

Jennifer E. Rothman
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Academic Employment

LOYOLA LAW SCHOOL, Los Angeles, California

Professor and Joseph Scott Fellow (2009-Present)

Associate Professor (2007-2009)

Committees: Faculty Workshops (Chair); Appointments (Laterals); Clerkships

Other Service: Intellectual Property Curriculum & LL.M Exploratory Groups,
Intellectual Property Moot Court program

WASHINGTON UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri

Associate Professor (2005-2007) (tenure-track)

Advisor: Intellectual Property & Technology Law Program;
Intellectual Property LL.M. Program

Committees: Building & Design; Clerkships; Curriculum

Teaching and Research Interests

Trademarks and Unfair Competition; Copyright; The Right of Publicity; Intellectual Property Theory; Constitutional Law; Torts; Entertainment Law; Cyberlaw/Internet Law; Law & Film

Clerkships

Clerkship, Hon. Marsha S. Berzon, Ninth Circuit Court of Appeals, San Francisco, 2002-2003

Extern, Hon. Dean D. Pregerson, U.S. District Court, Los Angeles, 2000

Education

J.D., UCLA School of Law, 2002

Honors: Graduated 1st in class; Laurence E. Irell Prize (top GPA all three years); Jerry Pacht Memorial Constitutional Law Award (for scholarship); UC Regents Academic Fellowship (1999-2002) (full tuition merit scholarship); Order of the Coif; Articles Editor, UCLA Law Review.

M.F.A., University of Southern California (School of Cinema-Television), 1995

A.B., Princeton University, *cum laude*, English and American Studies, 1991

Honors: Grace May Tilton Prize for Best Thesis on the Arts in America; Asher Hinds Prize for Best Thesis in American and European Studies

Major Publications

- *Liberating Copyright: Thinking Beyond Free Speech*
95 CORNELL LAW REVIEW 463 (2010)
- *Sex In and Out of Intimacy*
59 EMORY LAW JOURNAL 809 (2010) (co-authored with Laura A. Rosenbury)
- *The Questionable Use of Custom In Intellectual Property*
93 VIRGINIA LAW REVIEW 1899 (2007)
- *Initial Interest Confusion: Standing at the Crossroads of Trademark Law*
27 CARDOZO LAW REVIEW 105 (2005)
- *Copyright Preemption and the Right of Publicity*
36 U.C. DAVIS LAW REVIEW 199 (2002)
- *Freedom of Speech and True Threats*
25 HARVARD JOURNAL OF LAW AND PUBLIC POLICY 283 (2001)

Other Articles, Essays, and Commentary

- *Best Intentions: Best Practices Statements for Fair Use*
57 JOURNAL OF THE COPYRIGHT SOCIETY OF THE U.S.A 371 (2010)
- *The Substantive Due Process Turn: Identity-Based Uses of Copyrighted Works*
THE LEGAL THEORY WORKSHOP (2010)
- *Custom, Comedy and the Value of Dissent*
95 VIRGINIA LAW REVIEW IN BRIEF 19 (2009) (Response to Christopher Sprigman & Dotan Oliar)
- *Why Custom Cannot Save Copyright's Fair Use Defense*
93 VIRGINIA LAW REVIEW IN BRIEF 243 (2008) (Reply to Richard Epstein's response)

Book Chapters and Anthologies

- *Liberating Copyright: Thinking Beyond Free Speech*
reprinted in COPYRIGHT ANNUAL ANTHOLOGY (Ed. Rodney Smolla 2010)
(Thomson Reuters) (*selected as one of the top articles on copyright for 2010*)
- *Copyright Preemption and the Right of Publicity*
excerpted in Molly Torsen, HOW INTELLECTUAL PROPERTY LAWS PROTECT ART AND ARTISTS; DESIGN AND DESIGNERS: AN INTERNATIONAL OVERVIEW (BRILL 2010)

- *Initial Interest Confusion: The Diversion of Trademark Law* in INTELLECTUAL PROPERTY AND INFORMATION WEALTH (Praeger Press, ed. Peter Yu) (2006)

Works In Progress

- *The Inalienability of the Right of Publicity* (forthcoming law review submission)
- *Custom, the Common Law and Intellectual Property*, INTELLECTUAL PROPERTY AND THE COMMON LAW (Ed. Shyamkrishna Balganesh) (2011) (forthcoming)
- *Publicity, Privacy and Rethinking Celebrity* (Book Project)

Scholarly Presentations

Technology, Social Media and Liminal IP, The Law & Society Association Annual Meeting, San Francisco (June 2011)

Custom, the Common Law and Intellectual Property, University of Pennsylvania School of Law (May 2011)

Best Practices Statements, Columbia University School of Law (March 2011)

Commentator, *Hot News and Misappropriation*, IP Colloquium, UCLA School of Law, (November 2010)

The Inalienability of the Right of Publicity, Intellectual Property Scholars Conference, U.C. Berkeley (August 2010); Privacy Law Scholars Conference, George Washington School of Law (June 2010); Association for Law, Society and Property, Georgetown Law School (March 2010)

Commentator, *Inherent Vice: Bootleg Histories of Videotape and Copyright*, U.C. Irvine School of Law (May 2010)

Panelist, *The Best Practices Movement*, AALS IP Section, Annual AALS Meeting, New Orleans (January 2010)

