Michael J. Burstein

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ACADEMIC APPOINTMENTS

BENJAMIN N. CARDOZO SCHOOL OF LAW, Yeshiva University, New York, NY
Professor of Law, July 2016-present (*on leave* Sept. 2016-June 2018)
Vice Dean, July 2018-June 2023
Associate Professor of Law, July 2014-June 2016
Assistant Professor of Law, July 2011-June 2014

Courses: Patent Law, Corporations, Property, IP and Information Law Colloquium, Summer Patent Basics and Skills

Service: Educational Policy Committee; Appointments Committee; Adjuncts Committee; Clerkship/Placement Committee; Technology Committee; Coach, IP LawMeets (2015 and 2014 regional champion teams)

Honors: Dean's Award for Distinguished Service, 2021

MIT SLOAN SCHOOL OF MANAGEMENT, Cambridge, MA
Research Affiliate, September 2024-present

HARVARD LAW SCHOOL, Cambridge, MA
Climenko Fellow and Lecturer on Law, July 2009-June 2011

LEGAL & BUSINESS EXPERIENCE

MCKINSEY & COMPANY, New York, NY
Senior Advisor, July 2018-December 2019
Director of Research Science and Knowledge Lead, Fuel by McKinsey (formerly Fast Growth Technology practice), September 2016-June 2018

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C., Washington, DC
Associate, September 2007-July 2009

OFFICE OF THE SOLICITOR GENERAL, U.S. DEPARTMENT OF JUSTICE, Washington, DC
Bristow Fellow, September 2006-August 2007

HON. A. RAYMOND RANDOLPH, U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, Washington, DC
Law Clerk, August 2005-August 2006

MCKINSEY & COMPANY, New York, NY
Associate, *Global Strategy Practice Fellow*, August 2004-August 2005
Business Analyst, July 1999-July 2001

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY
J.D. *magna cum laude*, May 2004
New York University Law Review, Managing Editor; Order of the Coif; Robert B. McKay Prize in Constitutional Law (best paper in constitutional law); Pomeroy Scholar (top ten students in each first-year class); Florence Allen Scholar (top ten percent of class after three semesters); Dean's Scholar (full-tuition scholarship based on academic merit); Engelberg Fellow, Engelberg Center on Innovation Law and Policy; Summer Seminar for Future Law Teachers

YALE UNIVERSITY, New Haven, CT
B.A., May 1999
Double-major in Molecular Biophysics & Biochemistry and Ethics, Politics & Economics
Distinction in Ethics, Politics & Economics; Ellsworth Prize (outstanding senior essay in the social sciences); Thacher Memorial Debating Prize; Morris K. Udall National Environmental Policy Scholar

PUBLICATIONS

Toward a Theory of Inventorship in Patent Law (with Mark McKenna) (work in progress)

The Law of the Direction of Innovation (work in progress)

The Law and Geopolitics of Innovation Policy (with Fiona E. Murray) (under review, RES. POL'Y)

Disrupting Venture Innovation (with Emilie Aguirre), 52 J. CORP. L. (forthcoming 2026)

Toward Pluralism in United States Intellectual Property, *in* IMPROVING INTELLECTUAL PROPERTY: A GLOBAL PROJECT 484 (Susy Frankel, et al., eds., 2023)

The Illusion of Abundance and the Ghost of Red Lion, 7 FRONTIERS IN RES. METRICS & ANALYTICS 1003481 (2022)

Open Innovation and Ex Ante Licensing, *in* 1 RESEARCH HANDBOOK ON THE ECONOMICS OF INTELLECTUAL PROPERTY LAW 330 (Peter S. Menell & Ben Depoorter, eds., 2019)

The Entrepreneurial Commons, 2016 UTAH L. REV. 611

Innovation Prizes in Practice and Theory, 29 HARV. J.L. & TECH. 401 (2016) (with Fiona E. Murray, MIT Sloan School of Management)

Patent Markets: A Framework for Evaluation, 47 ARIZ. ST. L.J. 507 (2015)

- Selected for presentation at the plenary session of the 14th Intellectual Property Scholars Conference

Rethinking Standing in Patent Challenges, 83 GEO. WASH. L. REV. 498 (2015)

