellectual Property and Health Law. He is the Loftus Professor of Law at Seton Hall University School of Law. His expertise and research are in the fields of Health Law and Intellectual Property. A graduate of Yale Law School and Harvard College, Professor Pasquale served as an editor on both the Yale Law and Policy Review and the Yale Symposium on Law and Technology.

**Stanley Pierre-Louis** is Vice President and Associate General Counsel at Viacom, Inc. Previously, he was an attorney in the Litigation Department of Kaye Scholer's New York office and co-chair of the Entertainment and Media Law Practice. Prior to joining Kaye Scholer, Mr. Pierre-Louis served as the Senior Vice President of Legal Affairs for the Recording Industry Association of America (RIAA). At the RIAA, the trade association that represents the leading record companies in the US, Mr. Pierre-Louis developed enforcement strategies and managed the recording industry's litigation in several landmark matters



including Napster, MP3.com, Aimster and Grokster, a precedent-setting case in which the recording industry prevailed before the US Supreme Court.

The December 10, 2005 edition of the music industry's leading trade publication, Billboard Magazine, named Mr. Pierre-Louis as one of its "Power Players" in the music industry. In addition, an American Lawyer publication has cited his work as "some of the most celebrated litigation in music history." Prior to joining the RIAA, he clerked for Judge David A. Nelson of the United States Court of Appeals for the Sixth Circuit, then joined a major Washington, DC law firm, where he focused on counseling, licensing and litigation in the areas of intellectual property and Constitutional law and advised clients on music publishing, book publishing, theater production, software licensing and employment contracts. Mr. Pierre-Louis is active in the New York State Bar Association, where he serves on the Executive Committee of the Entertainment, Arts and Sports Law Section as co-chair for Litigation Programs and on the Corporate Counsel Litigation Committee of the Commercial and Federal Litigation Section. He is a frequent speaker on intellectual property law and on the entertainment industry and serves on several non-profit boards.

**Steve Rosenbaum** is Founder and CEO of Magnify.net. I was a magician in high school, and I always loved the back and forth with the audience. The feedback. When I started working in the media, I found the whole 'one way' thing kind of hollow. I wanted applause if we did well and I wanted rotten fruit if the audience didn't like a documentary or program we produced. At the first chance I got, I invented a TV series that gave the audience a chance to do more than watch -- but actually participate. It was called MTV UNfiltered, and if you haven't checked it out, you can find it here. Along the way, I've made a ton of films, documentaries, and web projects for partners including HBO, Discovery, A&E, MSNBC, and CNN. I've also directed a number of feature documentaries, including a film I'm very proud of "7 Days in September" about how New York was affected by the attacks on the World Trade Center. Magnify.net is the incarnation of the way I see the media world evolving. Increasingly, the power is in the hands of the audience. The audience engages, shares, ranks, and validates. I always imagined Magnify.net as a platform that would engage, embrace, and facilitate media creating, sharing, and collective knowledge. I'm passionate about the sounds and pictures that real people create, and excited to help create order from chaos.

**Levi Shapiro** is Director at HIRO Media. Most recently, he oversaw Los Angeles operations for Telephia, the dominant player in mobile-related market research. In this role, he created partnerships and products for leading movie studios, television networks, game publishers and record labels. He also helped develop innovative new products including the industry's first-ever Mobile Television Diary. Previously, Mr. Shapiro was Founder and Chief Executive Officer of two mobile video companies, Two Minute Television and Snack Mobile. Two Minute Television created short-form TV series with episodes averaging 4 million TV viewers, carriage on 110 major websites and distribution on wireless carriers in North America, Asia and Europe. Snack Mobile is a software company enabling a completely new category of mobile media - combining a hybrid of casual mobile gaming and live-action video.

Prior to that, Mr. Shapiro helped re-launch a multi-million dollar line of online digital services across Europe for IBM, growing revenue by over 20% in a previously flat segment. Mr. Shapiro is completely fluent in Japanese and Italian and spent the early part of his career in Tokyo and Beijing, working for Toyota Motor Corporation. He is a frequent speaker at industry conferences including NAB, CTIA, IIR, IQPC, Digital Hollywood, iHollywood, Terrapin, MoMeMo. Levi Shapiro is also Assistant Editor of Video Age International, where he covers the mobile and new media platforms. He graduated from Tulane University and received an MA from Cornell and MBA from MIT.

**Lea Shaver** is an Associate Research Scholar, a Lecturer in Law, and A2K Program Director of the Information Society Project at Yale Law School. She is affiliated to the Information Society Project, where she directs the research program in Access to Knowledge. Ms. Shaver holds bachelor's and master's degrees in the social sciences from the University of Chicago, as well as a J.D. from Yale Law School. Most recently she was a Fulbright Scholar to South Africa, where she contributed to socio-economic rights litigation efforts at the Centre for Applied Legal Studies.

**Aram Sinnreich** is a media and entertainment industry analyst, journalist, and musician. In addition to his role at NYU, he currently serves as co-founder and managing partner of Radar Research, a media and technology consultancy. Prior to that, he was a senior analyst and research manager at Jupiter Research in New York for more than five years (1997-2002). Named one of 15 "Innovators and Influencers of 2001" by InformationWeek, Sinnreich has written about music and the media industry for publications including the New York Times, Billboard, Wired News, Truthdig, and American Quarterly, and has appeared as a frequent commentator in the news media, including ABC's "World News Tonight," the CBS "Early Show with Bryant Gumbel," NBC's "Today Show," NPR, CNN, CNBC, MTV, BBC Radio, and Fuji TV. He has also served as an expert witness in several court cases, including the recent Supreme Court file sharing suit *MGM v. Grokster*. As a musician, he has performed and/or composed for artists and groups as diverse as Tony award-winner Trazana Beverly, legendary punky reggae star Ari-up, seminal ska-punk band Agent 99, and New York neo-soul stalwart Brave New Girl. Sinnreich holds a bachelor's degree in English from Wesleyan University, a masters degree in Journalism from Columbia University, and a Ph.D. in Communication from the Annenberg School for Communication at the University of Southern California.

**Julia Sonnevend** is a Visiting Fellow at the Information Society Project at Yale Law School, a Ph.D. Candidate in Communications at Columbia University and a Research Fellow with the Department of Communications, Eötvös Loránd University, Budapest. She received her Master of Laws degree from Yale Law School, her Juris Doctorate and her Master of Arts degrees in German Studies and Aesthetics from Eötvös Loránd University. Sonnevend is interested in the intersections between communications, art history, visual studies and legal theory, her research areas include: the iconic turn, democratization of visual media, visual culture, representation of law and justice in art and media, cultural memory, access to knowledge, media criticism, post-socialist identities, Eastern-European media.

**Elizabeth Stark** is a Visiting Fellow at the Information Society Project at Yale Law School. A recent graduate of Harvard Law School, Stark founded the Harvard Free Culture Group. She serves on the board of directors of the international organization Students for Free Culture, dedicated to promoting access to knowledge, technological freedom, and participatory culture. While at Harvard, she was Editor-at-Large of the Harvard Journal of Law & Technology, and worked with the Advocates for Human Rights as a founding member of the Anti-Torture Group. Elizabeth conducted research for the Berkman Center for Internet & Society and has taught courses in Cyberlaw, Technology and Politics, and Electronic Music. She has collaborated with organizations such as Creative Commons, SPARC, the Free Software Foundation, and One Laptop per Child. Elizabeth has lived and worked in Berlin, Singapore, Paris, and Rio de Janeiro, and speaks French, German, and Portuguese.

