

# ANDREW GILDEN

## ACADEMIC APPOINTMENTS

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Southwestern Law School

*Professor of Law*, Spring 2025-present

- Courses: Property, Copyright

Willamette University College of Law

*Associate Professor of Law* (with tenure), Spring 2021-present

*Assistant Professor of Law*, 2016-2021

- Courses: Property, Copyright, Trademark, IP Law & Practice, Trusts & Estates, Internet & Social Media Law
- Chair of Appointments Committee AY 2023-23: successfully recruited four full-time faculty members
- Other Notable Service: Facilities Committee (chair); University Council Faculty Representative; College of Law Board of Trustees Faculty Representative; Willamette Law Review Faculty Advisor
- Oregon AG's Cyber-Exploitation Workgroup: drafted revisions to Oregon's online harassment laws
- 2018 Robert Misner Award for Faculty Scholarship

UC Law San Francisco

*Visiting Professor of Law*, Spring 2024

Course: Wills & Trusts

Columbia Law School, Center for Gender & Sexuality Law

*Visiting Sabbatical Scholar*, Fall 2023

Georgetown University Law Center

*Visiting Associate Professor of Law*, Spring 2021

Courses: Property, Trademark & Unfair Competition

Stanford Law School

*Thomas C. Grey Fellow and Lecturer in Law*, 2011-2016

Courses: Social Media Law, IP Counseling, Federal Litigation, Legal Research & Writing

## EDUCATION

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Georgetown University Law Center

J.D., *magna cum laude*, Order of the Coif, May 2007

Brown University

A.B., *magna cum laude*, in Economics and Anthropology, with Honors, May 2004

## SCHOLARLY WORKS

*Pleasure and Pain in Intellectual Property*, 67 WILLIAM & MARY L. REV. (forthcoming 2025).

*Patenting the Taboo: Sex, Drugs, and Abortion*, 27 YALE J.L. & TECH. (forthcoming 2025) (with Sarah Wasserman Rajec)

*Psychedelics Through a Patent Lens*, in LAW & POLICY OF PSYCHEDELIC MEDICINE (forthcoming 2025) (with Sarah Wasserman Rajec)

*Reimagining the Sex Toy Cases*, in QUEER JUDGMENTS PROJECT (2024)

*Copyright's Capacity Gap*, 57 UC DAVIS L. REV. 899 (2023) (with Eva Subotnik)

- Reviewed by Prof. Jessica Silbey: <https://ip.jotwell.com/copyright-fiduciaries-problems-and-solutions/>

*The Queer Limits of Revenge Porn Laws*, 64 B.C. L. REV. 801 (2023)

- Related Op-Ed: <https://www.wired.com/story/revenge-porn-platforms-grindr-queerness/>
- Review by Prof. Doron Dorfman: <https://equality.jotwell.com/revenge-porn-laws-and-gay-sex-exceptionalism/>

*Pleasure Patents*, 63 B.C. L. REV. 571 (2022) (with Sarah Wasserman Rajec)

- Reviewed by Prof. Nicholson Price: <https://cyber.jotwell.com/illegal-sex-toy-patents/>

*Endorsing After Death*, 63 WILLIAM & MARY L. REV. 1531 (2022)

- Media coverage:
  - <https://www.foxnews.com/tech/dead-celebrities-elvis-marilyn-monroe-twitter-instagram-endorse>
  - <https://torrentfreak.com/rip-the-uncanny-business-of-dead-celebrity-endorsements-on-social-media/>

*AI, IP, and Artistic Legacies*, in POSTHUMOUS ART, LAW AND THE ART MARKET (2022) (with Taylor Hurwitz)

*The Social Afterlife*, 33 HARVARD J.L. & TECH. 329 (2020)

- Reviewed by Prof. Alexander Boni-Saenz: <https://trustest.jotwell.com/legacy-control/>

*Copyright's Market Gibberish*, 94 WASHINGTON L. REV. 1019 (2019)

*Intellectual Property's Queer Turn*, OXFORD HANDBOOK OF LAW & HUMANITIES (2019)

