

BRUCE E. BOYDEN

MARQUETTE UNIVERSITY LAW SCHOOL
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EDUCATION

Yale Law School, J.D. 1997

Yale Law Journal, Notes Editor & Admissions Committee

Yale Journal of Law & Feminism

Director, Yale Legal History Forum Student Presentation Series

Northwestern University, M.A. (History) 1993

Thesis: *The Meaning of Terror: The Ku Klux Klan in South Carolina, 1868-71*

Teaching Assistant, 1992-93

University of Arkansas, B.A. *summa cum laude* (History & Philosophy) 1991

Sturgis Fellow, 1987-91

Studied at Corpus Christi College, Cambridge University, 1989-90

RESEARCH INTERESTS

Conflicts in copyright law raised by the transition to digital technologies

Privacy in electronic communications

Status conflicts during periods of rapid economic or social change

EXPERIENCE

Marquette University Law School, Milwaukee, WI

Associate Professor, Fall 2014–present; Assistant Professor, Fall 2007–Fall 2014

- Teaching Copyrights, Internet Law, Civil Procedure, Pretrial Practice, Privacy Law

Washington & Lee University School of Law, Lexington, VA

Visiting Assistant Professor, Spring 2006–2007; Adjunct Professor, Spring 2003 & 2004

- Taught Contracts, Internet Law, Patents

Michigan State University College of Law, East Lansing, MI

Visiting Assistant Professor, Fall 2005

- Taught E-Commerce Law

Proskauer Rose LLP, New York, NY & Washington, DC

Litigation Associate, 1997-2005

Extensive experience advising and representing clients on information technology issues, including copyright, privacy law, e-commerce, and computer security

Represented content owners in developing and defending content protection

technologies through multilateral negotiations, regulatory practice, and appeals

- Litigated Internet law and other matters in federal and state courts and arbitrations

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PUBLICATIONS AND WORKS IN PROGRESS

- The Evolution of Secondary Liability Doctrine in Copyright Law* (in progress)
The Game in the Machine: Copyright and Video Game Play (in progress)
Emergent Works, 39 COLUM. J.L. & ARTS 377 (2016)
Aereo and the Problem of Machine Volition, 2015 MICH. ST. U.L. REV. 485 (2015)
Privacy in Electronic Communications, in PROSKAUER ON PRIVACY (Kristen J. Mathews ed. 2017) (treatise chapter; annual updates)
Regulating at the End of Privacy, 2013 U. CHI. LEGAL F. 173
Can a Computer Intercept Your Email?, 34 CARDOZO L. REV. 669 (2012)
Oversharing: Facebook Discovery and the Unbearable Sameness of Internet Law, 65 ARK. L. REV. 39 (2012)
Constitutional Safety Valve: The Privileges or Immunities Clause and Status Regimes in a Federalist System, 62 ALA. L. REV. 111 (2011)
Games and Other Uncopyrightable Systems, 18 GEO. MASON L. REV. 439 (2011); selected for republication in ENTERTAINMENT, PUBLISHING AND THE ARTS HANDBOOK (Karen B. Tripp ed. 2011).
Stewart Prosecution Imperils Business Civil Liberties, LEGAL BACKGROUNDER (Wash. Legal Found., Wash., D.C.), Oct. 3, 2003, at 1 (with Warren Dennis)
3 Steps to Pulling the Plug on a Phony Bank Web Site, AM. BANKER, June 27, 2003, at 9 (with Warren Dennis)
Book Note, *Freedom to Offend*, 105 YALE L.J. 1415 (1996)

OTHER WRITINGS

- Brief of Amici Curiae Intellectual Property Law Professors in Support of Plaintiffs-Appellants and Urging Reversal, *Viacom Int'l, Inc. v. YouTube, Inc.* and *Football Ass'n Premier League, Ltd. v. YouTube, Inc.*, Nos. 10-3270-cv & 10-3342-cv (2d Cir. filed Dec. 10, 2010)