**Janice Ta** is a current 2L at Yale Law School. Her main ISP interests are in policy questions at the intersection of disability rights and technology. In 2003, Janice graduated from Stanford University with a B.A. in Art History and B.S. in Symbolic Systems, concentrating in Human-Computer Interaction (HCI). From 2003-2006, she was a product manager at Plaxo, Inc., a start-up in Mountain View, CA, where she researched and drove the user experience of many of the company's key consumer products. Her work in human computer interaction has included projects for Toyota, Eastman Kodak, and Yahoo! Janice is also actively involved in disability advocacy. In 2006-2007, she was the Program Assistant and interim National Coordinator for Disability Mentoring Day at the American Association of People with Disabilities. She is currently the Chief Financial Officer of the National Association of Law Students with Disabilities.

**Jonathan Zittrain** is a Professor of Law at Harvard Law School, is a co-founder of the Berkman Center for Internet & Society and served as its first executive director from 1997-2000. Zittrain's research includes digital property, privacy, and speech, and the role played by private "middlepeople" in Internet architecture. He has a strong interest in creative, useful, and unobtrusive ways to deploy technology in the classroom. He holds a J.D. from Harvard Law School an M.P.A. from Harvard University's John F. Kennedy School of Government, M.P.A. and a B.S. in Cognitive Science and Artificial Intelligence from Yale University.

<Insert Tab “8. Speaker Series”>

# YALE ISP LUNCH SPEAKER SERIES 2008-2009

September 16, **John Kelly**, "Mapping Blogospheres," Berkman Center for Internet and Society at Harvard Law School

October 7, **Danielle Citron**, "Cyber Civil Rights," University of Maryland School of Law

October 14, **Chris Anderson**, "Stabilizing the News Network," Columbia University

November 4, **Katherine Strandburg**, "User Innovation and Intellectual Property Law," DePaul University

November 11, **Marc Smith**, "Pictures of traces of places, people, and groups: visualizing computer-mediated collective action," Telligent Systems Research

November 18, **Michelle Denedy**, "Information without Borders," Sun Microsystems

December 2, **Biella Coleman**, "Free Software and the Global Politics of Intellectual Property Law," New York University

December 9, **Cindy Cohn**, "Your World Delivered to the NSA: Warrantless Domestic Wiretapping Litigation Update," Electronic Frontier Foundation

December 16, **Christina Dunbar-Hester**, "Do New Media Have Old Politics?," Annenberg School for Communication, University of Pennsylvania

February 3, **Motohiro Tsuchiya**, "Open Norms and Secret Natures: Impacts of Intelligence Activities over the Internet," Keio University

February 10, **Victoria Stodden**, "The Reproducible Research Standard: Copyright and the Scientific Method," Harvard University

February 17, **Nicholas Economides**, "Net Neutrality on the Internet: A Two-Sided Market Analysis," New York University

March 10, **Mark Webbink**, "Harnessing Social Networks to Improve Patent Quality and Patent Knowledge," New York Law School

March 24, **Anthony Townsend**, "Science In Place: Why Face-to-Face Matters for Global Science," Institute for the Future

March 31, **Aram Sinnreich**, "Beyond Copyfight: Why New Media Ethics Demand New Media Laws," New York University

April 7, **Elizabeth Stark**, “Open University,” iCommons and Yale Information Society Project

April 15/22, **James Grimmelman**, “Saving Facebook,” New York Law School

April 23, **Madhavi Sunder**, “iP: YouTube, MySpace, Our Culture,” University of Chicago School of Law

April 28, **Jean Burgess**, “User-Created Content and Everyday Cultural Practice: Lessons from YouTube,” Queensland University of Technology, Australia

**<Insert Tab “9. Health Impact Fund”>**



# The Information Society Project

Thomas Pogge

Aidan Hollis

William Fisher

Frank Pasquale



**The Health Impact Fund:  
Promoting Innovation and Access to  
Life-Saving Medicines**

**April 9  
4:00 p.m.  
Room 127**



# The Health Impact Fund

Discussion of Health Impact Fund This Thursday, April 9

April 7, 2009

A presentation on the proposed Health Impact Fund (HIF), a pay-for-performance mechanism designed to reduce the cost of advanced medicines without stifling innovation, will be held at Yale Law School Thursday, April 9, at 4 p.m. in Room 127. The event is sponsored by Yale's MacMillan Center and the Information Society Project at Yale Law School. It is free and open to the public.

To be funded primarily by governments, the HIF would give participating pharmaceutical companies the option to register any new drug for compensation. The companies would promise to make the registered drugs available at the lowest feasible cost of production and distribution wherever they are needed. In exchange, they would receive annual reward payments based on the global health impact of the drugs during their first ten years. An international, interdisciplinary team is working to specify the operating mechanism of the Fund.

“Among other benefits, the HIF would foster innovation to address illnesses concentrated among the poor, such as tuberculosis and malaria, because innovators cannot recover their research and development costs from sales to the poor,” said Yale Law School Visiting Professor Frank Pasquale '01, who will participate in the discussion. “But with the option of an alternative reward based on health impact, these neglected diseases would become some of the most lucrative R&D opportunities.”

Other event participants include philosopher Thomas Pogge and economist Aidan Hollis, who will summarize the HIF proposal. Harvard Law Professor Terry Fisher and Professor Pasquale will comment on the issues in intellectual property and health regulation raised by the proposal.

For further details on the Health Impact Fund, including a downloadable book-length treatment, visit [www.healthimpactfund.org](http://www.healthimpactfund.org).

**<Insert Tab “10. Copyright Lecture Series”>**

**COPYRIGHT LECTURE SERIES**  
**CO-SPONSORED WITH YALE UNIVERSITY LIBRARY**

This academic year, the Yale ISP had the privilege of co-hosting a copyright lecture series with the Yale University Library. All events were held in the Sterling Memorial Library Lecture Hall.

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November 17, 2008: Charles Cronin, a copyright lawyer, music librarian, and currently a fellow in the Information Society Project at Yale Law School, has specialized (among other things) in copyright issues related to perfume. Charles just returned from a research trip in the perfumeries of France and discussed the topic: "Genius in a Bottle: Perfume as a Copyrightable Creative Work?"

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December 2, 2008: James Neal, Vice President for Information Services and University Librarian at Columbia University, has been involved over the past twenty years in variety of initiatives at the national and global levels in the areas of copyright and scholarly communication. He participated in the recently concluded Section 108 (of the US Copyright Act) expert study. Section 108 addresses exceptions to copyright law, in particular how libraries and archives deal with copyrighted materials in fulfilling their missions. The title of his talk was, "Copyright Still Matters: Preparing the Academy for the Attack on Balance and Fair Use."

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February 2, 2009. Sheree Carter-Galvan, Copyright Counsel at Yale University, discussed what it's like to be a copyright attorney at a major university -- Yale. Sheree's talk offered insights into life on the 6th floor of Whitney Grove, where she deals with numerous campus rights issues, not just the Library's.