*Sex, Death, and Intellectual Property*, 32 HARVARD J.L. & TECH. 67 (2018)

*IP, R.I.P.*, 95 WASHINGTON UNIVERSITY L. REV. 639 (2017)

*Reading the Readers*, 102 IOWA L. REV. ONLINE 174 (2017) (invited response essay)

*Raw Materials and the Creative Process*, 104 GEORGETOWN L.J. 355 (2016)

- Reviewed by Prof. Christopher Buccafusco: <http://ip.jotwell.com/unevenly-cooked-raw-materials-and-fair-use/>
- Reviewed by Prof. Brian Frye: <http://prawfsblawg.com/2015/11/gilden-on-raw-materials-and-the-creative-process.html>

*Punishing Sexual Fantasy*, 58 WILLIAM & MARY L. REV. 419 (2016)

*Common Sense and the “Cannibal Cop,”* 11 STANFORD J. C.R.-C.L. 313 (2015) (invited symposium essay with Thea Johnson)

*Life, Death, Public Domain*, 22 GEORGE MASON L. REV. 13 (2014)

*Cyberbullying and the Innocence Narrative*, 48 HARVARD C.R.-C.L. L. REV. 357 (2013)

- Reviewed by Prof. Janet Halley: <http://jotwell.com/a-pro-gay-teen-argument-for-pushing-the-pause-button-on-anti-bullying/>

*Copyright Essentialism and the Performativity of Remedies*, 54 WILLIAM & MARY L. REV. 1123 (2013)

*Fair Use for the Rich and Fabulous?*, 80 U. CHICAGO L. REV. DIALOGUE 88 (2013) (with Tim Greene)

*No Trolls Barred: Trademark Injunctions After eBay*, 99 TRADEMARK REP. 1037 (2009) (with David Bernstein) (Cited by *Ferring Pharm., Inc. v. Watson Pharm., Inc.*, 765 F.3d 302 (3d Cir. 2014))

*Toward a More Transformative Approach: The Limits of Transgender Formal Equality*, 23 BERKELEY J. GENDER L. & JUST. 83 (2008)

*Preserving the Seeds of Gender Fluidity: Tribal Courts and the Berdache Tradition*, 13 MICHIGAN J. GENDER & L. 237 (2007)

*Sexual (Re)consideration: Adult Entertainment Contracts and the Problem of Enforceability*, 95 GEORGETOWN L. J. 541 (2007)

#### SELECTED PRESENTATIONS AND MEDIA APPEARANCES

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Intellectual Property Scholars Conference, August 2025 (DePaul College of Law), presentef paper, *Digital Replica Rights and Postmortem Policy Levers*

Law & Society Association Global Meeting, May 2025, Chicago, IL, roundtable participant on *Queer Judgments Project*.

Rutgers University Law School, February 2025, Camden, NJ, invited speaker, “IP, Popular Culture, and Pleasure.”

Intellectual Property Scholars Conference, August 2024, UC Berkeley, invited plenary session speaker, *Love & Hate in Intellectual Property*

Law & Society Association Global Meeting, June 2024, Denver, CO, presented paper, *Love & Hate in Intellectual Property*

Law & Policy of Psychedelic Medicine Conference, June 2024, Harvard Law School, presented paper, *Psychedelics Through a Patent Lens*

West Coast Sexuality, Gender, and the Law Conference, March 2024, Loyola Law School, Los Angeles, presented book proposal, *Without Pleasure: Sex, Drugs, & Rock n' Roll in the Legal Imagination*

UC Law San Francisco Faculty Workshop, March 2024, presented paper, *Patents & Taboo Technologies*

FIU Law Faculty Colloquium, March 2024, presented paper, *Patents & Taboo Technologies*

Works-in-Progress in Intellectual Property, February 2024, Santa Clara University, presented paper, *Taking Pleasure in Intellectual Property*

Columbia Law School Visiting Scholars Forum, October 2023, presented paper, *Innovations in Pleasure*