PRESENTATIONS

- "Navigating Beyond the EU-US Safe Harbor," Kohler CLE, Milwaukee, WI (Sept. 28, 2016) (presentation)
"Copyright and Original Authorship," Kernochan Center IP Speaker Series, New York, NY (Apr. 21, 2015) (presentation)
"Aereo and the Problem of Machine Volition," Michigan State Law Review, *Symposium on Public Domain(s): Law and Generating Knowledge and Innovation in the Information Economy*, Oct. 2, 2014 (panel presentation)
"The Lost Doctrine of Secondary Copyright Liability," *Fourteenth Annual Intellectual Property Scholars' Conference*, Berkeley, CA (Aug. 8, 2014) (paper presented)
Commenter on Kevin S. Bankston & Amie Stepanovich, "When Robot Eyes Are Watching

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- You: The Law and Policy of Automated Communications Surveillance," *Seventh Annual Privacy Law Scholars Conference*, Washington, DC (June 6, 2014)
- "Speaking Through Algorithms," *Fourth Internet Law Work-in-Progress Symposium*, New York, NY (Mar. 8, 2014) (paper presented)
- "Top Ten Common Legal Errors in Setting Up a Commercial Website," Marquette University Law School CLE, Green Bay, WI (May 9, 2014) (presentation)
- "The Costs of Knowledge," *Loyola University Chicago School of Law Faculty Workshop*, Chicago, IL (Mar. 12, 2013) (paper presented)
- "The Costs of Knowledge," *Works in Progress Intellectual Property Conference*, Seton Hall Law, Newark, NJ (Feb. 22, 2013) (paper presented)
- "The Game in the Machine: Copyright in the Middle Ground Between Players and Video Games," *University of Chicago Law School Law and Technology Society and Winston Churchill Society*, Chicago, IL (Feb. 6, 2013) (paper presented)
- "Secondary Liability for Copyright Infringement," Marquette University Law School CLE, Milwaukee, WI (Nov. 8, 2012) (presentation)
- "Regulating at the End of Privacy," University of Chicago Legal Forum, *Symposium on Frontiers of Consumer Protection*, Chicago, IL (Nov. 2, 2012) (paper presented)
- "The Game in the Machine: Copyright in the Middle Ground Between Players and Video Games," *Marquette Faculty Workshop*, Oct. 8, 2012 (paper presented)
- Commenter on Kirsty Hughes, "A Behavioural Understanding of Privacy and Its Implications for Privacy Law," *Fifth Annual Privacy Law Scholars Conference*, Washington, DC (June 7, 2012)
- "The Game in the Machine: Copyright in the Middle Ground Between Players and Video Games," *Univ. of St. Thomas School of Law Faculty Workshop*, Minneapolis MN (Feb. 1, 2012) (paper presented)
- "Facebook and the Unbearable Sameness of Internet Law," *Arkansas Law Review, Symposium on Facebook and the Law*, Fayetteville, AR (Nov. 4, 2011) (paper presented)
- "Is DRM Working? How Could We Tell?," *18th ACM Conference on Computer and Communications Security/Workshop on DRM*, Chicago, IL (Oct. 21, 2011) (lecture)
- "The Game in the Machine: Copyright in the Middle Ground Between Players and Video Games," *Eleventh Annual Intellectual Property Scholars' Conference*, Chicago, IL (Aug. 12, 2011) (paper presented)
- "Copyright's Collapse," *Marquette Law Faculty Works-in-Progress Workshop*, Milwaukee, WI (July 13, 2011) (paper presented)
- "Can a Computer Intercept Your E-mail?," *Privacy Law Scholars Conference*, Berkeley CA (June 2, 2011) (paper presented)
- "Recent Developments in Copyright & Entertainment Law," *Marquette Entertainment Law Society Conference*, Milwaukee, WI (Apr. 15, 2011) (presentation)
- "Copyright's Middle Ground: The Interaction of Players and Video Games," *The Game*