- Invited response written by John F. Duffy, *Standing to Challenge Patents, Enforcement Risk, and Separation of Powers*, 83 GEO. WASH. L. REV. 628 (2015)

Exchanging Information Without Intellectual Property, 91 TEX. L. REV. 227 (2012)

- Invited response written by Ted Sichelman, *Commercializing Information With Intellectual Property*, 92 TEX. L. REV. SEE ALSO 35 (2014)

- Reply to Sichelman: *Reply: Commercialization Without Exchange*, 92 TEX. L. REV. SEE ALSO 45 (2014)

Rules for Patents, 52 WM. & MARY L. REV. 1747 (2011)

Note, *Towards a New Standard for First Amendment Review of Structural Media Regulation*, 79 N.Y.U. L. REV. 1030 (2004)

The End of Broadcast?, MCKINSEY Q., 2000, no. 3, at 138 (with Ashish Bhandari, Andre Dua, and John Rose)

SELECTED PRESENTATIONS, PANELS, AND CONFERENCES

"Mercantilist Trade, Laissez-Faire Economics, and Authoritarian Consolidation: What the Fall of the Republic Tells Us About the Rise of the First Order," Halcy-Con, Orlando, FL (October 2026)

"The Innovator's Corporate Governance Dilemma," Law & Entrepreneurship Association Annual Retreat, Duke Law School, Durham, NC (October 2026)

"The Innovator's Corporate Governance Dilemma," Intellectual Property Scholars Conference, Stanford Law School, Palo Alto, CA (August 2026)

"The Innovator's Corporate Governance Dilemma," National Business Law Scholars Conference, UNLV, Las Vegas, NV (May 2026)

"Disrupting Venture Innovation," National Business Law Scholars Conference, UNLV, Las Vegas, NV (May 2026)

"Disrupting Venture Innovation," Munich Summer Institute, Max Planck Institute for Innovation and Competition, Munich, Germany (May 2026)

"Disrupting Venture Innovation," Works in Progress Intellectual Property Conference, Boston University School of Law, Boston, MA (February 2026)

"The Law of the Direction of Innovation," Association of Law and Political Economy Conference, Richmond, VA (February 2026)

Invited Discussant, Hybrid Warfare as a Cross-Disciplinary Imperative, ASU School of Law, Phoenix, AZ (January 2026)

Invited Discussant, Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2026)

"Critical Technologies and the Law and Geopolitics of Innovation Policy," AALS Annual Meeting, New Orleans, LA (January 2026)

"An Inducement Theory of Venture Capital," Law & Entrepreneurship Association Retreat, Cardozo School of Law, New York, NY (September 2025)

"Critical Technologies and the Law and Geopolitics of Innovation Policy," 2025 Intellectual Property Scholars Conference, DePaul University School of Law, Chicago, IL (August 2025)

"The Law of the Direction of Innovation," ATRIP Annual Congress, University of Copenhagen, Copenhagen, Denmark (June 2025)

"An Inducement Theory of Venture Capital," The Law and Finance of Venture Capital and Private Equity, London School of Economics, London, UK (June 2025)

"Critical Technologies and the Law and Geopolitics of Innovation Policy," Industry Studies Association Annual Conference, Cambridge, MA (June 2025)

"Toward a Theory of Inventorship in Patent Law," PatCon 13: The Patent Conference, University of San Diego School of Law, San Diego, CA (April 2025)

"Export and Investment Controls, Secrecy, and Predictability in Critical Technology Transactions," Berle XVII Symposium, Seattle University School of Law, Seattle, WA (March 2025)

"The Law of the Direction of Innovation," Works in Progress Intellectual Property Conference, University of Nevada Las Vegas, Las Vegas, NV (January 2025)

"The Law of the Direction of Innovation," Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2025)

"The Law of the Direction of Innovation," AALS Annual Meeting, San Francisco, CA (January 2025)

"Immersive Co-Creation, Mixed Cultural Production Models, and Intellectual Property," Themed Experience and Attractions Academic Society Symposium, Orlando, FL (November 2024)

"The 21st Century Began in 1982: EPCOT Center, the Fall of the 20th Century Consensus, and the Rise of Neoliberal Innovation Theory," Themed Experience and Attractions Academic Society Symposium, Orlando, FL (November 2024)

"Critical Technologies and the Law and Geopolitics of Innovation Policy," Global Conversations in International Business Transactions, Washington & Lee University School of Law (November 2024)