Queering Private Law Workshop, September 2023, UCL Faculty of Laws, London, presented paper, *Innovations in Pleasure*

Law & Society Association Global Meeting, June 2023, San Juan, Puerto Rico, presented paper, *Reimagining the Sex Toy Cases*

Workshop on Digital Intimacy, March 2023, Emory University, presented paper, *Queer Limits of Revenge Porn*

Works-in-Progress in Intellectual Property, February 2023, Suffolk University, presented paper, *Innovations in Pleasure*

AALS Annual Meeting, January 23, San Diego, CA, panel on *Warhol* and the derivative works right

Law & Society Association Global Meeting, July 2022, Lisbon, Portugal, presented paper, *The Queer Limits of Revenge Porn*

Critical Estates & Trusts Conference, April 2022 (online), presented paper, *Copyright's Capacity Gap*

Works-in-Progress in Intellectual Property, February 2022, St. Louis University, presented paper, *Copyright's Capacity Gap*

Third Annual Symposium on Contextual Integrity, September 2021, University of Chicago, presented paper, *Contextual Integrity for the Dead*

St. Johns Law School IP Colloquium, April 2021 (online), presented paper, *Endorsing After Death*

Hofstra Law School IP Colloquium, February 2021 (online), presented paper, *Endorsing After Death*

GW Law School IP Colloquium, February 2021 (online), presented paper, *Endorsing After Death*

Works-in-Progress in Intellectual Property, February 2021(online), presented paper, *Copyright and Capacity*

Georgetown University Law Center Faculty Workshop, January 2021 (online), presented paper, *Endorsing After Death*

AALS Annual Conference, January 2021 (online), presented on panel “Communicating Intellectual Property” re: copyright pedagogy

MOSAIC IP Conference, October 2020 (online), presented paper, *Posthumous Endorsements and the Business of #BLM*

University of Virginia Law School Faculty Workshop, October 2020 (online), presented paper, *Endorsing After Death*

Intellectual Property Scholars Conference, July-August 2020 (online), presented papers, *Endorsing After Death* and *Patenting Pleasure*

IP Speaker Series, February 2020 (Loyola Law School, Los Angeles, CA), invited presentation, *Sex, Death, and Intellectual Property*

IP in the Trees, February 2020 (Lewis & Clark College of Law), invited presentation, *The Social Afterlife*

Works-in-Progress in Intellectual Property Conference, February 2020 (Santa Clara Law School), presented paper, *Patenting Pleasure*

BYU IP Colloquium, November. 2019, invited presentation, *The Social Afterlife*

Intellectual Property Scholars Conference, August. 2019 (DePaul College of Law), presented paper, *Legacy Stewards*

Law and Society Association Annual Meeting, May-June 2019 (Washington, DC), presented paper, *The Penumbra of Sex Trafficking*

Family Law Scholars and Teachers Conference, May 2019 (Howard Law School), presented paper, *Legacy Stewards*

Chicago IP Colloquium, April 2019 (Loyola Law School), invited presentation, *Copyright's Market Gibberish*

Internet Law Works-in-Progress Conference, March 2019 (Santa Clara Law School), presented paper, *Legacy Stewards*

Works-in-Progress in Intellectual Property Conference, February 2019 (University of Houston), presented paper, *Legacy Stewards*

Rocky Mountain Junior Scholars Workshop, November 2018 (Univ. of Utah Law School) *Copyright's Market Gibberish*

Intellectual Property Scholars Conference, Aug. 2018 (U.C. Berkeley Law School) *Copyright's Market Gibberish*

Oxford Handbook on Law & Humanities Conference, May 2018 (Stanford Law School) *Queering IP Theory*

Family Law Scholars and Teachers Conference, June 2018 (Cardozo Law School) *The Laws of Legacy*

Internet Law Works-in-Progress, March 2018 (New York Law School) *The Beyoncé Defense*

Works-in-Progress in Intellectual Property, February 2018 (Case Western Reserve) *Sex, Death, and Intellectual Property*

Rocky Mountain Junior Scholars Workshop, November 2017 (BYU Law School) *Sex, Death, and Intellectual Property*

