

Case IP Law News

From the Spangenberg Center for Law, Technology & the Arts

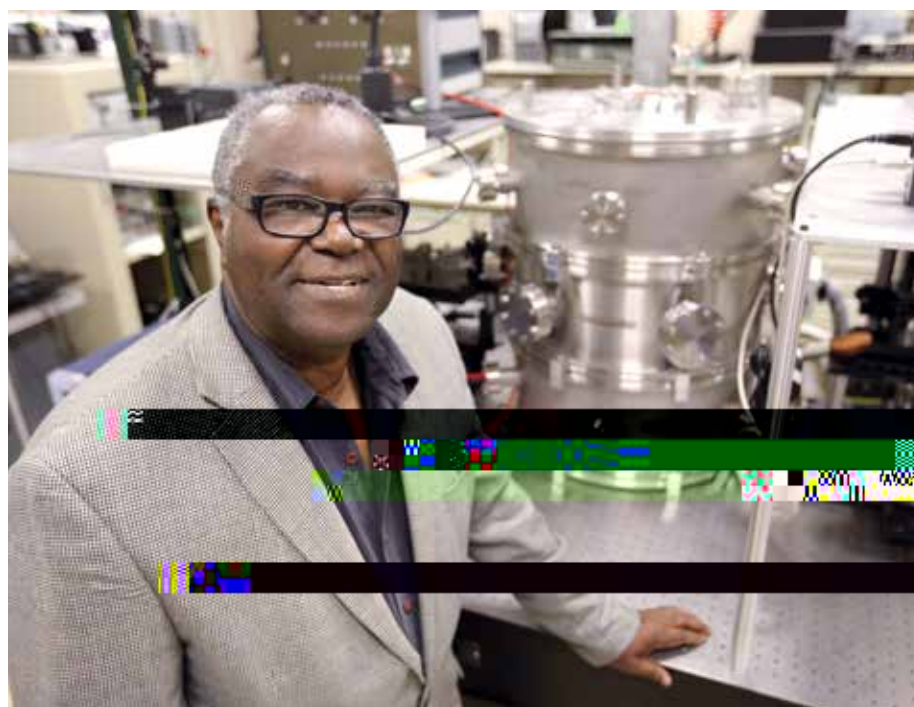
NASA and Case Western Reserve partner on space-age water project

NASA Glenn Research Center and the Spangenberg Center for Law, Technology & the Arts analyze ways to commercialize a promising new water purification technology

NASA Glenn Research Center scientists and students in Case Western Reserve University's interdisciplinary Fusion program spent the last academic year focusing on novel water purification technology and how to commercialize it.

Senior researchers at NASA Glenn developed and tested a promising technology that reduces organic contaminants to carbon dioxide and clean water. NASA is experimenting with applying high-voltage pulses to fluids to form what is called "non-equilibrium plasma."

Others have experimented with similar technology to purify water for more than a decade, but NASA's approach is considered novel because it uses much less energy and doesn't heat the water.



A recognized **leader** in the growing intellectual property law industry

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ABOUT THE CENTER

The Spangenberg Center for Law, Technology & the Arts, supported by a \$3 million gift from the Spangenberg Family Foundation, focuses on IP, innovation and technology transfer. In a field where science, economics, philosophy and the law intersect, the center explores legal issues concerning biotechnology, computerization and the creative arts. The center offers a JD degree concentration in Law, Technology & the Arts, as well as a dual degree program with an MA in Art History and Museum Studies. The center also offers a Masters in Patent Practice, a one-year program for science, engineering and technology graduates who want to learn patent law without earning a three-year JD degree. The center is nationally recognized, and recently earned an A in both technology and Intellectual Property law from *PreLaw Magazine*.

IP law faculty from left to right: Dalindyebo Shabalala, Aaron Perzanowski,

Fusion

Launched in 2009, Fusion is an interdisciplinary academic approach that links students from the School of Law, Weatherhead School of Management, Case School of Engineering and STEP (Science and Technology Entrepreneurship/ Innovation Programs) in the College of Arts and Sciences in collaborative teams for teaching and learning about technology commercialization.

