

**C. SCOTT HEMPHILL**  
Columbia Law School  
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## EMPLOYMENT

**Columbia Law School**, New York, NY

Research and teaching focus on the balance between innovation and competition established by antitrust law, intellectual property, and other forms of regulation.

*Professor of Law*, 2010-present

*Associate Professor of Law*, 2006-2010

*John M. Olin Fellow*, 2004-2006

**Office of the Attorney General of the State of New York**

*Chief, Antitrust Bureau*, 2011-2012

**Hon. Antonin Scalia**, Supreme Court of the United States

*Law Clerk*, 2003-2004

**Hon. Richard A. Posner**, United States Court of Appeals for the Seventh Circuit

*Law Clerk*, 2002-2003

## EDUCATION

**Stanford University**, Ph.D. (Economics), 2010

Dissertation: The Law and Economics of Generic Drug Regulation

**Stanford Law School**, J.D., 2001

Nathan Abbott Scholar (highest academic average) and Order of the Coif  
Articles Editor, *Stanford Law Review*, 2000-2001; Editor, 1999-2000

**London School of Economics and Political Science**, M.Sc. (Economics), 1997

Fulbright Scholarship

**Harvard College**, A.B. (Social Studies), *magna cum laude*, Phi Beta Kappa, 1994

## PUBLICATIONS

### *Articles and Book Chapters*

The Fashion Originators' Guild of America: Self-Help at the Edge of IP and Antitrust, in *Intellectual Property at the Edge: The Contested Contours of IP* 159 (Rochelle C. Dreyfuss & Jane C. Ginsburg eds., 2014) (with Jeannie Suk)

Parallel Exclusion, 122 *Yale Law Journal* 1182 (2013) (with Tim Wu)

Drug Patents at the Supreme Court, 339 *Science* 1386 (2013) (with Bhaven Sampat)

Activating *Actavis*, *Antitrust Magazine*, Fall 2013, at 16 (with Aaron Edlin, Herbert Hovenkamp, and Carl Shapiro)

Higher Profits as a Merger Defense: Innovation, Appropriability, and the Horizontal Merger Guidelines, in *European Competition Law Annual 2010: Merger Control in European and Global Perspective* 43 (2013)

Evergreening, Patent Challenges, and Effective Market Life in Pharmaceuticals, 31 *Journal of Health Economics* 327 (2012) (with Bhaven Sampat)

Earning Exclusivity: Generic Drug Incentives and the Hatch-Waxman Act, 77 *Antitrust Law Journal* 947 (2011) (with Mark Lemley)

When Do Generics Challenge Drug Patents?, 8 *Journal of Empirical Legal Studies* 613 (2011) (with Bhaven Sampat)

Collusive and Exclusive Settlements of Intellectual Property Litigation, 2010 *Columbia Business Law Review* 685 (2010)

Deciding Who Decides Intellectual Property Appeals, 19 *Federal Circuit Bar Journal* 379 (2010)

Reply, Remix and Cultural Production, 61 *Stanford Law Review* 1227 (2009) (with Jeannie Suk)

The Law, Culture, and Economics of Fashion, 61 *Stanford Law Review* 1147 (2009) (with Jeannie Suk)

Cited in *Christian Louboutin S.A. v. Yves Saint Laurent America Holdings, Inc.*, 696 F.3d 206 (2d Cir. 2012)

An Aggregate Approach to Antitrust: Using New Data and Rulemaking to Preserve Drug Competition, 109 *Columbia Law Review* 629 (2009)

Cited in *Dey Pharma, LP v. Sunovion Pharmaceuticals Inc.*, 677 F.3d 1158 (Fed. Cir. 2012)

Network Neutrality and the False Promise of Zero-Price Regulation, 25 *Yale Journal on Regulation* 135 (2008)

Paying for Delay: Pharmaceutical Patent Settlement as a Regulatory Design Problem, 81 *New York University Law Review* 1553 (2006)

