



Russell J. Frackman

Partner Emeritus



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legal expertise

Russell J. Frackman is a partner in the Los Angeles office of Mitchell Silberberg & Knupp LLP. He is recognized as one of the nation's leading entertainment and intellectual property litigators, having successfully represented clients in a number of landmark cases in state and federal trial and appellate courts. He was lead counsel for the record company plaintiffs in the District Courts and Courts of Appeals in seminal Internet file sharing litigation, *A&M Records, Inc. v. Napster*, 239 F.3d 1004 (9th Cir. 2001) and 284 F.3d 1091 (9th Cir. 2002), *In re Aimster Copyright Litigation*, 334 F.3d 643 (7th Cir. 2003), and *Metro-Goldwyn-Mayer Studios, et al. v. Grokster, Ltd, et al.*, 545 U.S. 913 (2005); counsel in two precedent-setting decisions involving the scope of the Digital Millennium Copyright Act (DMCA), *Rossi v. Motion Picture Assn. of America, Inc.*, 391 F.3d 1000 (9th Cir. 2004), concerning the notice and takedown provisions of the DMCA, and *321 Studios v. MGM*, 307 F. Supp. 2d 1085 (N.D. Cal. 2004), concerning the anti-circumvention provisions of the DMCA; and counsel for plaintiffs in *Capitol Records, LLC v. Vimeo, LLC*, 972 F. Supp. 2d 500 (S.D.N.Y.2013) and 972 F. Supp. 2d 537 (S.D.N.Y.2013) aff'd in part, vacated in part, and remanded for further proceedings, 826 F.3d 78 (2d Cir. 2016), involving the application of the DMCA to a user-generated content website. He also has authored *amicus curiae* briefs in numerous record industry cases including *American Broadcasting v. Aereo, Inc.*, 573 U.S. 431 (2014), *Viacom, Int'l, Inc. v. YouTube, Inc.*, 676 F.3d 19 (2d Cir. 2012), *Bridgeport Music, Inc. v. Dimension Films, Inc.*, 410 F.3d 792 (8th Cir. 2005), *Fonovisa, Inc., v. Cherry Auction, Inc.*, 76 F.3d 529 (9th Cir.1996) and *Flo & Eddie, Inc. v. Pandora Media, Inc.*, No. S240649 (Cal. Sup. Ct. 2017).

Russell Frackman has lectured extensively at law schools and for professional organizations throughout the country. Most recently, he was the Director of the Copyright Amicus Brief Clinic at UCLA School of Law, as well as Chair and a member of the Executive Committee of the Intellectual Property Institute at USC School of Law. He has repeatedly been recognized by *Chambers USA*, *Legal 500*, *The Hollywood Reporter*, *Billboard*, *Variety*, and *Best Lawyers*. He was awarded two Honorary Gold Record Awards by the Recording Industry Association of America (RIAA) for his work on behalf of the record industry. In

practice areas

litigation
commercial litigation
intellectual property
entertainment & ip
litigation

admissions

California, 1971
U.S. District Court
Central District of California,
1971
Eastern District of California,
1984
Northern District of
California, 1980
U.S. Court of Appeals
Second Circuit, 1980
Ninth Circuit, 1971
U.S. Supreme Court, 1980

education

Columbia Law School, J.D.,
1970; *cum laude*
Member, Board of Editors,
Columbia Law Review
Northwestern University, B.A.,
1967

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Russell J. Frackman

2015, Russell Frackman was the recipient of the GRAMMY Foundation® Entertainment Law Initiative Service (ELI) Award in recognition of his demonstrated commitment to advancing and supporting the music community through service.

