

Michael V. Risch

Education:

- 10/95-6/98 **The Law School, University of Chicago.** J.D. degree with high honors. Order of the Coif. Olin Fellow in Law and Economics. Bradley Fellow in Law and Economics.
- 9/88-6/92 **Stanford University.** A.B. degree with honors and distinction in Public Policy and with distinction in Quantitative Economics. Received Official National Merit Scholarship.

Academic Experience:

- 6/10-present **Professor, Villanova University School of Law.**
Classes taught: Patent Law, Internet Law, IP Survey, Advanced IP Seminar, Contracts
AALS Service: Executive Committee, Section on Internet and Computer Law (prior years)
Other Service: Law Review Advisor, VU IP Policy Board, Peer-review referee, VU Faculty Congress, Elected to Tenure Screening Committee and Budget Committee, Chair-Admissions
- 6/07-6/10 **Associate Professor of Law and Project Director - Entrepreneurship, Innovation and Law Program, West Virginia University College of Law.**
- 7/06-7/07 **Olin Fellow in Law, Stanford Law School.** National fellowship.

Publications: (citations hyperlinked to SSRN where available: <http://ssrn.com/author=582820>)

- (Un)Reasonable Royalties, B.U. L. Rev ([forthcoming 2018](#))
- Recalibrating Patent Venue, Md. L. Rev. ([forthcoming 2018](#)), with Colleen Chien
- Hidden in Plain Sight, Berkeley Tech. L.J. ([forthcoming 2017](#))
- Empirical Methods in Trade Secret Research, RESEARCH HANDBOOK ON THE ECONOMICS OF INTELLECTUAL PROPERTY LAW (VOL. II -- ANALYTICAL METHODS) (Peter S. Menell & David L. Schwartz, eds., Edward Elgar Publishing, [forthcoming 2017](#))
- Trucks, Trains, and Transformation: Net Neutrality Lessons from the First Cyberlaw Symposium, with Christie Larochele, [61 Vill. L. Rev. 585](#) (2016)
- The Layered Patent System, [101 Iowa L. Rev. 1535](#) (2016)
- Nothing is Patentable, [67 Fla. L. Rev. Forum 45](#) (2015)
- A Generation of Patent Litigation, [52 San Diego L. Rev. 67](#) (2015)
- Licensing Acquired Patents, [21 George Mason L. Rev 979](#). (2014)
- Functionality and Graphical User Interface Design Patents, [17 Stan.Tech. L. Rev. 53](#) (2014)
- Framing the Patent Troll Debate, [24 Expert Opinion on Therapeutic Patents 127](#) (2013)
- Patent Portfolios as Securities, [63 Duke L.J 89](#) (2013)
- An Empirical Look at Trade Secret Law's Shift from Common to Statutory Law, INTELLECTUAL PROPERTY AND THE COMMON LAW (Shyam Balganesh, ed., [2013](#))
- America's First Patents, [64 Florida L. Rev. 1279](#) (2012)
- Patent Troll Myths, [42 Seton Hall L. Rev. 457](#) (2012)

IP and Entrepreneurship in an Evolving Economy: A Case Study, ENTREPRENEURSHIP AND INNOVATION IN EVOLVING ECONOMIES: THE ROLE OF LAW (Megan Carpenter, ed., [2012](#))

Life After Bilski, [63 Stan. L. Rev. 1315](#) (2011), with Mark Lemley, Ted Sichelman, and R. Polk Wagner, Reprinted in INTELLECTUAL PROPERTY LAW REVIEW 2012 (Thomson West 2012)

A Surprisingly Useful Requirement, [19 George Mason L. Rev 57](#) (2011)

Trade Secret Law and Information Development Incentives, RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY AND TRADE SECRECY (Rochelle Cooper Dreyfuss and Katherine Strandburg, eds., [2011](#))

A Failure of Uniform Laws?, [159 U. Pa. L. Rev. PENNumbra 1](#) (2010)

Reinventing Usefulness, [2010 BYU L. Rev.](#) 1195 (2010), reviewed in John F. Duffy, *Patent Utility Reduxit*, JOTWELL (May 5, 2010), <http://ip.jotwell.com/patent-utility-reduxit/>

Forward to the Past, 2009-2010 [Cato Supreme Court Review](#) 333 (2010), reprinted in PATENT LAW REVIEW 2011 (Thomson West 2011)