Cited in *Federal Trade Commission v. Actavis, Inc.*, 133 S. Ct. 2223 (2013)

Note, The Role of Recoupment in Predatory Pricing Analyses, 53 *Stanford Law Review* 1581 (2001)

#### *Other Writing*

ANTITRUST ANALYSIS: PROBLEMS, TEXT, AND CASES (8th ed., forthcoming) (with Philip Areeda, Louis Kaplow and Aaron Edlin)

Roundtable Discussion: The Developing Antitrust Legacy of the Roberts Court, *Antitrust Magazine*, Summer 2014 (forthcoming)

*Philadelphia National Bank* at Fifty: A Conversation with Richard Posner, 79 *Antitrust Law Journal* (forthcoming 2014)

Design Copyright: The Latest Judicial Hint, *CPI Antitrust Chronicle*, May 2013 (with Jeannie Suk)

What "Design Copyright"?, 126 *Harvard Law Review Forum* 164 (2013) (with Jeannie Suk)

Competition and the Collective Management of Copyright, 34 *Columbia Journal of Law and the Arts* 645 (2011)

Schumer's Project Runway, *Wall Street Journal*, August 24, 2010 (with Jeannie Suk)

The Squint Test, *Slate*, May 13, 2009 (with Jeannie Suk)

Roundtable Discussion: Antitrust and the Roberts Court, *Antitrust Magazine*, Winter 2007

Drug Patent Settlements Between Rivals: A Survey (working paper 2007)

Brief of George A. Akerlof *et al.* as Amici Curiae in Support of Petitioners, *Eldred v. Ashcroft*, 537 U.S. 186 (2003)

## TESTIMONY

The Proposed Merger of Comcast and Time Warner Cable: Oversight Hearing Before the Subcommittee on Regulatory Reform, Commercial and Antitrust Law of the House Committee on the Judiciary, 113th Congress, May 8, 2014

Response to Questions for the Record, The Innovative Design Protection and Piracy Prevention Act: Hearing Before the Subcommittee on Intellectual Property, Competition, and the Internet of the House Committee on the Judiciary, 112th Congress, Aug. 15, 2011 (with Jeannie Suk)

Protecting Consumer Access to Generic Drugs Act of 2009: Hearing Before the Subcommittee on Commerce, Trade, and Consumer Protection of the House Committee on Energy and Commerce, 111th Congress, March 31, 2009

Protecting Consumer Access to Generic Drugs Act of 2007: Hearing Before the Subcommittee on Commerce, Trade, and Consumer Protection of the House Committee on Energy and Commerce, 110th Congress, May 2, 2007

## GRANTS AND FELLOWSHIPS

Robert Wood Johnson Foundation award (\$149,780) for research on drug patents and public health, sponsored by Public Health Law Research Program (with Bhaven Sampat), 2010-2011

Institute for Social and Economic Research and Policy, Columbia University, Seed Grant (with Bhaven Sampat), 2010-2011