representative matters

- Represented the record company plaintiffs in litigation against Sirius XM Radio, Inc. and Pandora Media, Inc., in precedential cases involving the issue of performance rights under state law for sound recordings "fixed" prior to February 15, 1972 (and therefore ineligible for federal copyright protection).
- Represented the record company plaintiffs in copyright infringement litigation against Amway Corp. and others involving the unauthorized use of hundreds of sound recordings in videos uploaded to and performed over the Internet. (In an earlier case in 1998, Mr. Frackman obtained what was, at the time, the largest civil settlement on behalf of the record industry against Amway Corp. and others in similar litigation for use of sound recordings in videocassettes.)
- On behalf of numerous industry organizations (including, among others, the Recording Industry Association of America, SoundExchange, Inc., the Recording Academy, BMI and ASCAP), filed amicus curiae briefs supporting content providers in the Supreme Court, *American Broadcasting v. Aereo, Inc.*, 573 U.S. 431 (2014); various Courts of Appeals, *Fox Television v. AereoKiller, LLC* 861 F. 3d 1002 (9th Cir. 2017); *Viacom Int'l, Inc. v. YouTube, Inc.*, 676 F. 3d 19 (2d Cir 2012), *Bridgeport Music, Inc. v. Dimension Films*, 410 F. 3d 792 (6th Cir. 2005), *United States v. Moghdam*, 175 F. 3d 1269 (11th Cir. 1999), *Fonovisa, Inc. v. Cherry Auction, Inc.*, 76 F.3d 529 (9th Cir. 1996); District Courts, *Viacom Int'l, Inc. v. YouTube*, 718 F. Supp 2nd 514 (S.D. N.Y. 2010); *Tur v. YouTube, Inc.*, 2007 U.S. Dist. LEXIS 50254 (C.D. Cal., June 20, 2007), and state courts, *Flo&Eddie, Inc. v. Pandora Media, Inc.*, S240649 (Cal. Supreme Court 2017), *State v. Awawdeh*, 72 Wash. App. 373 (1994).
- Obtained a "precedential" opinion sustaining, on both likelihood of confusion and dilution grounds, an opposition to the registration of a trademark infringing the world-famous "Motown" trademark. *UMG Recordings, Inc. v. Mattel, Inc.* 100 U.S.P.Q.2.d 1868 (TTAB 2011).
- Represented as lead counsel several record companies in obtaining affirmance of a contempt citation and permanent injunction enjoining the auction of thousands of infringing recordings. *A&M Records, Inc., et al v. LaMonte, et al*, 366 Fed. App'x. 736, (9th Cir. 2010).
- Obtained a preliminary injunction against, and then a summary judgment holding liable, an online company that provided digital "simulations" of thousands of commercial recordings (including virtually all of The Beatles recordings) as lead counsel in an important case of first impression involving the scope of rights in sound recordings under § 114 of the Copyright Act in *Capitol Records, LLC, et al v. Bluebeat, Inc.*, 765 F. Supp. 2d 1198 (C.D. Cal 2010).
- Obtained summary judgment for defendant on audit claims based on contractual limitations provisions. *Clinton v. Universal Music Group*, 2011 WL 3501818 (C.D. Cal. Aug. 9, 2011).

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- Counsel for defendant in *E.S.S. Entertainment 2000, Inc. v. Rock Star Videos*, 547 F.3d 1095 (9th Cir. 2008), involving First Amendment issues concerning the use of trademarks in video games.
- Obtained summary judgment dismissing for lack of standing a copyright action against Jay-Z, Linkin Park, and others, holding plaintiff did not possess an exclusive copyright interest. *Nafal v. Carter*, 540 F. Supp. 2d 1128 (C.D. Cal 2007), aff'd 2010 WL 2852571 (9th Cir. July 21, 2010).
- Counsel for record company and music publisher defendants in more than 100 related copyright infringement cases arising from the alleged unauthorized "sampling" of musical compositions and sound recordings, including several cases in the Court of Appeals for the Sixth Circuit in *Bridgeport Music, Inc. v. WB Music, Inc.*, 520 F.3d 588 (6th Cir. 2008); *Bridgeport Music, Inc. v. WB Music Corp.* 508 F.3d 394 (6th Cir. 2007); *Bridgeport Music, Inc. v. Universal-MCA Music Publ.*, 481 F. 3d 926 (6th Cir. 2007); *Bridgeport Music, Inc. v. Rhyme Syndicate Music, Inc.*, 376 F. 3d 615 (6th Cir. 2004); *Bridgeport Music, Inc. v. DJ Yella Muzick*, 99 Fed. Appx 686 (6th Cir. 2004).
- Counsel for plaintiff in claim for copyright infringement against search engine "image search" function, *Perfect 10 v. Google, Inc.*, 416 F. Supp. 2d 828 (C.D. Cal 2006), aff'd. in part and rev'd. in part, 487 F.3d 701 (9th Cir. 2007).
- Obtained summary judgment defending an infringement claim brought against a record company client and involving a hit recording of the rap artist 50 Cent, *Lil' Joe Wein Music, Inc. v. Jackson*, 2006 U.S. Dist. Lexis 78367 (S.D. Fla. October 27, 2006), aff'd., 2007 U.S. Dist. LEXIS 19165, 2007 WL 2274519 (11th Cir., August 8, 2007).
- Represented defendant in litigation involving pre-emption of right of publicity claims based on use of recording artist's voice fixed in a sound recording. *Laws v. Sony Music Entertainment, Inc.* 448 F. 3d 1134 (9th Cir. 2006).
- Represented defendant in trademark infringement and unfair competition action seeking damages and injunction involving the hit recording "Barbie Girl." *Mattel, Inc. v. MCA Records, Inc.* 296 F.3d 894 (9th Cir. 2002).