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March 5, 2009. Kenny Crews, Director of the Copyright Advisory Office, Columbia University, discussed his recently completed landmark study for the World Intellectual Property Organization (WIPO), in which he compares fair use and other copyright exceptions across some 150 countries. Professor Crews gave a fascinating sneak preview of the findings of this study at the IFLA Congress this past August in Quebec

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**<Insert Tab “11 Ideas Lunches”>**

## THURSDAY 'ISP IDEAS LUNCHES'

This year, the ISP continued its tradition of holding weekly "ideas lunches" with ISP faculty, postdoctoral fellows, and student fellows. The following are a few of the "ideas lunch" topics discussed this year.

Topic: **Born Digital with John Palfrey.** On October 16, 2008, the Yale ISP fellows ideas lunch featured a discussion with John Palfrey, Professor of Law at Harvard Law School and Director of the Berkman Center for Internet and Society. We discussed themes from his new book, *Born Digital*, heard about his successful efforts promoting an open access strategy at Harvard, and discussed his new research focus on digital library issues.

Topic: **Open Video Principles.** On February 12, 2009, the Yale ISP fellows drafted open video principles for submission to the Open Video Alliance. The ISP also brainstormed a list of research questions for four areas of discussion for the forthcoming Internet Video Innovation Roundtable (legal systems and intellectual property, telecom policy, technical architecture, and emergent business models).

Topic: **Synthetic Biology and Biobricks.** Our February 5, 2009, ideas lunch featured a roundtable discussion with David Grewal, author of the thought provoking new book *Network Power: The Social Dynamics of Globalization* (Yale University Press) and a Yale Law School graduate.

Topic: **Health Impact Fund.** On February 26, the Yale ISP fellows discussed the Health Impact Fund, a new initiative to pool contributions from international governments and reward pharmaceutical innovation on the basis of measured health effects of medicines and vaccines, provided that innovators sell products at cost. The ISP was joined by special guest and philosopher Thomas Pogge, who is spearheading the Health Impact Fund initiative.

Topic: **Privacy and Private/Public Information Fusion Centers.** This April 2, 2009, ideas lunch discussion with Frank Pasquale served as a precursor to the privacy roundtable Frank Pasquale, Nathaniel Gleicher, and Laura DeNardus attended at the University of Maryland law school later that month.

Topic: **Commons-Based Production in Practice.** On March 26, the Yale ISP was joined by Carolina Rossini of the Berkman Center, where she is working with Yochai Benkler on a project to extend work outlined in *The Wealth of Networks* into a map of commons-based production in practice today. This project is examining strategies in three fields - alternative energy, educational materials, and biotechnology - related to openness and its impact on innovation.

**<Insert Tab “12 Cyberscholar Working Group”>**

## **HARVARD-YALE-MIT CYBERSCHOLAR WORKING GROUP**

In collaboration with the Berkman Center for Internet and Society at Harvard and the MIT Comparative Media Studies program, the Yale Information Society Project convenes the Cyberscholar Working Group, a monthly forum for fellows and affiliates to discuss their ongoing research.

Meeting alternatively at Harvard, MIT and Yale, the working group aims to expand the shared knowledge of young scholars by bringing together these preeminent centers of thought on issues confronting the information age. Discussion sessions are designed to facilitate advancements in the individual research of presenters and in turn encourage exposure among the participants to the multi-disciplinary features of the issues addressed by their own work.

Each session is focused on the peer review and discussion of current projects submitted by a presenter. Examples of Cyberscholar working groups include the following:

### **Thursday, November 13, 2008**

**Joris van Hoboken:** *The Secret Lives of Robots.txt: Sanctioning the Use of Robots Exclusion Protocols*

**James Grimmelman:** *The Ethical Visions of Copyright Law*

**Charles Cronin and Melanie Dulong de Rosnay:** *Yale University Libraries, Digital Technology, and Copyright*

### **Thursday, March 26, 2009**

**Gabriella Coleman:** *These are the Best of Times and these are the Worst of Times: Free Software and the Global Politics of Intellectual Property Law*

**Thomas Streeter:** *The History of the Internet in the History of the Internet*

**David Thaw:** *Understanding How Law and Regulation Drive Corporate Information Security Practices*

<Insert Tab “13 United Nations IGF”>



**YALE ISP AT THE UNITED NATIONS INTERNET GOVERNANCE FORUM  
IN HYDERABAD, INDIA  
November 2008**

The 2008 United Nations Internet Governance Forum was held this year in Hyderabad, India. The Yale Information Society Project played a significant role in organizing workshops for the event, convening IGF dynamic coalitions, and attending and speaking at the IGF. The Yale ISP was involved in three dynamic coalitions: the Dynamic Coalition on Open Standards (DCOS), the Dynamic Coalition on Digital Education (DCODE), and the Dynamic Coalition on Access to Knowledge.

ISP Executive Director Laura DeNardis spoke on several panels at the IGF, ISP Program Director Lea Shaver, spoke on the A2K panel, and ISP student fellow Nathaniel Gleicher moderated and spoke on the panel on digital education. Laura DeNardis also presented a paper “Architecting Civil Liberties” at the meeting of the Global Internet Governance Academic Network (GigaNet) the day preceding the Internet Governance Forum.

The following provides some information about the workshops the ISP helped organize at the IGF this past year.

**Overcoming Obstacles to Effective Digital Education  
Wednesday, 3 December 2008, 11:30am-1pm, Room 3  
Internet Governance Forum, 3-6 December 2008, Hyderabad, India**

*Nathaniel Gleicher, Yale Information Society Project (Moderator)*

*Geidy Lung, World Intellectual Property Organization*

*Hong Xue, Law School of Beijing Normal University*

*Ginger Paque, DiploFoundation*

*Eddan Katz, Electronic Frontier Foundation*

The panel featured a lively discussion about the challenges facing the expansion of digital education in the world today. It was well attended, with about 50 people in the audience, and the panelists’ presentations were followed by a string of probing questions. While the panel covered many aspects of digital education, it particularly focused on the impact that intellectual property laws have on the development and delivery of new educational techniques.

Nathaniel Gleicher discussed some of the fundamental roadblocks that stand in the way of the growth of digital education. He defined five commonly discussed types of challenges: economic, cultural, technical, institutional, and legal. In addition, he noted that the rapid development of technology made it increasingly difficult to define exactly what we mean by “digital education.” Suggesting that “scoping” constitutes a sixth type of road block. To deal with this challenge, legal and cultural expectations must remain flexible enough to adjust to the innovations of tomorrow. Geidy Lung discussed the importance of maintaining protection for intellectual property, arguing that the present legal regime is well balanced to address future educational innovations. She also pointed out that, by creating incentives for writers to develop new educational resources, intellectual property was a good thing for

educators and students. Hong Xue focused on the impact of copyright on digital education, suggesting that the current framework made it difficult for innovators to adapt existing textbooks into new media. She gave the example of the makers of a widely used English textbook in china, who recently sued a company that developed an interactive program to help students practice lessons from the book. Ginger Paque spoke primarily as an educator, suggesting that the most important element of education, even in the digital age, is still the teacher. Rather than trying to replace a teacher with technology, digital education should make one-on-one learning time between teachers and students easier to achieve. Finally, Eddan Katz returned to the question of regulation, suggesting that countries should adopt expanded exceptions to intellectual property laws to allow for more flexible uses by educators and students. This would spur innovation in digital teaching methods and media.