A Brief Defense of the Written Description Requirement, [119 Yale L.J. Online 127](#) (2010), reprinted in PATENT LAW REVIEW 2011 (Thomson West 2011)

Patent Challenges and Royalty Inflation, [85 Indiana L.J. 1003](#) (2010)

Virtual Rule of Law, [112 W. Va. L. Rev. 1](#) (2009)

Virtual Third Parties, [25 Santa Clara Computer & High Tech. L.J. 415](#) (2009), reprinted in VIRTUAL WORLD – A LEGAL ANALYSIS (Amicus Books 2010), reviewed in James Grimmelmann, *Third Parties to the Rescue*, JOTWELL (Nov. 9, 2009), <http://cyber.jotwell.com/17/>

Comments on Trade Secrets in High Velocity Labor Markets, [12 Emp. Rights and Emp't Pol. J. 339](#) (2009)

Everything is Patentable, [75 Tenn. L. Rev. 591](#) (2008)

The Failure of Public Notice in Patent Prosecution, [21 Harv. J. L. & Tech. 179](#) (2007)

Why Do We Have Trade Secrets?, [11 Marquette Int. Prop. L. Rev. 1](#) (2007), reprinted in TRADE SECRETS AND UNDISCLOSED INFORMATION (Sharon Sandeen & Elizabeth Rowe, eds., 2014)

How Can *Whelan v. Jaslow* and *Lotus v. Borland* Both be Right? Re-Examining the Economics of Computer Software Reuse, [17 J. Marshall J. Comp. & Info. Law 511](#) (1999)

Virtual Reality - A Legal Overview, with Jack Russo ([chapter](#) in Computer Software treatise by Clark Boardman Callaghan) (1995)

Other Writings:

Written Description Blog, contributor, <http://writtendescription.blogspot.com> (Jan. 2015 – present)

Faculty Lounge Blog, guest contributor, <http://www.thefacultyounge.org> (Jan. 2015 – present)

Madisonian Blog, contributor, <http://www.madisonian.net> (Dec. 2010 – Dec. 2014)

Prawfsblawg, guest contributor, <http://prawfsblog.blogspot.com> (Oct. 2008, June 2009, Nov. 2009, June 2010, Nov. 2010, May 2011, December 2011, May 2012, Nov. 2012, April 2013)

What If They Forgot to Record the Super Bowl?, Villanova Moorad Sports Law Journal [Blog](#) (April 7, 2016)

[A Patent Reform We Can All Agree On](#) (op-ed), with Colleen Chien, Washington Post (Nov. 20, 2015)

[Response](#) PTO Request for Comments Regarding Patent Quality (April 21, 2015)

The Valley Current Blog (Computerlaw Group LLP practitioner newsletter), contributor,
<http://valleycurrent.blogspot.com/> (Sept. 2010 – May 2012)

[Response to ‘pervasive sequence patents cover the entire human genome’](#), Genome Medicine (Feb. 2014)
(with 8 others) (peer reviewed)

[Don’t Blame the Trolls for the Patent Problem](#), Wired (March 2013)

[Response](#) to PTO Request for Comments on Functional Claiming and Software Patents (March 2013)

[Response](#) to FTC Request for Comments on Patent Assertion Entities (March 2013)

[Response](#) to PTO Request for Comments on Patent Small Claims (March 2013)

[Curing the Problem of Software Patents](#), Groklaw (June 2012)

Patents and Computer Software, Computer Software (Thomson West 2012) (treatise chapter), co-author

[Declaration](#) in Support of Motion to Unseal Documents, Apple v. Samsung litigation, co-author (2012)

[Response](#) to U.S. Patent and Trademark Office Request for Comments Regarding Patent Quality (March 1, 2010)

Amicus Curiae [Brief](#) of 20 Law and Business Professors in Support of Neither Party: *Bilski v. Kappos*, No. 08-964 in the Supreme Court of the United States (Aug. 6, 2009), with Mark A. Lemley, Ted Sichelman, R. Polk Wagner.

“The Idea’s the Thing,” [Legal Times](#) (May 12, 2008) (Op-Ed re patentable subject matter).

Amicus Curiae [Brief](#) of 22 Law and Business Professors in Support of Appellants: *In Re Bernard L. Bilski and Rand A. Warsaw*, No. 08/833, 892 in the United States Court of Appeals for the Federal Circuit (April 7, 2008), with John Allison, Mark A. Lemley, R. Polk Wagner.