honors & awards

- "IP Star," *Managing IP*, 2020
- Senior Statesmen in Media & Entertainment: Litigation, California, *Chambers USA* (2018-2022); Band 1 in Media & Entertainment: Litigation California, *Chambers USA* (2017)
- "Hall of Fame" in Intellectual Property - Copyright, *Legal 500* (2017); "Leading Individual" in Intellectual Property - Copyright, *Legal 500* (2017 & 2018)
- Recipient of the GRAMMY Foundation® 2015 Entertainment Law Initiative Service (ELI) Award in recognition of his demonstrated commitment to advancing and supporting the music community through service.
- Initial recipient of the Donald E. Biederman Legacy Award presented by the Entertainment Media Law Institute of Southwestern Law School which recognizes a member of the bench or bar who upholds the

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highest standard of ethics and professionalism as a leader in entertainment and media law.

- "California Lawyer Attorney of the Year" (CLAY Award) in Intellectual Property, *California Lawyer* (2001)
- "Entertainment Lawyer of the Year" (2001), the Beverly Hills Bar Association
- The "Most Influential Lawyers of the Decade," the *National Law Journal* (2010)
- "100 Lawyers Who Helped Shape a Decade," *Los Angeles Daily Journal* (2010); "Top 10 California Entertainment IP Litigators," *Daily Journal*(2008); "75 Leading Intellectual Property Litigators in California," *Daily Journal* (2011, 2012)
- "Top 100 Most Influential Lawyers in America," *California Law Business*
- "Los Angeles' Top 50 Litigators," *Los Angeles Business Journal*; "Who's Who in Entertainment Law," *Los Angeles Business Journal* (2012); "Who's Who in Intellectual Property Law," *Los Angeles Business Journal* (2012); "Los Angeles' Top 100 Lawyers, Top Media and Entertainment Attorneys," *Los Angeles Business Journal* (2009)
- Recognized by *Best Lawyers in America*® in:
 - Entertainment Law - Motion Pictures and Television (2006-2026)
 - Entertainment Law - Music Litigation (2006-2026)
 - "Lawyer of the Year" (2013, 2015, 2018, and 2024)
 - Litigation - Intellectual Property (2006-2026)
 - "Lawyer of the Year" (2014 and 2018)
- "The Lawdragon 500 Leading Lawyers in America" (2010)
- "Top Music Lawyers," *Billboard* (2017, 2018, 2021)
- "Power Lawyer; Top 100" *The Hollywood Reporter*
- "Hollywood Law Impact List," *Variety*
- "Top 5% of lawyers in Southern California," *Southern California Super Lawyers* (2004-2023)
- Recipient of two honorary Gold Record Awards from the Recording Industry Association of America for litigation on behalf of the record industry
- AV® Preeminent™ Rating, Martindale-Hubbell



Russell J. Frackman

headlines

37 MSK Attorneys Named Among *The Best Lawyers in America*® for 2026
Best Lawyers, August 21, 2025

34 MSK Attorneys Named Among *The Best Lawyers in America*© for 2025
August 15, 2024

38 MSK Attorneys Named Among *The Best Lawyers in America*© for 2024
August 17, 2023

15 MSK Attorneys Named to the 2023 Edition of Southern California *Super Lawyers*
January 10, 2023

MSK Practices and Attorneys Recognized in *Chambers USA* 2022 Guide
Chambers USA, June 1, 2022