Audience participation was diverse, ranging from questions focused on Ginger's presentation of shifting teaching paradigms to a series of questions about the impact of copyright on the development of new digital education techniques. The panel was an important conversation about the challenges facing digital educators and students. Although the discussion addressed potential solutions as well as challenges, it would be very useful to continue this conversation, perhaps focusing specifically on solutions to each of the roadblocks considered at the panel.

## **Knowledge as a Global Public Good**

**Wednesday, 3 December 2008, 16:30-18:00 p.m., Room 5**

**Internet Governance Forum, 3-6 December 2008, Hyderabad, India**

Globalization and the Internet's distribution and communication model pose a vexing question: can a global public good be defined and protected? Indeed, this pressing question is the crux of many issues outlined in the WSIS process and IGF meetings.

This workshop starts from the premise that knowledge is a definable and protectable global public good. Stakeholders will present their viewpoints on how the concepts of open source, open IT standards, and fair use in IP law can be combined to improve digital inclusion. Panelists will discuss how government policy, private industry actions, institutions of global governance, and government procurement and financing could align to support knowledge as a global public good.

This workshop support this year's main session on "Universalization of the Internet - How to reach the next billion (Expanding the Internet)."

### **Panelists**

The main actors in this field include civil society and consumer groups, governments, private industry, and academics. We have approached most of the potential panelists listed below.

#### **Civil Society**

- Georg Greve, Free Software Foundation Europe
- Manon Ress, Knowledge Ecology International

- Robin Gross, IP Justice

#### Academia

- Laura DeNardis, Yale Law School information Society Project
- Philippe Schmitt, University of the Western Cape and A2K South Africa
- Rishab Ghosh, UNU-MERIT

#### Private Industry

- Andrew McLaughlin, Google
- Susy Struble, Sun Microsystems

#### Co-Organizers

- Laura DeNardis (Yale Law School Information Society Project, academia)
- Susy Struble (Sun Microsystems, private industry)
- Thiru Balasubramaniam (Knowledge Ecology International, civil society)
- Georg Greve (Free Software Foundation, civil society)

## **Reforming the International ICT Standardization Process** **Friday, 6 December 2008, 16:30-18:00 p.m., Room 5** **Internet Governance Forum, 3-6 December 2008, Hyderabad, India**

Through a formal debate format, participants will present their views on the health of the international ICT standardization system and what actions – if any – policy makers, private industry and other IGF attendees should take. Questions will address the purported failures of the system, if application level standards and interoperability matter, how industry consortia and de jure standards organizations should coordinate and relate, and changes that could be made to improve broader participation in ICT standards development.

This workshop follows on successful, related workshops in 2006 and 2007 that addressed the inherent tension between the public interest and intellectual property rights (IPR) holders in ICT standards (IGF 2006) and the intersections of open ICT standards, development, and public policy (IGF 2007).

The year between IGF 2007 and IGF 2008 is proving to be full of complex, contentious and confusing developments related to the global standardization system. In April, ISO/IEC JTC 1 approved its second document format as an international standard. Disappointingly, this action seemed to increase acrimony that had developed over the lack of clarity and understanding of ISO/IEC JTC1's rules and methods as well as the rules and roles of national standardization bodies. April also ushered in a surprise from the U.S. Court of Appeals for the D.C. Circuit, which overturned the U.S. Federal Trade Commission's antitrust decision against the Rambus corporation for its deceptive licensing practices and deceit in a standards setting organization.

#### **Panelists**

The main actors in this issue include standards organizations, civil society and consumers, governments, private industry, and academics. We have approached most of the potential panelists listed below.

#### Standards Organizations

- Ken Holman, secretariat of ISO/IEC JTC 1
- Daniel Dardailler, Associate Chair for Europe, W3C

- Vint Cerf, IETF

#### Private Industry

- Rob Weir, IBM
- Susy Struble, Sun Microsystems

#### Academia

- Representative from the Korea Advanced Institute of Science and Technology
- Laura DeNardis, Yale Law School information Society Project

#### Civil Society

- Thiru Balasubramaniam, Knowledge Ecology International
- Andrew Rens, Shuttleworth Foundation, South Africa
- Graham Taylor, President, Open Forum Europe
- Madam Hu Qiheng, Chair of the Internet Society of China

#### **Co-Organizers**

The organizers support the IGF's multi-stakeholder principle and provide gender balance. Geographical and even more stakeholder diversity will come through the panel participants and by our work with various online communities (Dynamic Coalition on Open Standards, Open Forum Europe, etc.) to gather input for the debate questions.

- Laura DeNardis (Yale Law School Information Society Project)
- Susy Struble (Sun Microsystems, private industry)
- Thiru Balasubramaniam (Knowledge Ecology International, civil society)

We will be able to give each stakeholder group and viewpoint ample room for running this workshop as a formal debate

**<Insert Tab “14 New ISP Book”>**

## NEW ISP BOOK

### Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation, and Development

*Made possible by a generous grant from the MacArthur Foundation*

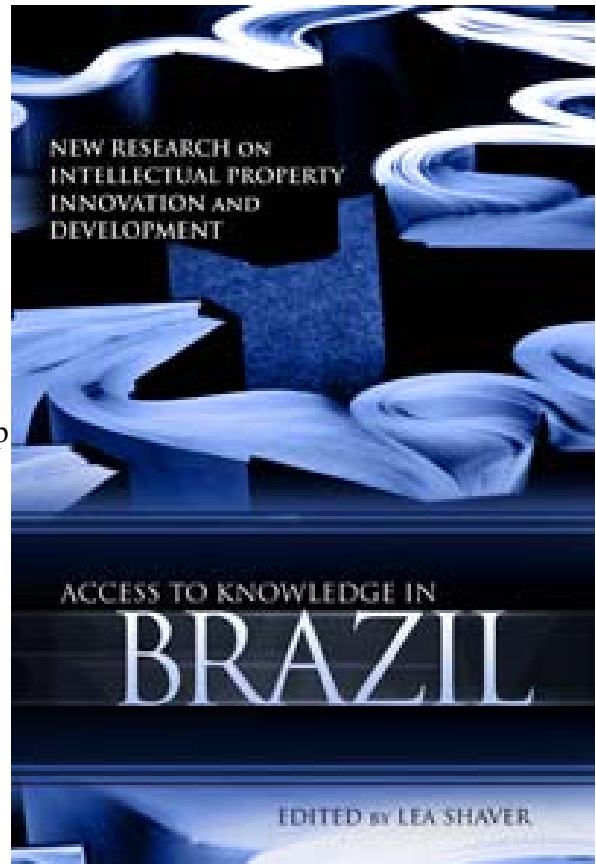
[Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation and Development](#)

Lea Shaver (editor)  
Information Society Project, 2008

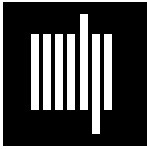
Access to knowledge is a demand for democratic participation, for global inclusion and for economic justice. It is a reaction to the excessively restrictive international IP regime put in place over the last two decades, which seeks to reassert the public interest in a more balanced information policy. With sponsorship from the Ford Foundation, the Information Society Project has embarked on a new series of access to knowledge research, in partnership with colleagues in Brazil, China, Egypt, Ethiopia, India, Russia and South Africa.

