

CENTER FOR INTELLECTUAL PROPERTY LAW & INFORMATION TECHNOLOGY

The Center for Intellectual Property Law & Information Technology (CIPLIT®) hosted a number of events in recent months, including:

2007 EDWARD D. MANZO SCHOLARS IN PATENT LAW SEMINAR

Established by Edward D. Manzo, a founding partner of the intellectual property firm Cook Alex McFarron Manzo Cummings & Mehler in Chicago, and instructed by Professor **Katherine J. Strandburg**, the seminar focuses on a series of lectures by invited patent scholars. Students and faculty discuss the scholars' work, and students use the presentations as models for their own original works of patent law scholarship. This year's scholars were Joshua Sarnoff, assistant director, Glushko-Samuels Intellectual Property Law Clinic, and practitioner-in-residence, American University Washington College of Law; Jonathan S. Franklin, partner, Fulbright & Jaworski; Eileen Kane, associate professor, Penn State Dickinson School of Law; David E. Adelman, associate professor and director of Law & Science Initiatives, University of Arizona James E. Rogers College of Law.

2007 HOSIER DISTINGUISHED VISITING IP SCHOLARS PROGRAM

Established by College of Law alumnus and one of the foremost patent attorneys in the country, **Gerald D. Hosier** ('67), and taught by CIPLIT's founding director, Professor **Roberta Kwall**, this program attracts leading national and international intellectual property scholars who share their expertise through specialized intellectual property courses and lectures. In April, the Hosier Distinguished IP Scholar Niva Elkin-Koren, professor of law and co-director of the University of Haifa's Center of Law & Technology, spoke about "New Challenges for Open Content," discussing the best way to promote free culture and whether a legal strategy which emphasizes owners' sovereignty serves the goals of the open content movement. She also took a closer look at Creative Commons as a social movement and explored the limits of its legal strategy for enhancing the sharing, distribution and reuse of creative works.

2007 SYMPOSIUM

In March 2007, CIPLIT held its Seventh Annual Symposium, "Patents and Progress: Reflections in the Midst of Change." Leading academics presented their views on the evolution and revolution of patent law at a time when technological change, globalization and politics are each contributing to growing pressure for far-reaching changes to the U.S. patent system. Keynote speaker Donald Chisum, former *Inez Mabie Professor of Law Emeritus* at Santa Clara University, discussed the Supreme Court as an instrument of patent law reform.

In January 2007, Hon. Richard Linn, U.S. Court of Appeals for the Federal Circuit, met with CIPLIT students to answer questions about patent practice and the court. CIPLIT also hosted the U.S. Library of Congress Section 108 Public Roundtable in January, discussing exceptions in the Copyright Act applicable to libraries and archives, specifically those pertaining to the making and distribution of copies of copyrighted works pursuant to a patron's request.

"A Conversation with the Judiciary" more than just exchange of words

BY DAN URSINI

"I was quite interested to see three of the most interesting thinkers of the modern judiciary engage with each other," says Assistant Professor **Matthew Sag**, offering one reason for the standing-room only audience, comprised of students, faculty and practitioners from several intellectual property firms in Chicago, at the Center for Intellectual Property Law & Information Technology's (CIPLIT) event, "A Conversation with the Judiciary."

The November 2006 program featured a panel of three distinguished federal judges: Hon. Alex Kozinski, U.S. Court of Appeals for the 9th Circuit; Hon. Richard Posner, U.S. Court of Appeals for the 7th Circuit; and Hon. Diane Wood, U.S. Court of Appeals for the 7th Circuit. This was the sequel to an equally successful event held in 2005, which was developed by Professor **Roberta Kwall**, founding director of CIPLIT.

CIPLIT Director **Barbara Bressler** explains, "Whenever attorneys—especially those who litigate in federal court—get the opportunity to hear what judges have to say regarding practicing [law] before them, they usually jump at the chance. There are not a lot of those opportunities."

The panel was co-moderated by Sag and attorney **Gregory J. Vogler** ('84), who identifies another factor contributing to the event's success. "The judges discussed issues that mattered deeply to them and their emotions got involved. Most judges' panels are so deliberately polite that conflict is rarely expressed," says Vogler, but on this occasion, "they were willing to be adversarial, even combative."

"This intensity was invigorating and honest," says Visiting Law Professor Michael Malinowski, who also commends the philosophical diversity of the panel. "It was such a contribution by DePaul to bring these players together and to have that exchange."