16 MSK Attorneys Named to the 2022 edition of Southern California *Super Lawyers*
January 20, 2022

MSK Recognized as a 2021 "Leading Firm" by the *Legal 500*
June 9, 2021

MSK Practices and Attorneys Recognized in *Chambers USA* 2021 Guide
Chambers USA, May 20, 2021

Russell Frackman, Christine Lepera and Eleanor M. Lackman Named to *Billboard*'s 2021 "Top Music Lawyers" List
April 5, 2021

14 MSK Attorneys Named to the List of 2021 Southern California *Super Lawyers*
January 21, 2021

33 MSK Attorneys Named Among *The Best Lawyers in America*© for 2021
August 20, 2020

Russell Frackman and Christine Lepera Named to *Billboard*'s 2020 "Top Music Lawyers" List
July 27, 2020

MSK and Attorneys Recognized in *Managing IP*'s 2020 "IP Stars" List
May 2020

MSK Practices and Attorneys Recognized in *Chambers USA* 2020 Guide
Chambers USA, April 23, 2020

27 MSK Attorneys Named Among *The Best Lawyers in America*© for 2020
August 15, 2019



Russell J. Frackman

MSK Recognized as a 2019 "Top-Tier Firm" by the *Legal 500*
May 29, 2019

MSK Practices and Attorneys Recognized in *Chambers USA* 2019 Guide
April 25, 2019

MSK Attorneys Named to the List of 2019 *Southern California Super Lawyers*
January 30, 2019

Russ Frackman and Christine Lepera Named to *Billboard's* 2018 "Top Music Lawyers" List
October 19, 2018

The Best Lawyers in America© 2019 Recognizes 24 Attorneys from MSK
August 15, 2018

MSK Recognized as a 2018 "Top-Tier Firm" by the *Legal 500*
May 30, 2018

MSK Practices and Attorneys Recognized in *Chambers USA* 2018 Guide
May 3, 2018

The Best Lawyers in America© 2018 Recognizes 24 Attorneys from Mitchell Silberberg & Knupp LLP
August 15, 2017

Russ Frackman and Christine Lepera Named to *Billboard's* 2017 "Top Music Lawyers" List
July 17, 2017

MSK and Attorneys Recognized in *Legal 500* United States 2017 Edition
May 31, 2017

MSK Practices and Attorneys Recognized in *Chambers USA* 2017 Guide
May 26, 2017

MSK Attorneys Named to the 2017 List of *Super Lawyers*
January 20, 2017

The Best Lawyers in America© 2017 Recognizes 22 Attorneys from Mitchell Silberberg & Knupp
August 22, 2016

Russell Frackman and Christine Lepera Named to *Billboard's* 2016 "Top Music Lawyers" List
July 15, 2016

MSK's Russell Frackman Receives Inaugural Donald E. Biederman Legacy Award from Southwestern Law School
October 26, 2012



MSK "Power Lawyers" Among Hollywood's 100 Fiercest Advocates
July 16, 2010

media mentions

Russell Frackman Featured in 2021 Southern California *Super Lawyers* Magazine
Super Lawyers Magazine , January 2021

Russell Frackman and Marc Mayer Mentioned in *The Hollywood Reporter*
December 15, 2016

MSK Practices and Attorneys Recognized in *Chambers USA* 2016 Guide
May 31, 2016

Christine Lepera and Russell Frackman recognized in *The Hollywood Reporter's* Power Lawyers 2016
April 20, 2016

Russell Frackman Featured in *Columbia Law School Magazine*
March 29, 2016

MSK Attorneys Named in *Daily Journal's* Top Verdicts Special Report
February 18, 2016

MSK Attorneys Named to the List of 2016 Southern California Super Lawyers
January 20, 2016

Lauren Wachtler, Russell Frackman and Marc Mayer Mentioned in *Law360*
October 22, 2015

23 Mitchell Silberberg & Knupp Attorneys Featured in *Best Lawyers*
August 2015

Billboard Names Russell Frackman "Top Music Lawyer"
July 2015

Mitchell Silberberg & Knupp Recognized as Leading Law Firm by The Legal 500 2015 USA Guide!
July 2015

Chambers USA 2015 Recognizes Mitchell Silberberg & Knupp
May 2015

Russell Frackman Recognized as a 2015 Power Lawyer by *The Hollywood Reporter*
April 2015