The first book in this series, *Access to Knowledge in Brazil*, focuses on current issues in intellectual property, innovation and development policy from a Brazilian perspective. Each chapter is authored by scholars from the Fundação Getulio Vargas law schools in São Paulo and Rio de Janeiro and examines a policy area that significantly impacts access to knowledge in the country. These include: exceptions and limitations to copyright, free software and open business models, patent reform and access to medicines, and open innovation in the biotechnology sector.

Contributors: Jack Balkin, Lea Shaver, Pedro Nicoletti Mizukami, Ronaldo Lemos, Brunos Magrani, Carlos Affonso Pereira de Souza, Alessandro Octaviani, Monica Steffen Guise Rosina, Daniel Wang, Gabriela Costa Chaves, José Antonio Batista de Moura Ziebarth, Karina Grou, Renata Reis, Thana Campos.



<Insert Tab “15 MIT Press Book Series”>



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The MIT Press

55 Hayward Street  
Cambridge, MA 02142

## *Information Society Series*

**An Interdisciplinary Series on Technology, Law, and Society**  
**Series Editors, Laura DeNardis and Michael Zimmer**

We are delighted to announce the formation of the *Information Society Series* published by The MIT Press. The *Information Society Series* will address the social, legal, and policy implications of the Internet and new information technologies. This interdisciplinary series on technology, law, and society will especially feature works from the growing global ranks of interdisciplinary scholars in information schools; communications departments; science, technology, and society programs; and programs in law, technology, and culture. The series will closely align with Yale Law School's Information Society Project (ISP), an interdisciplinary intellectual center addressing the implications of the Internet and new information technologies for law and society.

We are now accepting book proposals for the series. Preference will be given to monographs rather than edited volumes and books that are interdisciplinary, normative, and global in scope. Book proposals should include: 1) a prospectus (brief description, outstanding features and uniqueness of work, audience and market considerations, status of book, and recommended reviewers); 2) a detailed table of contents; 3) sample chapters; and 4) the author's curriculum vitae. Please submit completed proposals to [laura.denardis@yale.edu](mailto:laura.denardis@yale.edu) and [zimmerm@uwm.edu](mailto:zimmerm@uwm.edu).

*Laura DeNardis, Ph.D. is the Executive Director of the Yale Information Society Project and a Lecturer at Yale Law School.*

*Michael Zimmer, Ph.D. is an Assistant Professor in the School of Information Studies at the University of Wisconsin-Milwaukee, and an associate at the Center for Information Policy Research.*



**<Insert Tab “16. ISP Courses”>**

## ACCESS TO KNOWLEDGE PRACTICUM

Laura DeNardis & Lea Shaver

Spring 2009

### Course Description

*Access to Knowledge Practicum (20428). 2 or 3 units. Students in this course will work on projects that promote innovation and distributive justice through the reform of intellectual property and telecommunications laws, treaties, and policies both internationally and in specific countries. These laws, treaties, and policies shape the delivery of health care services, technology, telecommunications access, education, and culture around the globe. Students will supplement their projects with theoretical readings and frequent contact with Information Society Project Fellows. Paper required. Substantial Paper credit available. Permission of the instructor required. Enrollment limited to ten.*

### Course Logistics & Expectations

Meets Wednesdays, 3:10pm-5:00pm, Room 108.

Materials and readings available through YLS Inside, or email [lea.shaver@yale.edu](mailto:lea.shaver@yale.edu).

The A2K Practicum is offered as a two-credit course for students that attend each week and complete a ten- to fifteen-page writing project. A third credit may be awarded to students that complete a substantially longer writing project during the semester. There will be no final exam apart from your writing project.

The first five weeks of the semester will focus on background readings presenting essential concepts for understanding the theory and political economy of access to knowledge. The remaining weeks of the course will involve readings and discussions specific to each of the practicum projects. A description of this semester's practicum projects will be distributed during the first class and also posted to YLS Inside. Students wishing to work on a self-designed project should seek the instructors' approval prior to the start of the term. Each project will be supervised by an Information Society Project fellow.

Aside from equipping students with a foundational knowledge of access to knowledge theory and concepts, the practicum will serve as a workshop for students' academic and/or advocacy projects, offering frequent feedback in a collegial and collaborative setting. Students will take turns presenting their evolving work in class, submitting materials for your colleagues' review no later than Sunday evening. By Tuesday evening, students not presenting that week will return preliminary comments by email. These comments will assist the presenter in framing discussion during class time.

Students who have participated in the A2K Practicum in the past are welcome to take the class again and work on new projects.

## **WEEK 1: What is Access to Knowledge? (Jan. 28)**

The first week features a very slim set of readings, on the assumption that some students will still be shopping for classes, and because only one half of the class time will be devoted to discussion of readings. The other half of class time will focus on explaining the structure of the class and describing the specific projects that students can choose among this semester.

Shaver, Lea. 2008. Introduction, *Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation and Development*. (10 pages)  
<http://www.law.yale.edu/intellectuallife/6620.htm>

PANOS London Media Briefing. Common Knowledge: How access to information and ideas can drive development. (8 pages) <http://www.panos.org.uk/download.php?id=5>

Benkler, Yochai. 2003. The Political Economy of the Commons. (5 pages)  
<http://www.benkler.org/Upgrade-Novatica%20Commons.pdf>

Balkin, Jack. 2006. What is Access to Knowledge? Balkinization, Apr. 21. (5 pages)  
<http://balkin.blogspot.com/2006/04/what-is-access-to-knowledge.html>

## **WEEK 2: Key Concepts in Access to Knowledge (Feb. 4)**

This week's readings cover some key concepts and ideas underlying the access to knowledge paradigm, which will be foundational for the rest of the semester. Read the materials in the suggested order, read them carefully, and bring your questions to class!

Atkinson, Robert. 2004. Review: Gifts of Athena: Historical Origins of the Knowledge Economy. *Issues in Science and Technology*. p. 1 (1 page)  
[http://findarticles.com/p/articles/mi\\_qa3622/is\\_200404/ai\\_n9395194](http://findarticles.com/p/articles/mi_qa3622/is_200404/ai_n9395194)

Mokyr, Joel. 2002. *Gifts of Athena: Historical Origins of the Knowledge Economy*. Princeton University Press. pp. 1-27 (27 pages) <http://books.google.com/books?id=alOdfmgXaEoC>  
(Some pages are missing from the online version; full copy on reserve in the library)

Boyle, James. 2007. Five Questions for James Boyle. *KEStudies*, vol. 1, pp.1-5. (5 pages)  
<http://kestudies.org/ojs/index.php/kes/article/view/29/31>

Benkler, Yochai. 2006. *The Wealth of Networks: How Social Production Transforms Markets and Freedom*. New Haven/London: Yale University Press. pp. 1-27 & 35-58 (50 pages)  
[http://cyber.law.harvard.edu/wealth\\_of\\_networks/Main\\_Page](http://cyber.law.harvard.edu/wealth_of_networks/Main_Page)