[Intellectual Property Law Updates](#), editor, for National Business Institute seminar (2008).

[Groupwise Developer’s Guide](#) (technical [manual](#)), with three others, Novell, Inc. (2002).

[Law of the Internet in California](#), with Jack Russo and John Kelley, for National Business Institute seminar (2001).

“Copyright Protection for Virtual Realities: Brave New World Emerges,” with Jack Russo, National Law Journal (October 17, 1994).

[Federal Anti-Poverty Job Training: Problems in the Past and Hope for the Future](#). Public Policy Departmental Honors Thesis (1992).

[Juvenile Crime in San Mateo County: 1989 Report](#), for Criminal Justice Council of San Mateo County (1990).

Other Relevant Experience:

- 7/98-present **Russo & Hale LLP/Computer Law Group**, Palo Alto, California.
Of Counsel (June 2006-), Partner (2003-2006), Associate (1998-2002). Advanced practice in intellectual property and complex business litigation, including trial; arbitration; appeals; motion practice; mediation; discovery; ADR neutral; intellectual property protection, auditing, and risk analysis; licensing negotiation and drafting.
- 3/93-present **Owner/Consultant, Risch Consulting**.
Expert witness in patent, copyright, trade secret cases. Consulting business in computer software and hardware design, installation, and support. Published commercial encryption program for popular electronic mail program. Developed law firm web portal and provided support to other programmers.

Memberships:

California State Bar
U.S. Supreme Court Bar
Ninth Circuit Bar
Federal Circuit Bar
N.D. California Bar
American Bar Association (IP Section)
American Association of Law Schools (Section on Intellectual Property)
American Intellectual Property Law Association
San Francisco Bay Area Intellectual Property Inns of Court (until 2007)

Presentations and Conferences:

Senior Commentator/Mentor, CPIP Edison Fellows Workshop, March. 2017

Moderator, PatDam2, University of Texas Law School, Feb. 2017

Senior Commentator/Mentor, CPIP Edison Fellows Workshop, Jan. 2017

Senior Commentator/Mentor, CPIP Edison Fellows Workshop, Sept. 2016

(Un)Reasonable Royalties, IP Scholars Conference, Stanford Law School, August 2016

Trade Secret Roundtable, International Trade Commission, June 2016

Rules, Standards, and Change in the Patent System, [Keynote Speech](#), Giles S. Rich Inn of Court Annual Dinner, May 2016

Patent Trolls: Benevolent, Benign, or Malignant?, PBI 10th Annual IP Law Institute, April 2016

Hidden in Plain Sight, Berkeley Symposium on Computer Software, April 2016

Do Continuations Affect Patent Claims?, Works In Progress/IP, University of Washington Law School, Feb. 2016

Participant, Patent Valuation Roundtable, Center for Protection of Intellectual Property, Oct. 2015

Trucks, Trains, and Transformation: Net Neutrality Lessons from the First Cyberlaw Symposium, Shachoy Symposium, Villanova Law School, Sep. 2015

Did Medimmune Lead to More Placeholder Lawsuits, IP Scholars Conference, DePaul Law School, Aug. 2015

Empirical Methods in Trade Secret Law Research, Research Handbook in IP, Northwestern Law School, Aug. 2015

Roundtable Participant, Center for Protection of Intellectual Property Patent Conference, July 2015

Net Neutrality, Competition, and ISP Consolidation, Philadelphia Area Cyberlaw Colloquium, Penn Law School, May 2015

Hana Financial v. Hana Bank, Federalist Society SCOTUScast, May 2015

The Layered Patent System, PatCon 5, University of Kansas Law School, April 2015

Patent Reform, TPI Panel, Washington, D.C., April 2015

The Layered Patent System, Hoover Institution IP² Conference, Washington, D.C., March 2015

Patent Trolls: The Good, The Bad, and the Ugly, GMU Civil Justice Law Caucus, March 2015

Functionality and GUI Design Patents, Penn. IPLG Symposium, March 2015

Net Neutrality, Common Carrier, and ISP Consolidation, Villanova Law School, March 2015

The Layered Patent System, Hoover Institution IP² Conference, Stanford University, Jan. 2015

Functionality and GUI Design Patents, George Washington Law Design Patent Conference, Nov. 2014