Fusion introduces students to multi-factor evaluation tools for product and enterprise development that the students will utilize professionally. Each year, Fusion students evaluate leading-edge scientific research outputs with commercial potential.

Ted Theofrastous, who directs the Fusion program, also is managing attorney for the Case Western Reserve University School of Law's IP Venture Clinic. Theofrastous said the students' analysis will consider alignment of technology to need, cost, scale, competition and the intellectual property landscape.

By age 15, Justin Dillon had already started a promising career in the music industry. Along with four of his classmates at Plum High School, Dillon formed *Backseat Love Story*, a band styled in a pop-punk fusion sound that quickly caught the attention of the Pittsburgh music scene. Success came fast. In just over a year, the band had signed a record deal and earned a spot on stage for the Warped Tour's stop in Pittsburgh.

But within a few years, Dillon's teenage dreams met the unforgiving realities of the business world. The record label and producer they worked with were siphoning money from the band. It was a defining moment for Dillon, who was set to begin his studies in music at Berklee College of Music.

"This experience didn't necessarily turn me off of music, but it did paint the industry in a different light. In the end, it opened up an

Spangenberg Center and Lee & Hayes host inaugural Fusion Innovation & Commercialization Summit

The Spangenberg Center and the law firm of Lee and Hayes brought together blue ribbon industry leaders and academic faculty for a day-long examination of innovative intellectual property and commercialization strategies.

Chip Lutton, the Former Vice President and General Counsel of Nest Labs, Inc. (now part of Google), delivered the keynote address during lunch.

In particular, the conference focused on: (1) developing and assessing intellectual property strategies in the context of new innovation; (2) cultivating perspectives and tools necessary to increase value and transactional success; and (3) determining technology validation essentials.

Additional Speakers:

John Murphy

Chief IP Counsel and Director of Legal Affairs-Intellectual Property, T-Mobile
Former Director for Business & Legal Affairs, Warner Brothers Online, Inc.

Scott Hayden

Chief Intellectual Property Counsel, Amazon
Former Director of Global Patent Operation, General Electric

Susan Parulski

Chief Patent Counsel, Carestream Health, Inc.
Former in-house patent attorney, Kodak
Past Board Member, Rochester Intellectual Property Law Association

Jon Wood

Executive Director of Innovation and Collaboration, Bridgestone Americas, Inc.

Teresan W. Gilbert

Chief Intellectual Property Counsel, The Lubrizol Corporation

Patricia A. Motta

Executive Director/Assistant General Counsel and Chief Intellectual Property Counsel, American Greetings Corporation

Leonard Stewart

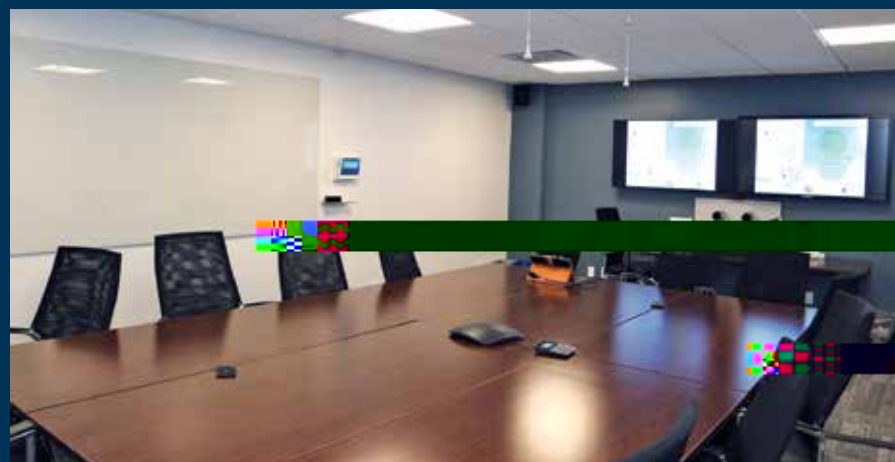
Intellectual Property Counsel, Marketing & Digital Division, Caterpillar, Inc.