"The Law of the Direction of Innovation," Boston University Law School IP Colloquium, Boston, MA (November 2024)

"The Law of the Direction of Innovation," University of San Diego Law School Innovation Policy Colloquium, San Diego, CA (October 2024)

"The Law of the Direction of Innovation," Law & Entrepreneurship Association Retreat, UC School of Law SF, San Francisco, CA (September 2024)

"The Law of the Direction of Innovation," 2024 Intellectual Property Scholars Conference, UC Berkeley School of Law, Berkeley, CA (August 2024)

"Open Innovation and the Commons-Based Theory of the Firm," National Business Law Scholars Conference, UC Davis School of Law (June 2024)

"Toward a Theory of Inventorship in Patent Law," PatCon 12: The Patent Conference, University of San Diego School of Law, San Diego, CA (April 2024)

"The Law of the Direction of Innovation," MIT Sloan Technological Innovation and Entrepreneurial Strategies Workshop, MIT Sloan School of Management (March 2024)

"Open Innovation and the Commons-Based Theory of the Firm," Governing Corporate Knowledge Commons workshop, Kings College London, London, UK (February 2024)

"Open Innovation and the Commons-Based Theory of the Firm," Works in Progress Intellectual Property Conference, Santa Clara University School of Law, Santa Clara, CA (February 2024)

"Toward a Theory of Inventorship in Patent Law," Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2024)

Invited Discussant, Law and Entrepreneurship Association Retreat, Vanderbilt Law School, Nashville, TN (October 2023)

"Why Spider-Man Can't Go to Disney World: Private Ordering, Copyright, and the Modern Entertainment Franchise," Themed Experience and Attractions Academic Society Symposium, Orlando, FL (November 2022)

"The Illusion of Abundance and the Ghost of *Red Lion*," Scarcity, Regulation, and the Abundance Society Roundtable, Stanford Law School, Palo Alto, CA (April 2022)

Invited Discussant, PatCon 10: The Patent Conference, Boston College Law School, Newton, MA (March 2022)

Invited Discussant, Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2022)

Invited Discussant, Third Annual Intellectual Property and Innovation Conference, Intellectual Property Scholarship Workshop, Suffolk University Law School, Boston, MA (October 2021)

Moderator, 2021 Arthur N. Rupe Great Debate: Taming Tech Titans: How Should We Regulate Big Tech?, UC Santa Barbera, Santa Barbera, CA (May 2021)

"Why Spider-Man Can't Go to Disney World: Private Ordering, Copyright, and the Modern Entertainment Franchise," 2020 Works in Progress Intellectual Property Conference, Santa Clara University School of Law, Santa Clara, CA (February 2020)

Invited Discussant, Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2020)

Invited Discussant, Stanford NPE Litigation Database Symposium, Stanford Law School, Palo Alto, CA (November 2019)

"Why Spider-Man Can't Go to Disney World: Private Ordering, Copyright, and the Modern Entertainment Franchise," 2019 Intellectual Property Scholars Conference, DePaul University School of Law, Chicago, IL (August 2019)

"Indiscrete Property," Faculty Workshop, St. John's University College of Law, Queens, NY (April 2019)

"Toward a Theory of Inventorship in Patent Law," Works in Progress Intellectual Property Conference, University of Houston School of Law, Houston, TX (February 2019)

"Toward a Theory of Inventorship in Patent Law," 2018 Intellectual Property Scholars Conference, UC Berkeley School of Law, Berkeley, CA (August 2018)

"Indiscrete Property," Georgetown University Law Center Technology Law and Policy Colloquium, Washington, DC (February 2018)

"Entrepreneurial Network Design and Information Flow," Faculty Workshop, J. Mack Robinson College of Business, Georgia State University, Atlanta, GA (December 2017)

Invited Discussant, Roundtable on Empirical Methods in Intellectual Property, Cardozo School of Law, New York, NY (May 2017)

"IP Strategy in Business Deals," The Art and Science of the IP Deal Conference, University of Washington School of Law, Seattle, WA (April 2017)

"Innovation Prizes in Practice and Theory," Loyola Law School IP Colloquium, Los Angeles, CA (March 2017)

Invited Discussant, Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2017)