IP and Worker Mobility, 3rd Workshop on Trade Secrets and Worker Mobility, Max Planck Inst., Nov. 2014

Devise of Digital Assets, Pennsylvania Bar Institute, Oct. 2014

NPEs and Patent Reform, DuPont/Widener Patent Conference, Sep. 2014

A Generation of Patent Litigation, Carolina Patent, Trademark & Copyright Law Ass'n, Sep. 2014

A Generation of Patent Litigation, IP Scholars Conference, Berkeley Law School, Aug. 2014

Tech/Teaching/Texts, Berkman Center, Harvard University, July 2014

ABC v. Aereo, Villanova University Summer Supreme Court Workshop, July 2014

Roundtable on Software Patenting, Center for Protection of Intellectual Property, May 2014

A Generation of Patent Litigation, Cardozo IP Law Colloquium, Apr. 2014

End User Lawsuits, Stanford Conference on Patent Law Reform, Mar. 2014

A Generation of Patent Litigation, CPIP Edison Fellows Conference, Feb. 2014

Privacy and Big Data, Philadelphia Area Cyberlaw Colloquium, Discussant, Feb. 2014

Software Patent Subject Matter, Vanderbilt Symposium on Patentable Subject Matter, Jan. 2014

Software Patent Reform, Penn Law Conference on Patent Law Reform, Dec. 2013

Trade Dress and Design Patents in User Interfaces, Rutgers Law School, November 2013

Updates in IP Law, Villanova Law School and WestLegalEd CLE, November 2013

Hot Topics: Patent Reform, Licensing Executives Society Annual Meeting, September 2013

Licensing Acquired Patents, CPIP Conference on Commercialization Function of Patents, September 2013

Functionality and Graphical User Interface Design, IP Scholars Conference, August 2013

Functionality and Graphical User Interface Design, Villanova Summer Workshop Series, July 2013

Patent Portfolios as Securities, Law & Society Association Annual Meeting, June 2013

Patent Assertion Entities, Yale Law School ISP Panel, Apr. 2013

The Law and Economics of Graphical User Interface Design Patents, Stanford Law School, Apr. 2013

Patents and the Supreme Court, Georgetown Law School, The Changing Patent Landscape, Mar. 2013

Economics of GUI Design Patents, Philadelphia Area Cyberlaw Colloquium, Feb. 2013

Patent Licensing and Innovation, Federalist Society Teleforum/Podcast, Feb. 2013

Patent Trolls and Patent Aggregation, Cleveland Intellectual Property Law Association, Jan. 2013

Patent Trolls and Patent Aggregation, Cleveland-Marshall Law School, Jan. 2013

Trade Secret Litigation Summary, 2nd Workshop on Trade Secrets and Worker Mobility, Ludwig Maximilian University (Munich), Dec. 2012

Curing the Problem of Software Patents, Santa Clara Law School Conference on Fixing the Software Patent Problem, Nov. 2012

AOP Community, Article One Partners Napa Valley Summit, Nov. 2012

America's First Patents, Michigan Law School, Sept. 2012

America's First Patents, Villanova Law School Faculty Speaker's Series, Sept. 2012

The Securitization of Patents, Villanova Law School Junior Faculty Workshop, August 2012

America's First Patents, IP Scholars Conference, Stanford Law School, August 2012

Intellectual Property Issues of the 21st Century, West Virginia University College of Law, February 2012
(keynote speaker)

SOPA/PIPA, University of Idaho School of Law, February 2012

Rethinking Patent Quality, Gonzaga University School of Law, February 2012

Rethinking Patent Quality, Intellectual Ventures IV University, January 2012

Rethinking Patent Quality, ArticleOne Partners Napa Valley Summit, November 2011

An Empirical Look at Trade Secret Law's Shift from Common to Statutory Law, Ludwig Maximillians University Mobility & Competition Clause Workshop, Sept. 2011

Patent Troll Myths, IP Scholars Conference, August 2011

An Empirical Look at Trade Secret Law's Shift from Common to Statutory Law, Villanova Law School Junior Faculty Workshop, June 2011

An Empirical Look at Trade Secret Law's Shift from Common to Statutory Law, Penn. Law Colloquium on the IP and Common Law, May 2011

IP and Entrepreneurship in an Evolving Economy: A Case Study, Texas Wesleyan Colloquium on The Role of Law in an Evolving Economy, April 2011