Russell J. Frackman

Russell Frackman Honored With GRAMMY Foundation® Service Award
February 2, 2015

18 Mitchell Silberberg & Knupp Attorneys Named to the 2015 Super Lawyers Business Edition
November 21, 2014

The Best Lawyers in America® 2015 Recognizes 21 Attorneys from Mitchell Silberberg & Knupp and Names 2 Attorneys "Lawyer of the Year"
August 2014

The Legal 500 United States 2014 Edition
June 2014

Chambers USA 2014 Recognizes 9 Attorneys and 3 Practice Groups from MSK Among Nation's Best
May 2014

26 MSK Attorneys Named to 2014 Southern California *Super Lawyers* List
January 2014

21 MSK Attorneys Selected for *Best Lawyers in America 2014*
August 15, 2013

Russell Frackman Named 2014 Los Angeles Litigation - Intellectual Property "Lawyer of the Year" by *Best Lawyers*
August 15, 2013

MSK Attorneys and Practice Groups Recognized by *Chambers USA* 2013
May 2013

Russell Frackman Chosen Among *The National Law Journal's* "100 Most Influential Lawyers in America"
March 25, 2013

26 MSK Attorneys Named to 2013 Southern California *Super Lawyers* List
January 2013

Frackman and Pagnanelli Selected by *LABJ* for "Who's Who in Intellectual Property Law"
November 1, 2012

MSK's Russell Frackman Named 2013 Los Angeles Entertainment Law - Music "Lawyer of the Year" by *Best Lawyers*
September 15, 2012

21 MSK Attorneys Selected for *Best Lawyers in America 2013*
August 24, 2012

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Russell J. Frackman

Russell Frackman and Adam Levin Named to *The Hollywood Reporter's* 2012 "Power Lawyers" List
July 18, 2012

MSK Attorneys and Practice Groups Recognized by *Chambers USA* 2012
June 25, 2012

The 2012 Legal 500 USA Guide Recognizes MSK Attorneys and Intellectual Property and Tax Practice Groups Among the Nation's Best
June 18, 2012

Russell Frackman and Karin Pagnanelli Named Among Top 75 IP Litigators in California
April 26, 2012

Russ Frackman Quoted in *Variety*
April 13, 2012

25 Named to 2012 Southern California *Super Lawyers* List
January 23, 2012

MSK Attorneys Recognized Among "The Best Lawyers in America" for 2012
August 31, 2011

Russell Frackman and Adam Levin Named to *The Hollywood Reporter's* 2011 Power Lawyers List
July 13, 2011

Chambers USA Recognizes MSK Attorneys Among America's Leading Lawyers
June 10, 2011

The 2011 Legal 500 USA Guide Recognizes MSK Attorneys and Intellectual Property and Tax Practice Groups Among the Nation's Best
June 9, 2011

Russell Frackman Ranked Among "Top IP Litigators in California" by Daily Journal
April 7, 2011

24 Named to 2011 Southern California *Super Lawyers* List
January 25, 2011

Bill Cole and Russ Frackman Among "Who's Who in Entertainment Law"
October 12, 2010

Daily Journal Names Russell Frackman Among "Ten California Lawyers Who Helped Shape the Past Decade"
September 2010



Russell J. Frackman

Russell Frackman Featured in *Lawdragon's* "Lawyer Limelight"
August 24, 2010

The 2011 Best Lawyers in America Recognized MSK Attorneys from Nine Practice Areas
August 19, 2010

MSK Attorneys Recognized Among Nation's Best in *Chambers USA* 2010
July 1, 2010

Russell Frackman Named Among the Decade's Most Influential Lawyers by *The National Law Journal*
March 29, 2010

Frackman Talks With CNNMoney.com About "Napster Effect"
February 4, 2010

28 Named to 2010 Southern California Super Lawyers List
January 26, 2010

Russ Frackman Discusses Landmark Napster Decision, 10 Years Later, with *Herald de Paris*
December 31, 2009

Russ Frackman Featured in the *Hollywood Reporter* re: 10 Year Anniversary of Napster Decision
December 14, 2009

Los Angeles Business Journal's 2009 "Who's Who in the Law" Lists MSK Attorneys Russell Frackman and Bill Cole
October 5, 2009