Brian Hinman

Donors Recognized for Support to Create New IP Venture Clinic Suite

The Burton D. Morgan Foundation and the Tarolli law firm were recognized during a ribbon-cutting ceremony in January for their philanthropic support, which created Case Western Reserve's new IP Venture Clinic suite.

The suite provides a state-of-the-art conference space for clients to meet with Case Western Reserve law students as they file for patents and seek legal assistance in launching new products.



Case fellow grants awarded for IP and innovation research

The Spangenberg Center received dozens of proposals from highly qualified scholars from across the United States and around the globe. From this pool, we selected four projects. Peter DiCola, Nuyda Silbey, and Eva Subotnik will conduct an empirical investigation of photography and its response to ubiquitous digital technology. Christophe Geiger will undertake a comparative analysis of copyright law's struggle to reconcile the derivative work right with the right of artistic expression in the United States and Europe. Ryan Holte will explore the impact of enhanced damages on disclosure, review, and ultimately, the commercialization of patents. And Brian Love and Shawn Miller will mine the PTAB's inter partes review process to identify the characteristics of strong and weak patents.

Spangenberg Center co-hosts conference with EIPIN

The Center for International Intellectual Property Studies (CEIPI) at the University



of Strasbourg hosted, in partnership with the members of the EIPIN network and the Spangenberg Center for Law, Technology & the Arts at Case Western Reserve University School of Law, the 17th EIPIN Congress, which was held in Strasbourg, from January 28-30, at Palais Universitaire. The topic was "Intellectual Property and the Judiciary."

New senior lecturer joins Spangenberg Center as Director of the First Amendment & the Arts Project



Patrick S. Kabat is a first amendment lawyer at Dentons LLP, where he serves as outside access counsel to the

Chicago Tribune. He is a fellow of the Information Society Project at Yale Law School, and was the inaugural Program Director of Yale Law School's Law and Media Program, where he co-founded the country's first legal services clinic devoted to asserting the public's right of access to court proceedings and government records.

Before joining Dentons, Kabat practiced first amendment and media law in New York City with Levine, Sullivan, Koch & Schulz, LLP, representing news organizations and media companies like The New York Times Company, HBO, the Associated Press, Gawker, and the Entertainment Software Association in a wide range of prominent content-related matters.

Kabat speaks regularly at conferences for writers, journalists, and historians on First Amendment and intellectual property issues, and maintains an active pro bono practice defending the creative freedoms of a wide range of clients, including artists, photographers, rock bands, journalists, and mixologists, who could not otherwise afford counsel.

WIPO Lab analyzes case studies on herbs, fruit, yoga

The World Intellectual Property Organization Lab run by Visiting Assistant Professor Dalindyabo Shabalala continued its collaboration with the WIPO Division on Genetic Resources, Traditional Knowledge (TK) and Traditional Cultural Expressions (Folklore).

In deciding on topics, the partners focused on the renewed negotiating mandate of the WIPO Intergovernmental Committee (IGC) responsible for developing an international instrument on TK and Folklore. The lab aimed to contribute to the negotiations by generating information on new case studies, and providing a better legal analysis of older cases for use by the participants and the TK Division where needed.

The partners chose several cases of claims of misappropriation of TK, Folklore and genetic resources and analyzed news stories, patent claims and the claims of advocates to synthesize and assess the extent to which true misappropriation had taken place. Students analyzed several cases including:

- Brazzein – pentadiplandra brazzeana – a West African fruit with proteins that have been patented as a sugar substitute by the Wisconsin Alumni Research Foundation
- STDograha (laricavidite) TjEMC 0.795 ts, ohe lab cases including:

Meet Deepa Mishra, first graduate of the Masters in Patent Practice program

This spring, the first person to earn a degree from the new Masters in Patent Practice program walked across the stage at graduation and into a new career — one that is a seamless marriage of her talents, education and passion.

