# Deborah R. Gerhardt

UNC School of Law
The University of North Carolina at Chapel Hill
Van Hecke-Wettach Hall, 160 Ridge Road, CB# 3380
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## Education

**Case Western Reserve University School of Law**
Cleveland, Ohio
J.D. *cum laude*, May 1990
Law Review: Executive Notes Editor 1989 – 1990
Associate 1988 - 1989
Academic Scholarship

**Duke University**
Durham, North Carolina
A.B. May 1987
Major: Political Science
Study Abroad: Junior Year in France

## Professional Experience

**Assistant Professor of Law** 2009 - present
UNC School of Law
Chapel Hill, North Carolina

**Visiting Professor** Spring 2011
Institut de Droit Comparé Edouard Lambert
Lyon, France

**Director of Intellectual Property Initiative** 2005 - 2009
**and Adjunct Professor of Law**
UNC School of Law
Chapel Hill, North Carolina

**Copyright and Scholarly Communications Director** 2005 – 2008
University Libraries at the University of North Carolina at Chapel Hill
Chapel Hill, North Carolina
Provided copyright counsel to faculty, librarians and patrons, negotiate and draft license agreements, participate in the development of University copyright policy

**Senior Lecturer, William & Mary Law School** 2004 - 2005
Williamsburg, Virginia

**Associate Director**, **The Intellectual Property Project at the University of Richmond** 2004 - 2005
Richmond, Virginia
Developed academic and educational materials and programs about the legality and ethics of downloading digital music and other intellectual property issues affecting high school and college students

**Adjunct Professor, William & Mary Law School** 2002 - 2004
Williamsburg, Virginia

**Associate, Hunton & Williams** 1998 – 2000
Richmond, Virginia
Practice focused on intellectual property counseling, including copyright issues, trademark selection, prosecution and protection, license agreements, Internet related agreements, privacy policies, Internet contest rules, advertising and marketing issues

Litigated intellectual property matters in federal court, the Trademark Trial and Appeal Board and ICANN

Clients included Fortune 500 companies, small companies, nonprofit organizations and museums

**Associate, Jones Day Reavis & Pogue** 1992 - 1998
Cleveland, Ohio
Practice focused on litigating patents, trademarks, copyrights, trade secrets, restrictive covenants and antitrust issues in federal and state courts

Counseled clients on copyright issues, trademark protection and prosecution, drafted license agreements, confidentiality agreements, employment agreements and employment manuals

Clients included Fortune 500 companies, sports agents, small companies, nonprofit organizations and museums

Provided pro bono counsel for individual artists

**Law Clerk, Honorable Judge John M. Manos** 1990 - 1992
Cleveland, Ohio
United States District for the Northern District of Ohio

## Bar and Court Admissions

North Carolina 2006

| | |
|---|---|
| Virginia | 1999 |
| Ohio | 1990 |
| | |
| United States Court of Appeals for the Sixth Circuit | 1996 |
| United States District for the Eastern District of Michigan | 1995 |
| United States District for the Northern District of Ohio | 1992 |

## Honors

Selected to participate in the Junior Scholar's in Intellectual Property conference at Michigan State University in Lansing Michigan in 2012

Selected to participate in the Junior Scholar's in Intellectual Property conference at Michigan State University in Lansing Michigan in 2011

Selected to participate as one of three fellows in IPIL/HOUSTON (the Institute for Intellectual Property & Information Law at the University of Houston Law Center) 2011 National Conference on "Trademarks: Today and Tomorrow" in Santa Fe, New Mexico

Recipient of the 2007 Outstanding Achievement Pro Bono Award for the Intellectual Property Section of the North Carolina Bar Association

## Bibliography

### Works in Progress

*Freeing Art and History From Copyright's Bondage*

*Do Trademark Lawyers Matter?,* __ Stanford Tech. L. Rev. __ (2013) (with Jon McClanahan)

*An Empirical Study of False Advertising Cases* (with Mark McKenna and Kevin McGuire)

*Debunking the Duty to Police in Trademark Law* (with Leah Grinvald and Eric Goldman)

### Publications

*Social Media Amplify Consumer Investment in Trademarks,* 90 N.C.L. Rev 1491 (2012))

Awarded Second Prize in the 2013 Ladas Memorial Competition

To be reprinted in the 2013 edition of the Intellectual Property Law Review, an anthology published annually by Thomson Reuters (West) after having been

selected as “one of the best law review articles related to intellectual property law published within the last year.”