Invited Discussant, North Carolina Law Review Symposium, University of North Carolina School of Law, Chapel Hill, NC (October 2016)

"Indiscrete Property," 2016 Intellectual Property Scholars Conference, Stanford Law School, Stanford, CA (August 2016)

Panelist, Engelberg Center-AIPLA Conference on Innovation Clusters, NYU School of Law, New York, NY (February 2016)

Invited Discussant, Duke Law Journal Administrative Law Symposium, Duke Law School, Durham, NC (February 2016)

"The Entrepreneurial Commons," 2016 Law and Entrepreneurship Association Retreat, University of San Diego, San Diego, CA (January 2016)

"The Entrepreneurial Commons," Utah Law Review Symposium, Salt Lake City, UT (October 2015)

"Governing Innovation Prizes," University of Houston Law Center Administrative Law Workshop, Houston, TX (April 2015)

"Patent Markets: A Framework for Evaluation," 2015 Law and Entrepreneurship Association Retreat, University of Georgia, Athens, GA (March 2015)

"Patent Markets: A Framework for Evaluation," St. John's University Law School Intellectual Property Colloquium, Queens, NY (March 2015)

"Patent Markets: A Framework for Evaluation," Works in Progress Intellectual Property Conference, United States Patent & Trademark Office, Washington, DC (February 2015)

"Patent Markets: A Framework for Evaluation," Edward D. Manzo Scholar in Patent Law Presentation, DePaul Law School, Chicago, IL (February 2015)

"Patent Markets: A Framework for Evaluation," Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2015)

Moderator/Discussant, Empirical IP Research Conference, NYU School of Law, New York, NY (October 2014)

"Governing Innovation Prizes," 8th Annual IP Scholars Forum, University of Akron School of Law, Akron, OH (September 2014)

"Governing Innovation Prizes," 2nd Thematic Conference on Knowledge Commons, International Association for the Study of the Commons, NYU School of Law, New York, NY (September 2014)

"Patent Markets: A Framework for Evaluation," Plenary, 14th Annual Intellectual Property Scholars Conference, Berkeley Law, Berkeley, CA (August 2014)

"Patent Markets: A Framework for Evaluation," National Business Law Scholars Confrence, Loyola Law School, Los Angeles, CA (June 2014)

"Understanding the Role of Venture Finance in the Biomedical Commons," Medical User Innovation and Knowledge Commons Workshop, NYU School of Law, New York, NY (May 2014)

"Governing Innovation Prizes," NYU Law Innovation Policy Colloquium, New York, NY (May 2014)

"Governing Innovation Prizes," Innovation Law Beyond IP Conference, Yale Law School, New Haven, CT (March 2014)

"Rethinking Standing in Patent Challenges," Patent Trolls and Patent Reform Conference, Stanford Law School, Stanford, CA (March 2014)

"Secondary Markets for Patents: A Framework for Evaluation," PatCon4: The Annual Patent Conference, University of San Diego School of Law, San Diego, CA (March 2014)

"Governing Innovation Prizes," Law & Entrepreneurship Association Annual Retreat, University of Washington School of Law, Seattle, WA (February 2014)

"Governing Innovation Prizes," Works in Progress Intellectual Property Conference, Santa Clara Law School, Santa Clara, CA (February 2013)

"Rethinking Standing in Intellectual Property Challenges," IP Meets the Constitution Workshop, Columbia Law School, New York, NY (October 2013)

"Rethinking Standing in Intellectual Property Challenges," Fifth Annual Junior Scholars in IP Workshop, Michigan State University, East Lansing, MI (October 2013)

"Governing Innovation Prizes," Mid-Atlantic Patent Works in Progress Workshop, American University, Washington, DC (September 2013)

"Governing Innovation Prizes," Intellectual Property Scholars Conference, Cardozo School of Law, New York, NY (August 2013)

"Secondary Markets for Patents: A Framework for Evaluation," Law & Entrepreneurship Conference, Law & Society Association Annual Meeting, Boston, MA (June 2013)

"IP Standing," PatCon 3: The Annual Patent Conference, Chicago-Kent School of Law, Chicago, IL (April 2013)

"IP Standing," Works in Progress Intellectual Property Conference, Seton Hall Law School, Newark NJ (February 2013)

"Governing Innovation Prizes," Law & Entrepreneurship Retreat, George Washington University Law School, Washington, DC (February 2013); Commenter, same.

