"Medicine, Music, and Mascots: Furthering Social Justice in the Age of Intellectual Property"

Gonzaga University School of Law
Center for Civil & Human Rights

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As we move further into the information age, the domain of intellectual property (IP) continues to grow exponentially. This domain—which includes algorithms, digital creations, genes, and even living organisms—is a vast economic resource that garners massive earnings for the media, pharmaceutical, agricultural, and academic industries, among others. As social-justice minded lawyers and scholars working within the realm of IP, we have the opportunity and obligation to ask how the resources of IP can be used to advance the wellbeing of our communities, nations, and the world at large. With these concerns in mind, this conference dares to put IP into conversation with social justice by asking how the areas of patent law, trademark law, and copyright law can better serve the public good in the modern world.

Trademarks, Expressive Speech, and Social Justice

Professor Jessica M. Kiser, Moderator
Professor Margaret Chon, Seattle University
Professor J. Janewa Osei-Tutu, Florida International University
Dustin Marlan, University of Massachusetts School of Law

Trademarks are the symbols of commerce that adorn the items we buy and the services we use. A business can use trademark law as a shield to protect its brand investment and to protect the brand's consumers from confusion in the marketplace. However, increasing evidence shows that trademark law can also be used as a sword to stifle fair competition and chill the expressive speech interests of individuals and marginalized groups. Trademarks now serve as symbols of cultural expression conveying messages about race, class, and society, wholly apart from the official messages intended by the trademark owner.

Given the expressive nature of trademarks, should the First Amendment play a greater role in balancing the interests of trademark owners against the interests of the public? Has trademark law been "captured" by powerful companies to the detriment of social discourse and fair commerce? Should trademark owners be incentivized to allow expressive discourse using their marks? Could a trademark protection system be reimagined to protect against consumer confusion while explicitly allowing such discourse? This panel will consider these questions.

Patents, Public Health, and Social Justice
Dean Jacob H. Rooksby, Moderator
Professor Mason Marks, Gonzaga University
Sandra Park, ACLU
Professor Madhavi Sunder, Georgetown University

Life-saving pharmaceuticals, life-changing diagnostic tests, and innovative medical devices often are protected by patent. The prospect of market exclusivity achieved in part from patent protection incentivizes expensive research and development by private firms and universities. But patents can also price patients out of accessing covered medicines, devices, and treatments, particularly in developing countries. Moreover, some developing countries have seen their own indigenous knowledge—once freely available and practiced in their community—converted to proprietary IP, subsequently productized and sold around the world.

To what extent should patent holders—whether private firms or non-profit entities like universities—concern themselves with pursuing patents and enforcing them in the public interest? What role do patents play in solving, or creating, public health problems? To what extent does patent law, policy, and practice impede social justice, and what collective action solutions or individual strategies exist for better utilizing patents or calibrating patent law to promote the public interest in global health? This panel will consider these and related questions.

Copyright, Digital Technology, and Social Justice
Professor Jeffrey Omari, Moderator
Professor Brian Frye, University of Kentucky
Professor Lateef Mtima, Howard University
Professor Cathay Smith, University of Montana

In the last 30 years, the internet and corresponding advancements in digital technology have reshaped the relationship between art, culture, copyright, and IP rights holders. The West has seen tension between the content industry—longstanding IP rights holders who have a vested interest in maintaining the IP status quo—and the tech industry—those corporations that, because of changing norms in how IP is consumed in the digital age, derive value from these changing norms and modes of consumption. Meanwhile, because of these same technological changes, the developing world has in many ways embraced alternative IP practices (e.g., open source) that have impacted creativity, access to knowledge, and music production.

To what extent do traditional copyright norms advance or impede access to knowledge in our increasingly tech-heavy world? What role does copyright play in furthering the asymmetrical power dynamics that exist between creators of artistic works and IP rights holders? Given the changing technological dynamics of the digital era, how effective can alternative copyright and IP practices be for artists and other content makers, both domestic and abroad? What copyright issues arise from data-centric technological development? And, how can copyright policy further social justice in a tech-driven society? This panel will consider these and related questions.

Conference Agenda

Friday, September 20, 2019

8:30-9:00 am	Breakfast in the Barbieri Courtroom
9:00-9:30 am	Welcome and introductory remarks by Dean Rooksby and Professor Gillmer
9:30-10:00 am	Opening plenary presentation by Professor Lateef Mtima, Howard University
10:00-10:15am	Break
10:15-11:45 am	"Trademarks, Expressive Speech, and Social Justice" panel, moderated by Professor Kiser
12:00-1:30 pm	Keynote address by Professor Madhavi Sunder, Georgetown Law
1:45-3:15 pm	"Patents, Public Health, and Social Justice" panel, moderated by Dean Rooksby
3:15-3:30 pm	Break
3:30-5:00 pm	"Copyright, Digital Technology, and Social Justice" panel, moderated by Professor Omari