Pacific NW IP Scholars Conference, September 2017 (Seattle University) *Sex, Death, and Intellectual Property*

Intellectual Property Scholars Conference, Aug. 2017 (Cardozo Law School) *Death, Sex, and Intellectual Property*

Law and Society Association Annual Meeting, June 2017 (Mexico City)

- *Revenge Porn and the Surveillance of Intimacy*
- Invited discussant of Joseph Fischel's book, *Sex and Harm in the Age of Consent*

Vanderbilt IP Scholars Roundtable, Apr. 2017 (Nashville, TN) *IP, R.I.P.*

The Art and Science of the IP Deal, Apr. 2017 (University of Washington School of Law) *Panel: Deals and the Problem of Change over Time and Context*

Symposium, Berkeley Journal of Gender, Law, and Justice, March 2017 (Berkeley, CA)  
*Revenge Porn and the Surveillance of Intimacy*

Intellectual Property Scholars Conference, Aug. 2016 (Stanford Law School)  
*Leveraging Death: IP Estates and Shared Mourning*

Law and Society Association Annual Meeting, June 2016 (New Orleans, LA)  
*Punishing Sexual Fantasy*

Guest blogger, Prawfsblawg.com, Dec. 2016

Invited Speaker, Whittier Law School Center for Intellectual Property, Sept. 2015  
*Raw Materials and the Creative Process*

Intellectual Property Scholars Conference, Aug. 2015 (Chicago, IL)  
*Rethinking Constraint*

Law and Society Association Annual Meeting, May 2015 (Seattle, WA)  
*Punishing Sexual Fantasy*

Internet Law Works-in-Progress, March 2015 (Santa Clara University)  
*Punishing Sexual Fantasy*

This Week in Law, March 2015  
Guest for episode 297, *Copyright or Sticky Tape?*

Marketplace, Sept. 2014  
Interviewed for radio segment, *Artistic Inspiration or Piracy?*

Intellectual Property Scholars Conference, Aug. 2014 (U.C. Berkeley Law School)  
*Raw Materials, Creative Works, and Cultural Hierarchy*

Works-in-Progress in Intellectual Property, Feb. 2014 (Santa Clara Law School)  
*Raw Materials in Intellectual Property*

Junior Scholars in Intellectual Property Workshop, Oct. 2013 (Michigan State Law School)  
*Life, Death, Public Domain*

Intellectual Property Scholars Conference, Aug. 2013 (Cardozo Law School)  
*Life, Death, Public Domain*

Design Patents in the Modern World Conference, Apr. 2013 (Stanford Law School)  
Commentator on Dennis Crouch's *Developing a Taxonomy of Overlapping Rights*

Law, Culture and the Humanities Annual Conference, Mar. 2013 (London)  
*Cyberbullying and the Innocence Narrative*

Intellectual Property Scholars Conference, Aug. 2012 (Stanford Law School)

*Copyright Essentialism and the Performativity of Remedies*

Junior Scholars in Intellectual Property Workshop, May 2012 (Michigan State Law School)  
*Copyright Essentialism and the Performativity of Remedies*

#### **PRIOR LEGAL EXPERIENCE**

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Hon. Marilyn Hall Patel, U.S. District Court for the Northern District of California  
*Law Clerk*, 2010-2011

Hon. Cynthia Holcomb Hall, U.S. Court of Appeals for the Ninth Circuit  
*Law Clerk*, 2009-2010

Debevoise & Plimpton LLP (New York)  
*Associate*, IP/media litigation, 2007-2009; *Summer Associate*, 2006

Hon. Henry H. Kennedy, Jr., U.S. District Court for the District of Columbia  
*Judicial Intern*, Spring 2006

Munger, Tolles & Olson LLP (Los Angeles)  
*Summer Associate*, 2005

Lambda Legal Defense Fund (Los Angeles)  
*Legal Intern*, Summer 2005

#### **BAR ADMISSIONS**

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New York, 2008

U.S. District Court for the Southern District of New York, 2008