The Best Lawyers in America 2010
August 3, 2009

The Hollywood Reporter Recognizes Bill Cole and Russell Frackman to its List of 2009 "Power Lawyers"
July 29, 2009

Russell Frackman Named to the List of Top 75 IP Litigators in California by *Daily Journal*
April 16, 2009

29 Chosen to 2009 Southern California Super Lawyers List
January 30, 2009

33 Chosen to 2008 Super Lawyers Lists
November 21, 2008

The Best Lawyers in America 2009
September 17, 2008

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The 100 Most Influential Attorneys in Entertainment
July 23, 2008

Chambers USA Recognizes MSK for Media & Entertainment Excellence
June 18, 2008

The Legal 500 Ranks MSK Among "Top Firms" and Partners Among "Leading Lawyers"
June 17, 2008

MSK Home to 23 Southern California Super Lawyers for 2008
January 30, 2008

International Consumer Electronics Show Coverage
January 8, 2008

Russ Frackman Talks New Technology with the *Los Angeles Times*
January 5, 2008

The Best Lawyers in America 2007
December 28, 2007

LABJ Finds MSK Partners The Best of the Bar in L.A.
August 20, 2007

The Hollywood Reporter Names Russell Frackman to its List of 2007 "Power Lawyers"
August 6, 2007

The 2007 Legal 500 USA Guide Recognizes Russell Frackman and MSK's Copyright Practice
July 20, 2007

Chambers USA Ranks MSK and Partners Russ Frackman and Bill Cole
June 15, 2007

Russ Frackman Named to California's Top 100 Leading Lawyers
September 21, 2006

Russ Frackman Named One of America's Top 100 Lawyers
June 19, 2006

Partner Russ Frackman Named One of California's Top 100 Lawyers
September 19, 2005

The American Lawyer Recognizes MSK Litigators
June 2002

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Russell J. Frackman

Russell Frackman Wins 2001 CLAY Award

March 11, 2002

Russell Frackman Named One of California's Top 100 Most Influential Lawyers

October 29, 2001

publications

Trademarks, Video Games and the First Amendment: An Evolving Story

World Trademark Review, October 2010

Back to the Future: The Napster Decision Confirms the Applicability of Traditional Copyright Principles to the Internet

2001

The Chess Catalog Litigation

February 1993

The Failure to Pay Wages and Termination of Entertainment Contracts in California: Some Implications of the Labor Code

events & speaking engagements

Live Webinar - 20 Years After: How Napster Changed the World of Secondary Liability

May 28, 2020

Look What They've Done to My Song: The Annual Music Copyright and Litigation Panel

June 21, 2017

Luncheon Keynote Presentation: Interview with Tom Rothman

USC Gould School of Law | 2017 Intellectual Property Institute

March 21, 2017

Successfully Managing the Intellectual Property of Celebrity Estates

California Copyright Conference

November 15, 2016

Entertainment Litigation Lines: Drawn, Crossed, and Blurred

October 17, 2015

ADR in Entertainment Cases

October 14, 2015

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Russell J. Frackman

Assessing and Protecting Intellectual Property Rights
September 17, 2015

Protecting Copyrights on the Internet: The Entertainment Industries Strike Back
May 21, 2014

Copyright and Solutions to Piracy
December 14, 2011

Appealing YouTube: The Experts Debate!
July 2011

YouTube and *Veoh* Decisions
October 13, 2010

Video Game Content and Third Party IP: The Intersection of First Amendment, Copyright and Trademarks
May 22, 2010

Net Neutrality and the Future of the Internet
March 23, 2010

New Rules for P2P
January 6, 2010

Consumer Protection for P2P Gamers: What Key User Concerns Must be Addressed
October 22, 2009

Copyright Redefined? The Impact of *Cablevision* on the Future of Copyright Law
March 17, 2009

Make it Available at Your Own Risk: A Look Into Copyright Infringement by Digital Distribution
2009

How to Survive and Thrive in the Digital Environment
November 8, 2008

The New Digital Science
September 4, 2008

The True Cost of DRM: What Can't We Do Now?
January 7, 2008

Sony v. Universal: The Betamax Decision Twenty Years Hence
2004

Entertainment Industry Labor & Employment Law Conference

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October 14, 2001