Deepa Mishra is a biomedical engineer by trade. A Michigan native and Midwesterner at heart, Mishra's pursuit of higher learning took her from Duke University in North Carolina, to Utah where she earned her PhD, and to the MD Anderson Cancer Center in Texas as a post-doctoral fellow. Her marriage brought her to Ohio, but an ad in *The Daily* led her to the newly launched *Masters in Patent Practice* program at Case Western Reserve University School of Law.

The Masters in Patent Practice (MPP) program is designed to build on the education and experience of students like Mishra. Targeting individuals with undergraduate degrees in engineering, computer science, or a physical or biological degree, the MPP program trains students to file, prepare and prosecute patent applications.

Mishra saw the program as a great fit. "I'm very appreciative for the opportunity to go through the Masters in Patent Practice program," she said. "It's a phenomenal program for students like me, and highly complementary to the existing programs at the law school."

In just one year, Mishra completed the MPP program, taking classes that would prepare her for an exciting career as a patent agent. Her courses were divided into two parts — the writing of patent applications and an in-depth review of the process patent applications go through once submitted. She learned from several instructors, including Judge O'Hearn, formerly with the Patent and Trademark Appeals Board, who gave insights on crafting stronger patent applications to help with the litigation, appeals board and review processes.

It was her experiential learning that led to her securing her first job as an intellectual property analyst before she graduated. Working with Professor Ted Theofrastous, his law office and Akron Children's Hospital, Mishra assisted in the setup of a Technology Transfer Office at the hospital. She worked on and off site, helping innovative nurses, doctors and surgeons

as they created the tools of tomorrow to impact the treatment and recovery of children in need of medical care.

Mishra excelled and her work caught the eye of Professor Theofrastous, who offered her a position as an IP and Commercialization Analyst with The Law Offices of T.C. Theofrastous, Ltd. After a short break following graduation, she continued her work with Akron Children's Hospital in June. Using both her PhD in biomedical engineering and the skills she developed in the MPP program, Mishra is working closely with inventors at Akron Children's Hospital to bring their ideas from conception to reality by advising them on patent documentation, identifying commercialization partners and analyzing the viability of the inventions.

For Professor Craig Nard, Director of the Spangenberg Center for Law, Technology and the Arts, Mishra serves a model for future members of the program. "We're very proud of Deepa. As a student, she excelled at every opportunity. She is incredibly bright and continually impressed us. I can't imagine a better person to have as our first graduate."



The Masters in Patent Practice is designed to prepare students for careers as patent agents. Students must be eligible to sit for the patent bar exam, which requires an undergraduate degree in engineering, computer science, or a physical or biological degree. This degree is a viable alternative for students who want to pursue a career in patent practice without having to take the full 3-year JD.

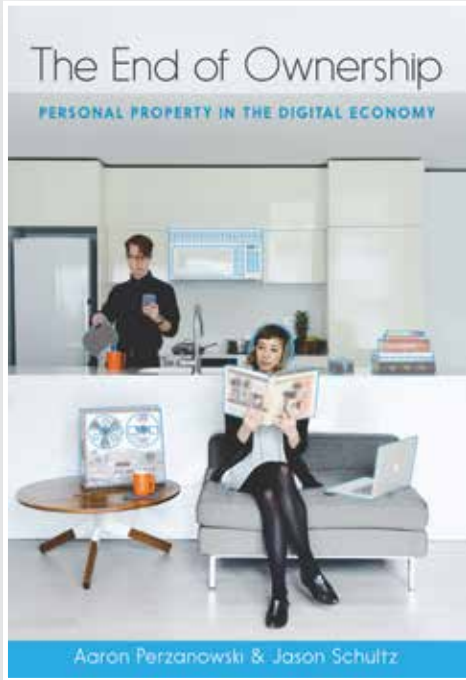
Courses in the Masters of Patent Practice

FALL	SPRING
IP Survey (3)	Patent Bar Review (4)
Patent Law (3)	IP Elective Course (3)
Patent Preparation & Drafting 1 (3)	Patent Preparation & Drafting II (2)
Commercialization & IP Management (3)	Experiential Elective (3) or Technical Elective (3)
Experiential Elective (3) or Technical Elective (3)	Patent Agent Lab (3)

High Demand for Patent Agents

This program is the first of its kind in Ohio, and one of only a handful in the nation. The demand for patent agents is growing. According to the USPTO, there are about 11,000 registered patent agents. Because of the greater scientific expertise and the ability to prepare, file and prosecute patent applications, patent agents are in demand at many law firms and corporate legal departments. The salary range for a patent agent is \$63,500 - \$120,700, and the median annual salary is \$86,500.