"IP Standing," Hofstra University School of Law IP Colloquium, Hempstead, NY (February 2013)

"IP Standing," Third Annual Tri-State Region IP Workshop, NYU School of Law, New York, NY (January 2013)

"Governing Innovation Prizes," Intellectual Property Scholars Conference, Stanford Law School, Stanford, CA (August 2012)

"Governing Innovation Prizes," Law & Entrepreneurship Conference, Law & Society Association Annual Meeting, Honolulu, HI (June 2012)

"Exchanging Information Without Intellectual Property," Gruter Institute for Law and Behavioral Research Conference on Innovation, Economic Growth, and Human Behavior, Squaw Valley, CA (May 2012)

"Exchanging Information Without Intellectual Property," The Patent Conference, Boston College Law School, Boston, MA (May 2012)

"Exchanging Information Without Intellectual Property," University of Illinois College of Law Faculty Workshop, Champaign, IL (April 2012)

Panelist, "Should Genes Be Patentable?", University of Illinois College of Law, Champaign, IL (April 2012)

"Patent Standing," Works in Progress Intellectual Property Conference, University of Houston Law Center, Houston, TX (Feb. 2012)

Commentator, Tri-State Region IP Workshop, Fordham Law School, New York, NY (Jan. 2012)

"The Changing Role of the Supreme Court in Reviewing Federal Circuit Decisions," New York Intellectual Property Law Association Fall One-Day Patent CLE Program, New York, NY (Nov. 2011)

"Patent Standing," Intellectual Property Scholars Conference, DePaul University College of Law, Chicago, IL (Aug. 2011)

"Exchanging Information Without Intellectual Property," Law & Entrepreneurship Conference, Law & Society Association Annual Meeting, San Francisco, CA (June 2011)

"Rules for Patents," Intellectual Property Scholars Conference, Berkeley, CA (Aug. 2010)

"Exchanging Information Without Intellectual Property," Law & Society Association Annual Meeting, Chicago, IL (June 2010)

AMICUS BRIEFS

Brief of *Amici Curiae* Internet Law Professors in Support of Defendant-Appellant, *New York State Telecommunications Ass'n et al., v. James*, No. 21-1975 (2d Cir. filed Dec. 1, 2021)

Brief of *Amici Curiae* Internet Law Professors in Support of Appellee, *ACA Connects, et al. v. Bonta*, No. 21-15430 (9th Cir. argued Sept. 14, 2021)

Brief of Professors of Internet Law as *Amici Curiae* in Support of Opposition to Preliminary Injunction Motions, *United States v. California*, No. 18-cv-2660 and *American Cable Assn. v. Beccera*, No. 18-cv-2684 (E.D. Cal. Feb. 23, 2021)

Brief of Professors of Communications Law as *Amici Curiae* in Support of Petitioners, *Mozilla Corp. v. FCC*, 940 F.3d 1 (D.C. Cir. 2019)

Brief of First Amendment Scholars as *Amici Curiae* in Support of Respondents, *United States Telecom Assn. v. FCC*, 825 F.3d 674 (D.C. Cir. 2016)

Brief of Professors of Administrative Law as *Amici Curiae* in Support of Respondents, *United States Telecom Assn. v. FCC*, 825 F.3d 674 (D.C. Cir. 2016)

Brief of Intellectual Property Professors as *Amici Curiae* in Support of Petitioner, *Already, LLC dba Yums v. Nike, Inc.*, 568 U.S. 85 (2013)

Amici Curiae Brief of Intellectual Property Professors in Support of Plaintiffs-Appellants and Supporting Reversal, *Organic Seed Growers and Trade Association v. Monsanto Co.*, 718 F.3d 1350 (Fed. Cir. 2013)

Brief of Administrative Law Professors as *Amici Curiae* in Support of Respondent Michigan Bell Telephone Company, *Talk America Inc. v. Michigan Bell Tel. Co.*, 564 U.S. 50 (2011)

PROFESSIONAL SERVICE

Member, New York Court of Appeals Advisory Committee on Skills and Professional Values, 2018-present
Peer Review Board, Stanford Technology Law Review, 2014-2015
Member, Executive Board of the AALS Section on Intellectual Property, 2013-2014