*Copyright Publication: An Empirical Study,* 87 Notre Dame L. Rev. 135 (2011)

Reprinted in 2012 edition of the ENTERTAINMENT, PUBLISHING AND THE ARTS HANDBOOK (West) after being selected as one of “the best law review articles published within the last year in the fields of entertainment, publishing and the arts.”

*Fair Use and Fairness on Campus,* 11 N.C. J.L. & Tech. 461 (2010)(co-authored with Madelyn F. Wessel)

*Consumer Investment In Trademarks,* 88 N.C.L. Rev 427 (2010)

*Protect Your Right to Write Again: Tips for Assuring That Your Publication Agreement is A Comfortable Fit,* with Diane K. Kjervik, JD, RN, FAAN, 12 Journal of Nursing Law No. 3 (2009)

*The 2006 Trademark Dilution Revision Act Rolls out a Luxury Claim and a Parody Exemption*, 8 UNC. J.L. & Tech. 205 (2007) available at http://www.ncjolt.org/content/view/95/62/

*Reading the Fine Print,* The Chronicle of Higher Education, March 22, 2007, *available at* http://chronicle.com/jobs/news/2007/03/2007032201c/careers.html

*The Rules of Attribution,* The Chronicle of Higher Education, May 26, 2006, at B20, *available at* http://chronicle.com/free/v52/i38/38b02001.htm.

Reprinted in Fred White and Simone J. Billings, The Well-Crafted Argument, A Guide and Reader, 3rd ed. (Houghton Mifflin 2008) p. 347

Reprinted in John Alberti, Text Messaging: Reading and Writing About Popular Culture (Houghton Mifflin 2009) p. 69

*Plagiarism in Cyberspace: Learning the Rules of Recycling Content With a View Towards Nurturing Academic Trust in an Electronic World,* 12 Rich. J.L. & Tech. 10 (2006), *available at* http://law.richmond.edu/jolt/v12i3/article10.pdf.

*Ethical Puzzles in Cyberspace*, A series of lessons for college students featuring educational role playing exercises to stimulate discussion and reflection on the technology, ethics and legality of downloading digital music (2005)

Note, A First Amendment Justification for Regulation of Racist Speech on Campus, 40 Case W. Res. L. Rev. 733 (1990)

## **Workshops**

*Do Trademark Lawyers Matter*
Faculty Workshop
UNC School of Law
Chapel Hill, North Carolina
February 7, 2013

*Freeing History From Copyright's Bondage*
Faculty Workshop
University of Illinois College of Law
Champaign, Illinois
September 14, 2012

*Saving Archived Works From a Copyright No Man's Land*
Faculty Workshop
UNC School of Law
Chapel Hill, North Carolina
June 13, 2012

*Saving Archived Works From a Copyright No Man's Land*
Junior Scholars in Intellectual Property (JSIP) Workshop
Michigan State University College of Law
Lansing, Michigan
May 30-31, 2012

*Saving Archived Works From a Copyright No Man's Land*
Duke-UNC Junior Scholars Workshop Series
Chapel Hill, North Carolina
May 14, 2012

*Copyright Publication: An Empirical Study*
Junior Scholars in Intellectual Property (JSIP) Workshop
Michigan State University College of Law
Lansing, Michigan
April 15-16, 2011

*Copyright Publication: An Empirical Study*
Chicago-Kent College of Law
Chicago, Illinois
January 25, 2011

*Searching for the Public Domain in a Copyright Publication Maze*
University of North Carolina School of Journalism and Mass Communication

Chapel Hill, North Carolina
November 18, 2010

*Consumer Investment in Trademarks*
University of North Carolina School of Law
Chapel Hill, North Carolina
October 3, 2008

*Consumer Investment in Trademarks*
Indiana University School of Law-- Bloomington
Bloomington, Indiana
September 25, 2008

*Consumer Investment in Trademarks: Why it Deserves More in Fair Use Returns*
Works in Progress Intellectual Property Colloquium 2007 at the American University Washington College of Law, Program on Information Justice and Intellectual Property
Washington, D.C.
September 29, 2007

## Presentations

*Honoring Creativity by Understanding Copyright and Plagiarism*
University of North Carolina
Chapel Hill, North Carolina
April 1, 2013