Liberating Copyright: Thinking Beyond Free Speech, UCLA IP Colloquium (November 2009); Washington University School of Law in St. Louis (September 2008)

Plenary Speaker, *Copyright Through a Liberty Lens*, Intellectual Property Scholars Conference, Stanford University School of Law (August 2008)

Beyond Intimacy, University of Chicago School of Law (April 2008); Legal Theory Workshop, UCLA School of Law (January 2008)

IP and the Relevance of Custom, UCLA School of Law Faculty Workshop (February 2007)

Customary Intellectual Property, Washington University School of Law in St. Louis, MO (November 2006); Cardozo Law School Speaker Series (October 2006); Boalt Hall (U.C. Berkeley), Intellectual Property Scholars Conference (August 2006)

Moderator, *Technology and the First Amendment*, Conference on First Amendment Law & Policy, Washington University, St. Louis, MO (November 2005)

Moderator, *Commercializing Innovation*, Washington University, St. Louis, MO, (November 2005)

Initial Interest Confusion: Standing at the Crossroads of Trademark Law, Faculty Workshops at University of Virginia, U.C. Berkeley, Northwestern University, Washington University and Cardozo School of Law.

Other Speaking Engagements

Panelist, *Issues in Advertising and Marketing in New Media*, IPED conference, Los Angeles, CA (November 2007)

Fantasy Sports: When Reality Strikes, Washington University Alumni Association, Seattle, WA (May 2006)

Celebrity Justice? When Copyright and the Right of Publicity Collide, National Council, Washington University, St. Louis, MO (September 2005)

Supreme Court Intellectual Property Update: Grokster, KP Permanent and Integra Lifesciences, Washington University, St. Louis, MO, (September 2005)

Media/Op-Eds/Blogs

- Blog Post to Summary Judgments, *Ninth Circuit Oral Arguments Today in Keller v. Electronic Arts: A Challenge to EA's Popular College Football Video Game* (Feb. 15, 2011) accessible at <http://llsblog.lls.edu/faculty/2011/02/ninth-circuit-oral-arguments-today-in-keller-v-electronic-arts-a-challenge-to-eas-popular-college-fo.html>
- Commentator, *Keller v. Electronic Arts*, Madeline Brand Show, National Public Radio (KPCC), available at http://www.scpr.org/programs/madeleine-brand/2011/02/15/ncaa-case/?sms_ss=facebook&at_xt=4d5aca3b46f889ff%2C0
- Op-ed, *Reality Check: Why Opponents of Same-Sex Marriage May Want to Vote Against Prop. 8*, available at http://www.huffingtonpost.com/jennifer-e-rothman/reality-check-why-opponen_b_139388.html (Oct. 30, 2008)

- Commentator, California Marriage Cases, Fox News; PRI/NPR; KTLA, Los Angeles,(2008)
- Commentator, *Fantasy Baseball: CBC Litigation*, KMOX, St. Louis, MO (2006)
- Quoted as IP, First Amendment, Cyberlaw and Entertainment expert in numerous newspapers and news services, including Associated Press, Business Week, Daily Journal, Washington Post, Salon.com, Slate.com, Riverside Enterprise, San Jose Mercury and St. Louis Post-Dispatch

Other Teaching Experience

JOURNALIST'S LAW SCHOOL, Loyola Law School, Los Angeles, California (June 2008)
Instructor, Intensive IP course for professional news reporters and media producers

UCLA SCHOOL OF LAW, Los Angeles, California
Guest Lecturer, First-year Property – IP Section (Fall 2006)
Teaching Fellow, First-year Civil Procedure (Fall 2001)

KAPLAN EDUCATION, Los Angeles, California
Academic Manager and Master Teacher/Trainer (1992-1999)

Legal Practice

Volunteer Attorney, No on Prop 8 Campaign 2008
Pro bono advising on legal issues and election day supervising.

Associate, Irell & Manella, Los Angeles, CA 2003-2005
 Practiced in areas of intellectual property, entertainment, and appellate matters, including work for Universal Music Group, Viacom, UPN, MTV, NBC, Dreamworks, Hewlett-Packard and Verizon.

Volunteer Attorney, LAMBDA Legal Defense and Education Fund 2003-2005
Pro bono representation in support of same-sex couples in San Francisco and throughout California seeking the right to marry.

Summer Associate, Munger, Tolles & Olson, Los Angeles, CA Summer 2001
 Drafted and researched motions, and prepared certiorari petition for Supreme Court of California. (Offer tendered)

Summer Associate, Irell & Manella, Los Angeles, CA Summer 2001
 Researched and wrote summary judgment motion and various memoranda. (Offer tendered)

Other Professional Experience

Story Analyst, Castle Rock, C.B.S., Showtime, MTV, Los Angeles, CA 1995-1998
Read and evaluated scripts, treatments, and books for consideration as feature films and television movies.

Senior Production Coordinator, Paramount Pictures, Los Angeles, CA 1996-1997
Coordinated pre-production and production of feature films, including budgeting, scheduling, script notes, location scouting, and hiring of key below-the-line crew, including negotiation and drafting of deals.

Memberships/Other Experience and Service

Admitted to California Bar

Reviewer, Social Science and Humanities Research Council of Canada

Scholar Host, Int'l Visitors Council of L.A. (in coordination with State Department)

Member, American Association of Law Schools

Member, American Bar Association

Alumni Interviewer, Princeton University

California Debate Champion (high school competition)