### **WEEK 3: Access to Knowledge and Intellectual Property Law (Feb. 11)**

- Joseph Stiglitz. "Intellectual Property Rights and Wrongs." *Daily Times*. August 16, 2005. (1)  
[http://www.dailytimes.com.pk/default.asp?page=story\\_16-8-2005\\_pg5\\_12](http://www.dailytimes.com.pk/default.asp?page=story_16-8-2005_pg5_12)
- Jaffe, Adam B. and Joshua Lerner. 2006. "Opinion: Innovation and Its Discontents." *The Wall Street Journal*. March 21, 2006. (3 pages)  
[http://online.wsj.com/article/SB114290663621603691.html?mod=todays\\_us\\_opinion](http://online.wsj.com/article/SB114290663621603691.html?mod=todays_us_opinion)
- Lessig, Lawrence. 2005. *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. Penguin. pp. 7-11, 13, 17-20 (10 pages)  
<http://www.free-culture.cc/freeculture.pdf>
- Grandstand, Ove. 2006. Innovation and Intellectual Property Rights. *The Oxford Handbook of Innovation* (eds. Jan Fagerberg et al). Oxford University Press. pp. 266-290. (25 pages)  
[http://books.google.com/books?id=AIL\\_xnV7IMoC](http://books.google.com/books?id=AIL_xnV7IMoC)
- James Bessen & Michael Muerer. 2008. *Patent Failure: How Judges, Lawyers and Bureaucrats put Innovators at Risk*. Princeton University Press. pp. 1-28 (28 pages)  
<http://www.researchoninnovation.org/dopatentswork/>
- Scotchmer, Suzanne. Standing on the Shoulders of Giants: Cumulative Research and the Patent Law, 5 J. of Economic Perspectives 29-41 (1991). (12 pages) <http://www.jstor.org/pss/1942700> [Use Yale VPN connection to access JSTOR.]

### **WEEK 4: The Political Economy of Access to Knowledge (Feb. 18)**

- Sell, Susan K. 2003. *Private Power, Public Law: The Globalization of Intellectual Property Rights*. Cambridge University Press. p. 96-120. (25 pages)  
<http://books.google.com/books?id=B81qmONSs9cC>
- Boyle, James. 2003. The Second Enclosure Movement and the Construction of the Public Domain. *Law and Contemporary Problems*, Vol. 66, pp. 33-74. (40 pages)  
<http://ssrn.com/abstract=470983>
- Okediji, Ruth L. *Development in the Information Age*, UNCTAD-ICTSD PROGRAMME ON IPRS AND SUSTAINABLE DEVELOPMENT (2004), pp. 7-11 (5 pages)  
[http://www.iprsonline.org/unctadictsd/docs/CS\\_Okediji.pdf](http://www.iprsonline.org/unctadictsd/docs/CS_Okediji.pdf)
- Obama-Biden Campaign Statement on Technology Policy. 2008.  
<http://www.barackobama.com/issues/technology/>

## WEEK 5: The Emerging Access to Knowledge Movement (Feb. 25)

Kapczynski, Amy. 2008. The Access to Knowledge Mobilization and the New Politics of Intellectual Property. *The Yale Law Journal*, vol. 117, pp. 806-10, 820-59 . (42 p.)  
<http://yalelawjournal.org/images/pdfs/642.pdf>

*Geneva Declaration on the Future of the World Intellectual Property Organization*, Fall 2004. (3 pages)  
<http://www.cptech.org/ip/wipo/futureofwipodeclaration.html>.

Boyle, James. 2004. *A Manifesto on WIPO and the Future of Intellectual Property*, 2004 DUKE L. & TECH. REV. 9 (2004). (12 pages)  
<http://www.law.duke.edu/journals/dltr/articles/2004dltr0009.html>

Proposal By Argentina and Brazil for the Establishment of a Development Agenda. (5 p.)  
[http://www.wipo.org/documents/en/document/govbody/wo\\_gb\\_ga/pdf/wo\\_ga\\_31\\_11.pdf](http://www.wipo.org/documents/en/document/govbody/wo_gb_ga/pdf/wo_ga_31_11.pdf)

Dudas, Jonathan. 2004. *Speech to Annual American Intellectual Property Law Association* (5 pages)  
<http://www.uspto.gov/web/offices/com/speeches/2004oct15.htm>

## WEEKS 6 ONWARD: Project-Focused Readings

Readings for the remainder of the semester will be focused on the specific projects selected.

- **When presenting, submit your materials no later than Sunday evening.**
- **Written comments on others' materials are due by Tuesday evening.**

Draft materials will be due in 3 stages:

**March 4 & 11:** Students present detailed outlines/concept notes for early feedback

**March 25, April 1, April 8:** Students present a partial draft for feedback (5+ pages for 2 credits, 10+ pages for 3 credits.)

**April 15, April 22 & 29:** Students present a substantially complete first draft for final feedback. (10+ pages for 2 credits. 20+ pages for 3 credits)

**May 6,** the last day of class will be dedicated to a review of course themes

**Genomic Rights and Cognitive Liberties Reading Group**  
**Information Society Project**  
**Fall 2008**

**Yale ISP Fellow Michael Seringhaus, Ph.D.**  
**Yale ISP Fellow Christopher E. Mason, Ph.D.**

You, like all humans, are a biological machine. Your DNA is your blueprint, the template for your development. Within the past five years, personal genome sequencing has become a reality -- it is now possible for individual humans to learn their own genetic code. Hidden among these 3 billion base pairs of data is information about predisposition to disease, ancient ancestral lineage, and perhaps the keys to personalized medical treatment: medicines tailored specifically to individual patients.

But accompanying this promise is a host of new legal problems. This reading group will address several key questions arising from the imminent boom in availability of personal genomic data.

- Should genes and genetic tests be patented?
- Should insurers have access to your genetic vulnerabilities?
- How much information should health care providers have, to create tailored medicines while preserving patient privacy?
- What legal implications arise from the modification of our genomes and ourselves -- should we have the right to modify our own genes? To use our own cells to generate cures for disease?

**Meets Tuesdays 6:10-8:00pm at Yale Law School, 127 Wall Street.**

**Course Syllabus**

**I. Synthetic Biology**

- a. Legal and Technical Standards:
  - i. RFC 1.1- Biobricks Foundation working group
  - ii. Responsibilities for organisms that are made by an individual or company relative to recombinant DNA debates of the 1970s. "An Asilomar Moment." Gregory Petsko. *Genome Biology* 2002.
- b. Examples of new organisms and parts of organisms
  - i. Chimeras – the "geep." Goat-sheep hybrid.
  - ii. Cellular mixologists.
  - iii. Gibson DG et al., "Complete Chemical Synthesis, Assembly, and Cloning of a *Mycoplasma genitalium* Genome." *Science*. 2008 Jan 24
  - iv. Basu J, Willard HF. "Artificial and engineered chromosomes: non-integrating vectors for gene therapy." ***Trends Mol Med***. 2005 May;11(5):251-8.

**II. Brain scanning (fMRI), thought privacy, and criminal responsibility**

- a. Brain scanning technology:
  - i. "The Brain on the Stand." Jeffrey Rosen. *NYTimes*, March 11, 2007.
  - ii. fMRI Imaging review
  - iii. Kulynych JJ. "Some thoughts about the evaluation of non-clinical functional magnetic resonance imaging." *Am J Bioeth*. 2007 Sep;7(9):57-8.

- b. Applications
  - i. Lie detection
  - ii. Job interviews
  - iii. Sexual offenders
  - iv. Selective memory removal
- c. Criminal responsibility (genetic and neurological predispositions)
  - i. DRD4 mutations - Ben Zion IZ et al. "Polymorphisms in the dopamine D4 receptor gene (DRD4) contribute to individual differences in human sexual behavior: desire, arousal and sexual function." *Mol Psychiatry*. 2006 Aug;11(8):782-6.
  - ii. Brown JW, Braver TS. "Risk prediction and aversion by anterior cingulate cortex." *Cogn Affect Behav Neurosci*. 2007 Dec;7(4):266-77.
  - iii. XYY karyotype and criminals – Weigmann K. "The consequence of errors." *EMBO reports* 6, 4, 306-309 (2005).

