



**SCHOOL OF LAW**  
TEXAS A&M UNIVERSITY

Texas Wesleyan Law Review

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Volume 8 | Issue 3

Article 2

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7-1-2002

## Beginning a New Tradition ... Intellectual Property, Technology & Borderless Commerce Conference

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### Recommended Citation

Xuan-Thao Nguyen, *Beginning a New Tradition ... Intellectual Property, Technology & Borderless Commerce Conference*, 8 Tex. Wesleyan L. Rev. 441 (2002).  
Available at: <https://doi.org/10.37419/TWLR.V8.I3.1>

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## INTRODUCTION

### **BEGINNING A NEW TRADITION . . . INTELLECTUAL PROPERTY, TECHNOLOGY & BORDERLESS COMMERCE CONFERENCE**

This Conference has begun a tradition of bringing together national talents in the field to address emerging issues relating to copyrights, patents, trademarks, antitrust, privacy and borderless commerce and marked a strong commitment of the Law School to Intellectual Property and Information Technology Law. It continued the role of the Law School as the law center for scholars, practitioners, lawmakers, students and other members of the legal communities.

We have witnessed in the last few years the transformation of cyberspace. Cyberspace is no longer a foreign concept existing in the virtual world. It has created an open, global system which fosters new technological innovations, creates numerous opportunities, but generates many uncertainties. The Internet, particularly the World Wide Web, has enabled the explosive growth of electronic commerce by providing consumers, businesses, and trading partners with the ability to communicate and connect to a global network of computers.

The rapid growth of e-commerce is evidenced by the creation of more than 36 million web sites by the end of December 2001. One year ago, there were only 25 million web sites and five years ago less than one million web sites. According to the data released by the United States Department of Commerce on November 28, 2001, retail e-commerce sales in third quarter 2001 were \$7.5 billion, up 8.3 percent from third quarter 2000. That figure does not include sales generated by companies in non-retail operation such as travel agencies, financial services, manufacturers and wholesalers. Goldman Sachs estimated that B2B e-commerce would reach to \$1.5 trillion by 2004.

In response to the unique characteristics of cyberspace and the growth of e-commerce, new Internet-related laws have been created in the United States. New legislation includes the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act, the Uniform Computer Information Transactions Act, the Digital Millennium Copyright Act, the Anticybersquatting Consumer Protection Act, the Communications Decency Act, the Child Online Protection Act, the Gramm-Leach Bliley Act, and the Internet Tax Nondiscrimination Act. Outside the United States, the European Union has passed new directives on electronic commerce, electronic signatures, electronic money, distance selling, and data protection.

The Conference provided an exciting time to explore legal issues related to cyberspace and electronic commerce. It was also a time to

reflect on the direction of the law in the emerging areas of information and technology. Indeed, Mr. Robert W. Gomulkiewicz opened the Conference with a thoughtful reminder on the issue of legal protection for software that “the question no longer is whether software can be protected, but how much protection it should receive. Yet, in the debate about how much protection the law should provide, many people have returned to the fundamental question—is the legal protection of software good public policy.”

The Law School through the Texas Wesleyan Law Review proudly sponsored its annual Intellectual Property and E-commerce Conference and co-hosted the event with the Tarrant County Bar Association and LexisNexis. Corporate sponsors for the Conference included Arter & Hadden; Clements Allen Woods & Margolis; ePartners, Inc.; Haynes and Boone; LexisNexis; Munsch Hardt Kopf & Harr; Vinson & Elkins; and the West Group.

The Conference focused on four major areas: Technology Protection, Licensing, Transfer & Antitrust Issues; Addressing the New Intellectual Property Regime; Copyright & the Internet; and Trademarks, Domain Names & the Internet. In addition, the Conference presented a work in progress report from the ABA Task Force on E-commerce & Online Dispute Resolutions.

In the First Panel of the morning, **Technology Protection, Licensing, Transfer & Antitrust Issues**, panelist **Robert W. Gomulkiewicz**, Former Associate General Counsel for Microsoft, addressed *Legal Protection for Software and Information Technology*. Panelist **Sidney Weatherford**, Counsel for Ericsson, focused on *Technology Licensing and Transfers Relating to the Telecom Industry*. **Michael D. Pegues**, Shareholder, Head, Intellectual Property Litigation, Munsch Hardt Kopf & Harr, explored *Antitrust and Intellectual Property Issues*.

Later, in the Second Panel of the morning, **Addressing the New Intellectual Property Regime; Copyright & the Internet; and Trademarks, Domain Names & the Internet**, panelist **Bruce Steele**, Senior Vice President of ePartners, discussed *Components Approach to Intellectual Property in a Dynamic Technology Environment*. Panelist **David Wille**, Partner, Intellectual Property & Technology Licensing, Baker Botts, focused on *Enforcement Strategies for the New Intellectual Property Assets*; **Professor Xuan-Thao Nguyen**, Texas Wesleyan Law School, addressed *Intellectual Property Financing: Security Interests in the New Cyberassets—Domain Names and Web Content*.

During the lunch hour, Panelist **Dean William Harvey**, Partner, Co-chair of Internet/E-commerce Practice Group, Vinson & Elkins, spoke on *What Every Company Needs to Know About Computer Security Law*. Professor **Benjamin Davis** of Texas Wesleyan Law School, a co-reporter of the ABA Task Force on E-commerce & Online Dispute Resolutions, presented *A Report on the ABA Task Force on eCommerce & Online Dispute Resolutions*.

In the afternoon, the First Panel entitled **Copyrights and the Internet**, **David Hitchcock**, Partner, Sidley & Austin, spoke on *The Current Status of Digital Copyright*; **Herbert J. Hammond**, Partner, Intellectual Property Practice, Thompson & Knight, delivered *Anti-Circumvention Under the Digital Millennium Copyright Act: Civil Action & Criminalization*; Ms. **Wei Wei Jeang**, Shareholder & Head of Intellectual Property Section, Munsch Hardt Kopf & Harr, addressed *Legal Protection for Web Content, Online Service Provider's Liability & the Safe Harbor*.

For the Second Panel in the afternoon, **Trademarks, Domain Names & the Internet**, **Mike Rodenbaugh**, Corporate Counsel for Yahoo!, delivered *Global Trademarks in Cyberspace: From eBranding to Cyber-Gripping in Borderless Commerce*. Joining Mr. Rodenbaugh, panelist **Cherry J. Hearn**, Assistant General Counsel for Travelocity.com, focused on *Strategies for Addressing Trademarks in Borderless Commerce: Old Tools, New Tools & Creativity*. Mr. **Jeffrey M. Becker**, Partner, Section Chair of Intellectual Property, Haynes and Boone, spoke on *Domain Name Litigations: In Rem Jurisprudence and Other Recent Developments*.

All presentation papers are being published in the Texas Wesleyan Law Review Symposium Issue and will be widely distributed to law professors and attorneys in and outside of Texas.

The success of the Conference serves as a definitive statement from the law students whose outstanding efforts in organizing the event firmly declare that they are the future of the Law School. I salute them. I look forward to reading the Symposium Issue.

*Xuan-Thao Nguyen,  
Associate Professor of Law & Conference Chair*