*An Artist Meets The Crimson Tide*
UNC School of Law
CLE Course at the University of North Carolina Festival of Learning
Chapel Hill, North Carolina
February 8, 2013

Copyright Publication and Visual Works
Works in Progress Intellectual Property Conference
University of Houston Law Center
Houston, Texas
February 11, 2012

*Social Media Amplify Consumer Investment in Trademarks*
*North Carolina Law Review* Symposium, "Social Networks and the Law"
Chapel Hill, North Carolina
November 18, 2011

*Intellectual Property: What Artists Need to Know*

A Free Workshop for Artists and Artisans about the Intersection of Creativity and Law hosted by NC LEAP
YMI Cultural Center
Asheville, North Carolina
August 18, 2011

*Copyright Fair Use: A Look at How Common Myths Hold Up Next To Recent Precedent*
CLE Course at the University of North Carolina Festival of Learning
Chapel Hill, North Carolina
February 11, 2011

*Working Towards Clarity on Copyright Publication for Visual Works*
Joint Annual Meeting of the Council of State Archivists, National Association of Government Archives and Records Administrators, and Society of American Archivists
Washington, D.C.
August 14, 2010

*An Empirical Study of U.S. Copyright Publication Cases*
Intellectual Property Scholars Conference
Berkeley, California
August 12, 2010

*The Importance of Copyright Publication to the Digital Library*
The Dean Lolly Gasaway Tribute Symposium: Digital Publication and Libraries
Chapel Hill, North Carolina
March 19, 2010

*Music and New Media*
Chat, A Digital Arts and Humanities Festival
Chapel Hill, North Carolina
February 17, 2010

*Consumer Investment in Trademarks*
UNC Festival of Legal Learning
Chapel Hill, North Carolina
February 10, 2010

*Using Copyright Publication to Map the Public Domain*
AALS Annual Meeting
New Orleans, Louisiana
January 8, 2010

*Errand into the Maze: Results of an Empirical Study Designed to Clarify Whether Works are in the Public Domain*

Presentation to the *North Carolina Library Association*
Greenville, North Carolina
*October 9, 2009*

*An Empirical Study of US Copyright Publication Cases*
Works in Progress Intellectual Property Colloquium 2009 at the Seton Hall University School of Law
Newark, New Jersey
October 2, 2009

*The Two Sides of the Youtube Litigation* (with Swain Wood)
Presentation to Intellectual Property Section of the North Carolina Bar Association
Cary, North Carolina
February 28, 2008

*Open Access Trends Create Climate Change in Scholarly Publishing*
Department of Allied Health, University of North Carolina at Chapel Hill
Chapel Hill, North Carolina
February 21, 2008

*Hot Topics in Copyright and Trademark Law*
Festival of Legal Learning CLE Course
Chapel Hill, North Carolina
February 1, 2008

*Developments in Digital Copyright and Trademark Law*
Plenary Session for NACUA (National Association of College and University Attorneys) Fall 2007 CLE Workshop for Intellectual Property Counsel: Law and Electrons: Computers, Copyright, Telecommunications, Privacy, and Security on Campus
Washington, DC
November 7, 2007

*Flexing Fair Use Muscles: Electronic Course Reserves, the Use of Art, Images and Thumbnails in Teaching and Learning and Finding the Public Domain Clock*
Fall 2007 CLE Workshop for Intellectual Property Counsel: Law and Electrons: Computers, Copyright, Telecommunications, Privacy, and Security on Campus
Washington, DC
November 8, 2007
*Ten Rules for Protecting Academic Integrity in Legal Scholarship*
Presentation for the University of North Carolina Law Review Students
Chapel Hill, North Carolina
August 22, 2007

*Choices in Scholarly Publishing: The Copyright Default and Open Access*

Presentation to the Faculty at the School of Public Health, University of North Carolina at Chapel Hill,
Chapel Hill, North Carolina
April 19, 2007

*New Powers in Copyright and Trademark Law*
CLE Presentation to the Intellectual Property Section of the North Carolina Bar Association
Greensboro, North Carolina
April 13, 2007

*Digital Images and the TEACH Act: A Tool for Getting Past "No!"*
Presentation to the Visual Resources Association
Kansas City, Missouri
March 30, 2007

*Fair Use in Teaching: Your Rights and Responsibilities in Using Copyrighted Works in the Classroom*
Presentation to the Faculty of the University of North Carolina School of Journalism
Chapel Hill, North Carolina
February 9, 2007