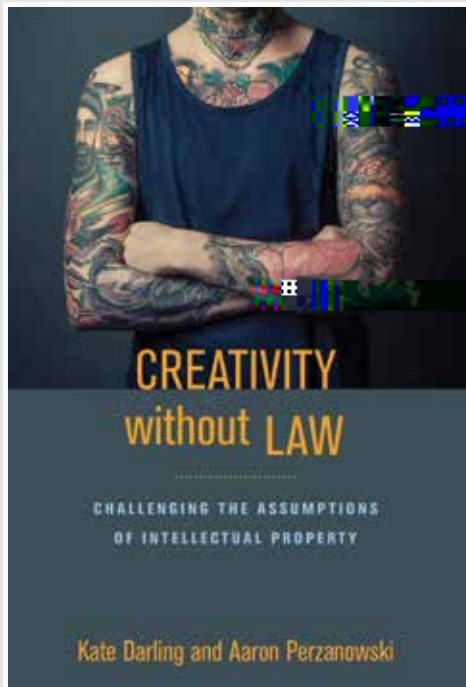
Professor Aaron Perzanowski publishes two new books



E *t* *D* *t* *E* :

If you buy a book at the bookstore, you own it. You can take it home, scribble in the margins, put it on the shelf, lend it to a friend, sell it at a garage sale. But is the same thing true for the ebooks or other digital goods you buy? Retailers and copyright holders argue that you don't own those purchases, you merely license them. That means your ebook vendor can delete the book from your device without warning or explanation — as Amazon deleted Orwell's *1984* from the Kindles of surprised readers several years ago. These readers thought they owned their copies of *1984*. Until, it turned out, they didn't. In *The End of Ownership*, Aaron Perzanowski and Jason Schultz explore how notions of ownership have shifted in the digital marketplace, and make an argument for the benefits of personal property.

Of course, ebooks, cloud storage, streaming, and other digital goods offer users convenience and flexibility. But, Perzanowski and Schultz warn, consumers should be aware of the tradeoffs involving user constraints, permanence, and privacy. The rights of private property are clear, but few people manage to read their end user agreements. Perzanowski and Schultz argue that introducing aspects of private property and ownership into the digital marketplace would offer both legal and economic benefits. But, most important, it would affirm our sense of self-direction and autonomy. If we own our purchases, we are free to make whatever lawful use of them we please. Technology need not constrain our freedom; it can also empower us.



C *t* *t* *t* *t* *L* : *C* *t* *A* *t*
I *t* *t* *t*

Intellectual property law, or IP law, is based on certain assumptions about creative behavior. The case for regulation assumes that creators have a fundamental legal right to prevent copying, and without this right they will under-invest in new work. But this premise fails to fully capture the reality of creative production. It ignores the range of powerful non-economic motivations that compel creativity, and it overlooks the capacity of creative industries for self-governance and innovative social and market responses to appropriation.

This book reveals the on-the-ground practices of a range of creators and innovators. In doing so, it challenges intellectual property orthodoxy by showing that incentives for creative production often exist in the absence of, or in disregard for, formal legal protections. Instead, these communities rely on evolving social norms and market responses — sensitive to their particular cultural, competitive, and technological circumstances — to ensure creative incentives. From tattoo artists to medical researchers, Nigerian filmmakers to roller derby players, the communities illustrated in this book demonstrate that creativity can thrive without legal incentives, and perhaps more strikingly, that some creative communities prefer, and thrive, in environments defined by self-regulation rather than legal rules.