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- Behind the Video Game Conference*, New Brunswick, NJ (Apr. 9, 2011) (paper presented)
- "Privacy vs. Anti-Piracy: How to Balance Rights in an Era of Online Copyright Infringement," International Association of Privacy Professionals, *Global Privacy Summit 2011*, Washington, DC (Mar. 11, 2011) (presentation)
- "Privacy: Checking You Out," *4th Street Forum*, MPTV Ch. 10.1 (Feb. 25, 2011) (panelist)
- "Distinguishing Red Flags from Fuchsia Flags: The Tort Law Roots of Section 512," Boston University, *Works in Progress in Intellectual Property conference*, Feb. 12, 2011 (paper presented)
- "Copyright's Collapse," *Tenth Annual Intellectual Property Scholars' Conference*, Aug. 13, 2010 (paper presented)
- "eBay and the Presumption of Irreparable Harm in Copyright Cases," *Marquette Faculty Works-in-Progress Workshop*, June 11, 2010 (paper presented)
- Commenter on Paul Ohm, "The Benefits of the Old Privacy: Restoring the Focus to Traditional Harm," *Privacy Law Scholars Conference*, Washington, D.C., June 4, 2010
- "Technology Rules," *Supercomm Conference*, Chicago, Ill., Oct. 23, 2009 (panelist)
- "Copyright for Educators," Cedarburg School District, Cedarburg, Wis., Oct. 2, 2009 (presentations to middle and grade-school teachers on copyright law)
- "eBay's Impact on Copyright Remedies," *Southeastern Association of Law Schools Annual Conference*, Aug. 4, 2009 (paper presented)
- "The Once and Future Enclosure Analogy: Cows, Copyright & Commons," *Seton Hall Law School Faculty Workshop*, Feb. 2, 2009 (paper presented)
- "Online Advertising and Your Privacy," *Illinois Technology Partnership lunch seminar*, Chicago, Ill., Dec. 11, 2008 (panelist)
- "The Once and Future Enclosure Analogy: Cows, Copyright & Commons," Tulane Univ. Law School, *Works in Progress in Intellectual Property conference*, Oct. 4, 2008 (paper presented)
- "Avoiding Liability for User Behavior in a Web 2.0 World," Public Relations Society of America (Milwaukee chapter), *Breakfast Seminar on Web 2.0*, Milwaukee, Wis., Sept. 13, 2008 (presenter)
- "Copyrights and Municipal Databases: *WireData v. Village of Sussex*," Wisconsin Bar Intellectual Property Section, *Third Door County IP Academy*, July 24, 2008 (presenter)
- "Strategies of Containment: Status Regime Change and Federalism's Fatal Flaw," *Marquette Faculty Works in Progress Workshop*, June 19, 2008 (paper presented)
- "Cows, Copyright, and Cotton Looms: Enclosure and Other Metaphors from the Industrial Revolution," *Marquette Faculty Workshop*, Nov. 6, 2007 (paper presented)
- "Electronic Communications Privacy Law: 2007 Update," *PLI Webinar*, Sept. 27, 2007 (presenter)
- "Copyright's Middle Ground: The Role of the Player in Creating Video Game Audiovisual Displays," University of Pittsburgh School of Law, *Works in Progress Intellectual Property*

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- Colloquium 2006*, Oct. 2006 (paper presented)
- "Intellectual Property and International Trade," Michigan State University College of Law, *Conference on the International Intellectual Property Regime Complex*, Apr. 2006 (moderator)
- "The Game in the Machine: Video Game Copyrights and the Role of the Player," Michigan State University College of Law, *Third Annual Intellectual Property & Communications Law and Policy Scholars Roundtable*, Jan. 2006 (paper presented)
- "GPS Monitoring: The New Frontier," New York University School of Law Center for Employment & Labor Law, *58th Annual Conference on Labor*, May 2005 (commentator)
- "Brand Summit: Life After Google-GEICO," *Search Engine Strategies Conference*, Mar. 2005 (panelist)
- "California Online Privacy Protection Act and Tips on Web Site Privacy Rules," Proskauer Rose LLP, *Privacy Law Basics for In-House Counsel*, Los Angeles, CA, Sept. 2004 (presenter)
- "Drafting and Maintaining a Privacy Policy," Proskauer Rose LLP, *Privacy Law Basics: Breakfast Seminar*, New York, NY, June 2004 (presenter)
- "Interactive Discussion on Video Game Play," New York Law School, *The State of Play: Law, Games, and Virtual Worlds*, Nov. 2003 (panelist)
- "The Broadcast Flag," *North American Broadcasters Association Annual Meeting*, Feb. 2003 (presenter)
- "Strategies of Containment: The Defense of Marriage Act, Status Regime Conflicts, and the American Constitution," Harvard Law School, *Freedom To Marry: Consolidating Strategies, Planning Victories*, Feb. 1999 (paper presented)

ORGANIZATIONS

- Member, State Bars of New York, District of Columbia, Wisconsin
- Member, Academic Advisory Board, Copyright Alliance
- Member, Advisory Board, Future of Privacy Forum
- Member, Copyright Society of the U.S.A.