*New Powers in Trademark Law*
Festival of Legal Learning
Chapel Hill, North Carolina
February 2, 2007

*Plagiarism: A Question of Trust*
Presentation for the University of North Carolina at Chapel Hill Law Students
Chapel Hill, North Carolina
September, 2006

*Where does the Library Fit in The Copyright Tug of War?*
Presentation for the University Libraries staff
Chapel Hill, North Carolina
May 2, 2006

*Hot Topics in Scholarly Communications for the Health Sciences Library*
University of North Carolina Health Sciences Library Administrative Board
Chapel Hill, North Carolina
April 5, 2006

*Ten Plagiarism Rules for Journalists*
University of North Carolina School of Journalism
Chapel Hill, North Carolina

March 22, 2006

*The Art of Avoiding Plagiarism in a Cut and Paste World*
Series of presentations to William and Mary law students about the law school honor code and how to avoid committing plagiarism
Williamsburg, Virginia
September 2004

*Ten Steps to Avoiding Plagiarism*
Presentation to William and Mary law Review students about the law school honor code and how to avoid committing plagiarism
Williamsburg, Virginia
August 2002

*An Introduction to Copyright Law for Academics and Librarians*
Copyright seminar given to Virginia Union University librarians and professors about copyright challenges in an academic institution
Richmond, Virginia
November 2000

*Drafting Enforceable Confidentiality Agreements and Covenants Not to Compete*
CLE lecture to Cleveland Bar Association
Cleveland, Ohio
June 1998

*How to Draft a Complaint*
Seminar for Jones Day associates
Cleveland, Ohio
October 1996

## Teaching Record

Courses: Contracts, Copyright Law, Internet Law, Trademark Law, Intellectual Property Strategies and Transactions, Copyright Law and the Library (offered to undergraduates and students in the School of Information and Library Science), Intellectual Property Survey (offered to French law students at the Institut de Droit Comparé Edouard Lambert in Lyon, France)

Supervise students on independent studies consisting of research papers or practical applications of doctrine by working on intellectual property matters for pro bono clients, non-profit organizations and low wealth entrepreneurs

## Grants

Principal Investigator for a $150,000 grant from the Andrew W. Mellon Foundation to support empirical copyright research on the doctrine of publication in Copyright Law from 2008-2011

## Service

### Professional Service

North Carolina Bar Association

NC LEAP

| | |
|---|---|
| Chair, Education Committee | 2010 – present |
| Member of Steering Committee | 2007 – present |
| Intellectual Property Section Liaison | 2007 – present |
| Volunteer | 2007 – present |

NC LEAP is NC bar association entity created to provide pro bono legal assistance to low wealth entrepreneurs.

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| Member, Intellectual Property Law Section Council | 2008 – present |

### Amicus Briefs

Viacom International, Inc. v. Youtube, Inc. and Google , Inc., Case Nos. 10-3270 and 10-3342 in the United States Court of Appeals for the Second Circuit, coauthored (with Michael Barclay) for the Consumer Electronics Association

### Service within UNC

PlayMakers Advisory Council

| | |
|---|---|
| Member | 2011- present |

Copyright Committee, University of North Carolina at Chapel Hill

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| Member | 2006- present |
| Ex Officio Member | 2005 – 2006 |

UNC Law School Admissions Committee

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| Member | 2012 – present |

UNC Center for Media Law & Policy 2009 - present
Member of Advisory Board

Carolina Intellectual Property Law Association 2008 - present
Advisor

Jewish Law Students Association 2008 - present
Advisor

UNC Law School Employment Committee
Member 2011 – 2012

Dean's Advisory Committee
Member 2010-2011

Technology Committee, UNC School of Law
Chair 2010 -- 2011
Member 2005 – 2009

UNC Law School, Journal of Law and Technology
Advisor 2006 – 2011

Scholarly Communications Committee, University of North Carolina at Chapel Hill
Co-chair 2006 - 2007
Member 2005 - 2006

Collection Development Council
University Library at the University of North Carolina at Chapel Hill
Member 2006 - 2008

Scholarly Communications & Digital Curation/Institutional Repository
Steering Committee
Member 2006 - 2008

## Community Service

Member, School Improvement Team 2011 - present
Mary Scroggs Elementary School 2007 – 2009
Chapel Hill, North Carolina

Interfaith Community Council 2007 – 2009
Chapel Hill, North Carolina