Among the issues discussed in the freewheeling exchange was trademark law. **Paul D. McGrady Jr.** ('96) comments, "I was glad the judiciary was pleased with the way that trademark law is developing, and that they recognized it is fundamentally different from other kinds of intellectual property law because it is based on protecting consumer rights."

Sag emphasized that "A Conversation with the Judiciary" really showed the strength of the intellectual property program at DePaul. "It was a great example of how we integrate scholarly pursuits with the student experience and also reach out to the profession locally."

IP rights take center stage at CIPLIT's visiting artist event

BY DAN URSINI

Exit, pursued by a bear.

Stage direction from Act III, Scene III of Shakespeare's "The Winter's Tale."

Many would agree that this is the most famous stage direction in the English language.

Each stage cue in a script can be part of a directorial concept that completely transforms the meaning of a production, resulting in a triumph by the director—whether credited or not. Intellectual property rights issues like this were explored during a CIPLIT panel presentation, featuring visiting artist and distinguished director Austin Pendleton, in January. The discussion centered on whether directors should be compensated by copyright or contract.

"The resolution of the issues regarding stage directions has implications for any of the arts in which there is collaboration among contributors," says panelist and DePaul Law Professor **Margit Livingston**, who holds a master's degree in theater arts and is a graduate of The Second City Conservatory.

Alan Salzenstein, coordinator of the Performing Arts Management Program at DePaul's School of Music and an entertainment law attorney, contends that this controversy goes right to the heart of intellectual property law. "The understanding of copyright has shifted 180 degrees in recent times. It was developed not necessarily to protect one's creative contributions, but to allow others to use creativity to breed creativity. Now it's more about protection—of what's mine."

The definition of "what's mine" is memorably expressed by Pendleton, "Money and credit—everything in show business revolves around those two things." Pendleton argues that ensuring these compensations has been a major battle due to the unique evolution of the director's role in theater since the 1920s. He credits stage legend, Elia Kazan, as a major force in advancing the cause of all stage directors. Kazan made sure the contractual agreement for his direction of "A Streetcar Named Desire" stated he could make all final decisions.

The director's claim to copyright protection has been the subject of heated debate in both legal and theatrical circles. Salzenstein says, "In putting together a piece of theater, there are many contributions that cannot be measured. So how do you put a value to them? And what is the best avenue for compensation?"

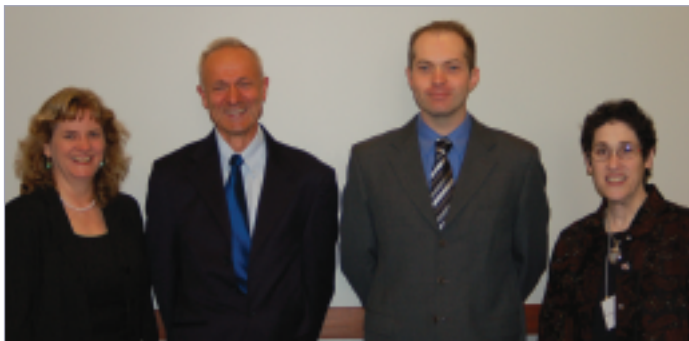
Pendleton pokes fun at a popular misconception that directors have been around since the dawn of theater, enduring inadequate compensation for centuries, "We are slow to act; yet, when we find our resolve, watch out."

It was one of a number of old assumptions given an illuminating inspection by the panelists.



Panelists and moderators participating in CIPLIT's "A Conversation with the Judiciary" include (from left) Professor Matthew Sag, Hon. Diane Wood, Hon. Alex Kozinski, Hon. Richard Posner and attorney Gregory Vogler ('84).

10th Annual Niro Scavone Haller & Niro Distinguished Intellectual Property Lecture



The 10th Annual Niro Scavone Haller & Niro Distinguished Intellectual Property Lecture and luncheon featured Peter Drahos, professor and director of the Centre for Governance of Knowledge and Development, and head of program at Australian National University's Regulatory Institutions Network. From left: Professor Kathryn Strandburg, Drahos, Professor Matthew Sag and Professor Barbara Bressler.



In January 2007, Austin Pendleton (second from left) discussed directors' copyright and contract issues with panelists at CIPLIT's visiting artist event. Other panelists include (from left) Alan Salzenstein, entertainment lawyer and coordinator of the Performing Arts Management Program at DePaul's School of Music; Margit Livingston, DePaul law professor; and David E. Guinn, attorney and former entertainment lawyer.