Beyond their value as descriptions of specific industries and communities, the accounts collected here help to ground debates over IP policy in the empirical realities of the creative process. Their parallels and divergences also highlight the value of rules that are sensitive to the unique mix of conditions and motivations of particular industries and communities, rather than the monoculture of uniform regulation of the current IP system.

The Case Western Reserve University School of Law IP Venture Clinic (IPVC) provides students with the opportunity to represent start-up companies as they develop their plans to commercialize their technology. Students focus on a full range of business and intellectual property issues that start-ups face.

IP Venture Clinic builds upon and broadens the Fusion curricular focus by developing a platform for the cultivation and application of legal skills necessary to support clients engaged in the process of bringing new technologies to market. Special areas of focus include Commercialization, Intellectual Property Transactions, Venture Finance and Design and Innovation.

Students, working under the supervision of CWRU faculty, represent start-up companies and entrepreneurs to develop and cultivate real-world intellectual assets, while also applying skills learned in the fields of corporate and securities law. Here, not only do the students gain hands-on experience in both business law and intellectual property law, but they provide critically important legal resources to pre-investment entrepreneurs and inventors. As a team, IP Venture Clinic students engage graduate students from the business and science disciplines to build the case of investment.

In the IPVC, students will be provided with valuable working opportunities to apply their understanding to the process of identifying, cultivating and protecting intellectual property with an ultimate aim toward structuring a fundable transaction. The key components the clinical program include:

TECHNOLOGY PROTECTION

Student teams will develop a general IP protection strategy, working with supervising practitioners to design and implement that strategy. Students will be involved in performing prior art searches, drafting claims and participating in the application and prosecution process with the U.S. Patent and Trademark Office

About Fusion: A one-of-a-kind graduate certificate program

Graduate student teams from multiple disciplines — law, business and science — work together to advance invention.

Launched in 2009 and funded by an Interdisciplinary Alliance Investment Grant (IAIG) from the Provost, Fusion works across multiple schools and departments at Case Western Reserve University to create a robust teaching environment for students. Fusion's curriculum is an integrated platform that puts interdisciplinary students on level footing relative to others' respective expertise and training, providing key competitive skills that will allow them to work productively in the field of technology development and commercialization.

Our tailored, multi-disciplinary certificate program for professional degree students leverages CWRU's national leadership in this emerging and highly-competitive

field. While concepts that include "technology transfer," "commercialization" and "technology entrepreneurship" pervade the evolving lexicon related to moving technology to market, scholarship and professional skills development in this field remain fragmented and relatively thin.

Fusion's classroom curriculum and contextual agenda are focused on the process of translating complex technology to real-world business opportunities. Our goal is to help students understand and utilize the fundamentals of law, science and management in the understanding and cultivation of scientific discoveries that can lead to industry opportunities.

The curriculum reflects the following key themes:

- Interdisciplinary teams of students work together on complex scientific, legal, and industry challenges.

- Students are exposed to the technical substance of opportunity assessment



Native American Tribes' & Nations' Rights to their IP explored during Spangenberg-sponsored lecture

Indigenous peoples and nations have a wealth of knowledge and resources related to their traditional ways of life. That is found in traditional knowledge, Folklore and in genetic resources which are extremely valuable to the communities and, with the advent of the knowledge economy, increasingly valuable to non-indigenous communities and corporations.

Native American groups have played an important role in these efforts and this March 3 lecture — given by Preston Hardison, policy analyst for the Tulalip Tribes of Washington — discussed the nature of the domestic and international challenges that Native American tribes face in claiming rights to their intellectual property, including traditional knowledge, cultural expressions and genetic resources.

A full webcast of the program is available at law.case.edu/lectures.

Upcoming Events

TUESDAY, OCTOBER 18, 2016

Spangenberg Distinguished Lecture

The Honorable Kathleen M. O'Malley, United States Court of Appeals for the Federal Circuit

4:30-5:30 PM, Moot Courtroom (A59)

Webcast Live, 1-hour CLE credit pending approval

FRIDAY, NOVEMBER 11, 2016

FACULTY UPDATES

SCHOOL OF LAW
CASE WEST RN