### **III. Gene Patenting and the Ownership of Life**

- a. What are genes, anyway?
  - i. Biology review
  - ii. Patent law overview
  - iii. Developments in understanding of genes, post-ENCODE
  - iv. Readings TBA:
    - 1. Excerpts from working paper on gene patenting
    - 2. ENCODE pilot project
    - 3. What is a gene, post-ENCODE?
    - 4. Major cases in biotech patent law
    - 5. Where will bio-patenting go, post-KSR? In re Kubin and other questions

### **IV. Personalized Medicine and Genomic Privacy**

- a. US Legislative Review:
  - i. H.R. 3967 – Genomic Research and Diagnostic Accessibility Act
  - ii. S. 3822 – Genomics and Personalized Medicine Act
  - iii. H.R. 977 - Genomic Research and Accessibility Act
  - iv. H.R. 493, S. 358 – Genetic Information and Non-Discrimination Act
- b. Potentials and threats of personalized medicine
  - i. "The Case for Personalized Medicine." Personalized Medicine Coalition. Nov. 2006.
  - ii. "The threat of genetic discrimination to the promise of personalized medicine." NIH review by Francis Collins.
  - iii. Laakmann A. "Restoring the Genetic Commons: A 'Common Sense' Approach to Biotechnology Patents in the Wake of KSR v. Teleflex." 14 *Mich. Telecomm. Tech. L. Rev.* 43 (2007)

### **V. How to fix yourself with your own cells (legally and illegally)**

- a. Completed work in animal models
  - i. Jaenisch, R. "Human cloning - the science and ethics of nuclear transplantation." *N Engl J Med*. 2004 Dec 30; 351(27):2787-91.
  - ii. Rideout WM 3rd, Hochedlinger K, Kyba M, Daley GQ, Jaenisch R. "Correction of a genetic defect by nuclear transplantation and combined cell and gene therapy." *Cell*. 2002 Apr 5;109(1):17-27.

- iii. Okie S. "Stem-cell research--signposts and roadblocks." **N Engl J Med.** 2005 Jul 7;353(1):1-5.
- b. Possible human treatments
  - i. The "failure of democracy." Francis Fukuyama. Our Posthuman Future: Consequences of the BioTechnology Revolution. (2002). *Ch. 6: Why We Should Worry.* Pages 84-102.
  - ii. Rights to modify your own cells
  - iii. Synthesis of an artificial womb.

## **VI. Modifying the Human Genome and Genetic Commons**

- a. Gene Therapy – Somatic and Germline
  - i. Charmaine D M Royal & Georgia M Dunston. "Changing the paradigm from 'race' to human genome variation." **Nature Genetics** 36, S5 - S7 (2004).
  - ii. Pack DW, Hoffman AS, Pun S, Stayton PS. "Design and development of polymers for gene delivery." **Nat Rev Drug Discov.** 2005 Jul;4(7):581-93.
  - iii. Carter, B. "Adeno-Associated Virus Vectors in Clinical Trials." *Human Gene Therapy* 2005 May. 16:541-550.
  - iv. Toelen J et al. Fetal gene transfer with lentiviral vectors: long-term in vivo follow-up evaluation in a rat model. *Am J Obstet Gynecol.* 2007 Apr;196(4):352.e1-6.
  - v. Waddington SN et al. "Fetal gene transfer." *Curr Opin Mol Ther.* 2007 Oct;9(5):432-8.
- b. Genetic Commons
  - i. Center for Genetics and Society. "The genome as a commons."
  - ii. "Post-humanism in the wires." <http://142.104.128.50/wires/post1.html>



# Other ISP Courses

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## The Information Society

Jack Balkin

[The] Information Society (21468). 4 units. This course studies what the Internet and new information technologies mean for civil liberties, democracy, and the production of a democratic culture. Topics include (1) freedom of speech on the Internet; (2) regulation of virtual worlds, social software and search engines; (3) how the Internet and digital networks affect politics and journalism; (4) open source and the political economy of information production; (5) emerging conflicts between intellectual property, freedom of speech, and new business models; (6) access to knowledge and international intellectual property; and (7) the use of new information technologies as methods of control and surveillance.

## Health Care Finance & Regulation

Frank Pasquale

Health Care Finance and Regulation (21586). 2 units. This class focuses on the financing and regulation of health care in the United States. The goal is to give an overview of how the law encourages and discourages certain funding mechanisms and business opportunities. This course also studies how the legal structures surrounding licensure, Medicare, Medicaid, private insurance, and reimbursement are developing. Can law promote access, quality, and cost-control in health care? How should it handle inevitable trade-offs between those three goals? One-quarter to one half of each class explores the types of incentives and opportunities that the current system creates for patients, doctors, insurers, hospitals, and other stakeholders. This course also reviews major funding sources for American health care, and how entitlements to care differ for the privately insured, publicly insured, and uninsured.

## Media Law Practicum

Jack Balkin and Steve Nevas

Media Law Practicum (21589). 2 credits. Students work with the instructors to develop projects involving media law and policy, with a special focus on First Amendment issues. Each student is required to do original research and make regular reports to the class, leading to a final paper. Topics may include: (1) legal protection of student speech using the Internet; (2) differential treatment of institutional (mass media) and citizen journalists; (3) business models for new media enterprises; and (4) new media coverage of judicial and administrative proceedings.

## Administrative State: Seminar

## Christine Jolls

Administrative State: Seminar (21559). 2 units. This course examines the behavior of government agencies and the legal regimes governing them. Readings come mostly from the scholarly literature, with some statutes and cases. Students are asked to submit short reaction papers approximately every other week.

## Media Law

Floyd Abarams, Steven Brill, & Adam Liptak

Media Law: Journalism in the Twenty-First Century: Old Principles, New Dilemmas (21580). 2 units. Considering specific problems that illuminate the challenges of applying traditional journalistic values and core free speech principles to modern complexities, this course examines the issues journalism faces in an age of globalism, national security concerns, corporate consolidation and the Internet. How relevant and protective is the traditional conception of the First Amendment in a time of urgent domestic and international security concerns? What does press freedom mean in an era when journalists are likely to work for large corporations with multiple interests and agendas, or when their "colleagues" include anonymous civilian bloggers? Which laws and which protections apply in a world in which "publishing" now means communicating instantaneously with people around the world? Each session will be devoted to a specific issue raised by these kinds of questions. For example:

- " Who/what is the press? If journalists receive protection with respect to their confidential sources, what about bloggers? How can access and credentialing for members of the "press" be determined? Is a blogger entitled to the same courtroom seat as a network reporter? Is anyone entitled to special access at a times when making these distinctions is so difficult?
- " How can one country's free speech and press protections mean anything if speech is instantaneously "spoken" in multiple countries via electronic publishing?
- " In an age of a war against terror that has no predictable end-date, are there any appropriate limits on the President's war time powers to limit speech or seek the identities of confidential sources who might have leaked alleged national security information?
- " How do efforts to regulate campaign spending square with free speech?
- " In an age of digitized court filings, do litigants have more or less rights to preserve what they had heretofore assumed to be the relative privacy (a ten-year-old arrest for DUI, for example)of the legal proceedings involving them?
- " Does the corporate consolidation of media outlets justify any new regulation of the "marketplace of ideas"?
- " How can speakers be held responsible for their speech if they can speak (and even distribute copyrighted materials) anonymously on the Internet? If they can't be held responsible, should anyone else who helps them communicate be held responsible?
- " In an age of proliferating and complex financial instruments, is a Wall Street firm's rating of a bond less protected than a journalist's assessment of the same bond?
- " In an age of a blurring between fiction and non-fiction, how do suits for consumer fraud brought by book buyers against conglomerate publishers square with traditional First Amendment protections?
- " When is "fraud" during reporting part of protected speech? Why would a restaurant

reviewer posing as a diner be more protected than a reporter posing as a supermarket worker?