Patent Troll Myths, Cyberlaw Collquium (hosted by Rutgers – Camden), February 2011

Life After Bilski, Practicing Law Institute, 5th Annual Patent Law Institute, February 2011

Life After Bilski, Moderator, Stanford Law Review symposium (co-author presented paper), January 2011

New Uses for Patent Utility, Saint Louis University School Faculty Workshop, November 2010

Bilski v. Kappos, Indiana University (Indianapolis) College of Law, October 2010

Bilski v. Kappos, Ohio State University College of Law, October 2010

Bilski v. Kappos, Indiana University College of Law, October 2010

Law and Literature Symposium, Panel Chair, Villanova University School of Law, October 2010

New Uses for Patent Utility, University of Missouri Law School Faculty Workshop, September 2010

New Uses for Patent Utility, IP Scholars Conference, August 2010

New Uses for Patent Utility, Villanova Junior Faculty Workshop, June 2010

Empirical Study of Litigious Non-Practicing Entities, Law & Society Conference, May 2010

A Failure of Public Notice?, Hamline Law Review Symposium on the Uniform Trade Secrets Act, April 2010

Bilski and Software Patents, Memphis Law School, April 2009

Patent Challenges and Royalty Inflation, Villanova University School of Law, Jan. 2010

Patent Challenges and Royalty Inflation, DePaul University School of Law, Dec. 2009

Updates in Intellectual Property Law, WV CLE presentation, Oct. 2009

Patent Utility as a Policy Lever, Santa Clara Work-in-Progress Roundtable, Sept. 2009

Patent Challenges and Royalty Inflation, University of Utah College of Law, Sept. 2009

Patent Challenges and Royalty Inflation, IP Scholars Conference, Aug. 2009

Patentable Subject Matter after Bilski, SEALS conference, Aug. 2009

Entrepreneurship Law Clinic, WV Biometrics Initiative Forum, June 2009

Patentable Subject Matter, George Washington University conference on Patents and Entrepreneurship in Business and Information Technologies, invited commentator, June 2009

Entrepreneurship Law Clinic, Eastern Panhandle Entrepreneurship Forum, June 2009

Virtual Rule of Law, Digital Entrepreneurship Symposium, WVU College of Law, Mar. 2009

Trade Secret Law and Information Development Incentives, NYU Law School, Feb. 2009

Entrepreneurship Law Clinic, WV Cheat Lake Rotary Club, Dec. 2008

Everything is Patentable, Bauer Lecture Series workshop, Cardozo Law School, Nov. 2008

Entrepreneurship Law Clinic, WV Young Entrepreneur Support Network, Nov. 2008

Work/Life Balance, panel speaker, WVU College of Law, Oct. 2008

Cyberlaw Update: How the Law is Changing, WV CLE presentation, Oct. 2008

Understanding the Current Financial Crisis, panel speaker, WVU College of Law, Oct. 2008

Virtual Third Parties, presentation at Faculty Colloquia, WVU College of Law, Sept. 2008

West Virginia Computer Crimes, presentation at WV Homeland Security Summit, June 2008

Everything is Patentable, presentation at Faculty Colloquia, WVU College of Law, Feb. 2008

Orientation Address, High School Minority Law Day, WVU College of Law, Feb. 2008

Trade Secrets in High Velocity Labor Markets, 2008 AALS Conferences, Section of Law & Economics, invited commentator, January 2008

Everything is Patentable, presentation at WIPIP Conference, American U. Law School, Sept. 2007

Everything is Patentable, presentation at IP Scholars Conference, DePaul Law School, August 2007

“What If’s” Conference – Michigan State University, conference fellow, March 2007

Trade Secret Roundtable, Berkeley Center for Law & Technology, invited participant, October 2006

Why Do We Have Trade Secrets?, Santa Clara University Law School, October 2006

American Inns of Court – Bay Area Intellectual Property chapter - several presentations, mock hearings, and panel discussions on intellectual property issues, 1998-2007

Law of the Internet - Seminar for National Business Institute, with others, 2001

New Legal Problems for the Internet Age - Alameda County Bar Association Intellectual Property & Computer Law Committee, 2001

Wireless Law Offices - TechLaw Institute, 2001

Economics of Copyright and Computer Software - Santa Clara University Law School, 2000

Cyberspace Law School - Co-presented trade secret session for Glasser Legal Works, 2000, 2001