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## When Worlds Collide: Intellectual Property at the Interface Between Systems of Knowledge Creation, Introduction

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## When Worlds Collide: Intellectual Property at the Interface Between Systems of Knowledge Creation, Introduction

### Cover Page Footnote

\* This Symposium, held on October 31 and November 1, 2008, at Fordham University School of Law in New York, was organized by the Fordham Center on Law and Information Policy and the Fordham Law Review. \*\* Professor of Law, DePaul University; Visiting Professor of Law, Fordham University School of Law (Fall 2008). \*\*\* Visiting Professor, Cornell Law School; Associate Professor of Law, Loyola University Chicago School of Law. \*\*\*\* Professor & Mildred Van Voorhis Jones Faculty Scholar and Director of the Program in Intellectual Property & Technology Law, University of Illinois College of Law.

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## SYMPOSIUM

# WHEN WORLDS COLLIDE: INTELLECTUAL PROPERTY AT THE INTERFACE BETWEEN SYSTEMS OF KNOWLEDGE CREATION\*

## INTRODUCTION

*Katherine J. Strandburg\*\**

*Brett M. Frischmann\*\*\**

*Jay P. Kesan\*\*\*\**

Technological advances and other types of knowledge creation result from the activities of individuals, private firms, consortia, universities, and the government. This Symposium will consider how law should address the growing interface between the commercially driven innovation that has been the traditional focus of intellectual property doctrine and other important social systems of knowledge creation.

Doctrinal balances in intellectual property law aim to enhance innovation, creativity, and the public accessibility of the resulting knowledge and expression. In pursuing this aim, however, traditional intellectual property doctrine has focused myopically on the commercially driven knowledge production system in which innovation and creative expression are produced in response to market demand. In reality, of course, knowledge and creative expression are produced by a wide variety of social systems that are not limited to or always tied to commercial markets. The university systems of peer-reviewed science and scholarship more generally, the open source software movement, writers' workshops, the many forms of amateur expression on the Internet, and the production of

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folklore, indigenous artwork, and other forms of traditional knowledge are examples of such knowledge production systems. Each of these systems motivates creative progress according to its own rules, norms, and conventions, both formal and informal.

Legal, social, and technical developments have created a growing interface between different social systems for harnessing human creativity. While alternative and complementary systems for producing innovation and creative expression have always existed alongside the commercially driven knowledge production system, they have historically functioned “off the radar screen” of intellectual property law. Recently, however, the scope and robustness of intellectual property protection have expanded significantly, impinging on a widening swath of creative activity. At the same time, globalization has increased interactions between widely scattered societies, including traditional and indigenous groups. The Internet has enabled both new forms of creative collaboration and activity and new ways to infringe on others’ creative pursuits. And technology has become more closely connected to fundamental scientific inquiry.

As the interfaces between commercially driven knowledge production systems and other social systems of creativity grow, there is a compelling and growing need to address the impact of law on these structural interfaces. For society to reap the benefits of human creativity, it is simply no longer appropriate to treat the commercially driven production of knowledge and creative expression in isolation from other socially important avenues of human creative activity. The potential impact on these other creative endeavors must be analyzed systemically and not as a series of individual “exceptions” or “special cases.”

Accordingly, this Symposium aims to contribute to a systematic exploration of the ways in which intellectual property law does and should handle the growing interface between the commercially driven innovation system and other social means for producing new knowledge and creative expression. The Symposium includes three groups of papers addressing how intellectual property law mediates the interfaces between commercial knowledge production systems and (1) university research, (2) “open source” production of software and other knowledge products, and (3) knowledge production systems in the developing world.