" In the age of celebrity journalism should celebrities have a right to keep their pictures or their stories from being exploited by corporately-owned tabloids?

" How can our sensitivity to "hate speech" co-exist with the principles of free expression and our historic unwillingness to inquire into a citizen's opinions or thoughts?

" Who owns what is a newsroom? Reporters' notes? E-mail? Do journalists have any rights vis a vis their corporate employers when it comes to the disclosure of confidential sources?

" Do potential libel plaintiffs have any additional rights against a corporate publisher with an "agenda," as compared to a journalist who is simply careless?

**<Insert Tab “17. 2008-2009 Fellows”>**

## 2008-2009 INFORMATION SOCIETY PROJECT FELLOWS

### Faculty Directors



- **Jack M. Balkin**, Director, Information Society Project and Knight Professor of Constitutional Law and the First Amendment
- **Laura DeNardis**, Executive Director, Information Society Project and Lecturer in Law, Yale Law School
- **Lea Shaver**, A2K Program Director, Information Society Project and Lecturer in Law, Yale Law School

### Faculty Fellows

- **Ian Ayres**, William K. Townsend Professor of Law
- **Christine Jolls**, Gordon Bradford Tweedy Professor of Law and Organization
- **S. Blair Kauffman**, Librarian and Professor of Law
- **Frank Pasquale**, Visiting Professor of Law
- **Robert C. Post**, David Boies Professor of Law
- **Carol Rose**, Gordon Bradford Tweedy Professor Emeritus of Law
- **Jed Rubinfeld**, Robert R. Slaughter Professor of Law

### Postdoctoral Fellows 2008-2009

- Rebekka Bonner
- Ted Byfield
- Charles Cronin
- Shay David
- Laura Forlano
- Christopher Mason
- Ben Peters
- Clara Sattler de Sousa e Brito
- Priscilla Smith

- Julia Sonnevend
- Elizabeth Stark
- Peter Suber
- David Thaw

### **Student Fellows 2008-2009**

- Leah Belsky
- Anjali Dalal
- Dov Fox
- Nathaniel Gleicher
- Caitlin Hall
- Margot Kaminski
- Maren Klawiter
- Dror Ladin
- Nadia Lambek
- Zsolt Okányi
- Ami Parekh
- Doug Rand
- Michael Seringhaus
- Caterina Sganga
- Michael Steffen
- Nabiha Syed
- Janice Ta
- Marisa Vansaanan

### **Affiliated Fellows**

- **Marvin Ammori**, General Counsel, Free Press
- **Anita Allen-Castellitto**, Professor of Law, University of Pennsylvania Law School
- **Stuart Benjamin**, Professor of Law, Duke Law School
- **Yochai Benkler**, Professor, Harvard Law School
- **Daniel Benoliel**, Professor, University of Haifa School of Law
- **Molly Beutz**, Associate Professor of Law, New York Law School
- **James Boyle**, Professor of Law, Duke Law School
- **Herbert Burkert**, Professor of Information Law, University of St. Gallen. President, Legal Advisory Board (LAB), European Commission
- **Anupam Chander**, UC Davis School of Law
- **Susan Crawford**, Professor, University of Michigan Law School
- **Jeanne Fromer**, Associate Professor of Law, Fordham Law School
- **Michael Fromkin**, Professor of Law, University of Miami School of Law
- **Eddan Katz**, International Affairs Director, Electronic Frontier Foundation
- **Niva Elkin-Koren**, Lecturer, Faculty of Law, University of Haifa
- **David Singh Grewal**, Harvard Society of Fellows, Harvard University
- **James Grimmelman**, New York Law School

- **Andreas Grünwald**, Assistant to Professor Bernd Holznagel at the Institute for Information, Telecommunications and Media Law, University of Münster, Germany
- **Robert A. Heverly**, Lecturer, Norwich Law School, University of East Anglia
- **David Johnson**, Distinguished Visitor, New York Law School
- **Amy Kapczynski**, Assistant Professor, Berkeley Law
- **Douglas Lichtman**, Professor of Law, UCLA Law
- **Ernest Miller**
- **Caio Mario da Silva Pereira Neto**, Getulio Vargas Foundation School of Law
- **Beth Noveck**, Associate Professor of Law, New York Law School
- **Guy Pessach**, Lecturer, Faculty of Law, Hebrew University of Jerusalem
- **Arti Rai**, Professor of Law, Duke Law School
- **Nagla Rizk**, Professor of Economics, American University in Cairo
- **Kermit Roosevelt**, Professor, University of Pennsylvania School of Law
- **Daniel J. Solove**, George Washington University Law School
- **Madhavi Sunder**, UC Davis School of Law
- **Stefaan Verhulst**, Markle Foundation
- **Tal Zarsky**, Lecturer, Faculty of Law, University of Haifa
- **Michael Zimmer**, Assistant Professor, School of Information Studies, University of Wisconsin, Milwaukee

### **Yale ISP International Research Partners**

Center for Technology and Society at Fundação Getulio Vargas School of Law in Rio de Janeiro, Brazil

China Open Access Project at Beijing Normal University under Professor Hong Xue; the

The Access to Knowledge for Development Program at the American University in Cairo

South African Access to Knowledge Centre at the University of the Western Cape and University of Cape Town in South Africa

The Access to Knowledge/Culture India Project at the National Law School of India in Bangalore.



**<Insert Tab “18. Preview of 2009-10 Activities”**



## **SOME HIGHLIGHTS OF THE COMING ACADEMIC YEAR**

### **Courses and Reading Groups**

- Access to Knowledge Course
- Fall Reading Group “Shaping Technology Policy in the Obama Administration”
- Spring Reading Group “Civil Liberties Online”

### **Major Conferences**

- Open Video Conference (Summer 2009) in New York
- Access to Knowledge as a Human Right (Spring 2010) at Yale Law School
- Kauffman Innovation Roundtable on Open Access (Fall 2009)

### **Upcoming Major Scholarship**

- Yale ISP Working Paper Series
- MIT Press *Information Society Series*
- New A2K Book – *Access to Knowledge in Egypt*
- New A2K Book – *Access to Knowledge in India*
- New Book *Protocol Politics: The Globalization of Internet Governance* (The MIT Press)

### **Next Year’s Research Programs**

- Civil Liberties Online
- Access to Knowledge
- Intellectual Property Reform to Promote Innovation
- Internet Governance
- Digital Education
- Law and Genomics

### **Regularly Scheduled Events**

- ISP Speaker Series
- ISP Ideas Lunch
- Cyberscholar Working Group