Milton Handler Fellowship, 2007-2010

Kapnick Fellowship, Stanford Department of Economics, 2001-2002

Olin Student Fellowship in Law and Economics, Stanford Law School, 1998-2001

Stanford Graduate Fellowship (full funding for graduate school), 1997-2000

Kawamura Fellowship to Japan, 1993

## PRESENTATIONS

### *Invited Papers*

- 2014 Google Competition Summit  
Institute for Law and Economic Policy  
University of Virginia Law and Economics Workshop  
NYU Faculty Workshop (scheduled)  
Organisation for Economic Co-operation and Development Competition Summit (scheduled)
- 2013 American Bar Association (ABA) Antitrust Section  
Bates White Annual Antitrust Conference  
Cardozo IP and Information Law Program  
Department of Justice (DOJ) Economic Analysis Group  
European Commission Directorate General for Competition  
Federal Trade Commission (FTC)  
Harvard Law School Faculty Workshop  
Intellectual Property Scholars Conference  
NYU Law School Tri-State Conference on Intellectual Property  
Seton Hall Law School Faculty Seminar
- 2012 ABA Financial Services and Competition Symposium  
Duke Law School Oversight of Administrative Agencies Conference  
New York University Antitrust Scholarship Conference  
University of Chicago Law and Economics Workshop
- 2011 American Law and Economics Association Annual Meeting  
Association of American Law Schools Annual Meeting  
Brooklyn Law School Intellectual Property Law Colloquium  
Columbia University Law, Health, and Society Colloquium  
George Washington University IP Speaker Series  
Loyola Law School (Los Angeles), IP Theory Colloquium  
National Bureau of Economic Research Pre-Conference on Patents, Standards and Innovation  
One Hundred Years of Standard Oil Conference (George Washington University)  
Rutgers Business School Pharmaceutical Seminar
- 2010 Conference on Empirical Legal Studies  
European University Institute Competition Law and Policy Workshop  
FTC Bureau of Economics Workshop

Intellectual Property Scholars Conference  
New York University Antitrust Scholarship Conference  
Stanford Law School “Free Lunch” Workshop  
University of Delhi Economics Department Winter Conference  
University of Toronto Faculty of Law, Law and Economics Workshop  
Yale Law School, Law, Economics, and Organization Workshop

- 2009 American Law and Economics Association Annual Meeting  
DOJ/FTC Joint Seminar  
ETH Zurich Workshop and Lecture Series on Intellectual Property  
Harvard Law School, Law and Economics Seminar  
Harvard Law School, Advanced Intellectual Property Seminar  
Stanford Law School, Law and Economics Seminar  
University of Bonn, Law and Economics Workshop  
University of Pennsylvania Law School, Technology, Innovation, and  
Competition Workshop  
University of St. Gallen, Law and Economics Seminar
- 2008 American Law and Economics Association Annual Meeting  
Boston University Law School, Intellectual Property Workshop  
Harvard Law School, Health Law Policy Workshop  
Institute of Economic, Financial and Tax Law Conference (Lisbon, Portugal)  
Intellectual Property/Antitrust Conference (University of Minnesota)  
Intellectual Property Law Scholars Workshop (Michigan State University)  
Intellectual Property Scholars Conference  
Law and Economics of Drug Development Symposium (University of Michigan)  
Property Works in Progress Conference (University of Colorado, Boulder)  
Triangle Law and Economics Conference (University of North Carolina)  
University of Tokyo Law School Seminar Series
- 2007 ABA Antitrust Section Annual Meeting  
Max Planck Institute Workshop on Commons Theory (Bonn, Germany)  
Silicon Flatirons Conference (University of Colorado, Boulder)  
UCLA Pharmaceutical Economics Seminar

*Other Presentations*

- 2014 ABA Antitrust Section Spring Meeting (panelist)  
Association of the Bar of the City of New York (commentator)  
George Mason University FTC at 100 Conference (panelist)  
New York State Bar Association Annual Meeting (panelist)

- NYU Law School Tri-State Conference on Intellectual Property (discussant)  
 US-China Legal Exchange Foundation (lecture)  
 Bates White Health Care and Life Sciences Symposium (panelist; scheduled)  
 FTC Roundtable on Loyalty and Bundled Discounts (scheduled)  
 National Association of Attorneys General (NAAG) Pharmaceutical Working  
 Group (scheduled)  
 Stanford Conference on Law and Biosciences (panelist; scheduled)
- 2013 American University Washington College of Law, Supreme Court Post-  
 Argument Discussion (panelist)  
 Antitrust Challenges in a Concentrated Economy, New York, NY (discussant)  
 Bates White Health Care and Life Sciences Symposium, Washington, DC  
 (panelist)  
 Chicago Loyola Antitrust Conference (discussant)  
*Concurrences* Symposium, New York, NY (moderator)  
 George Mason Conference on Competition Policy in Search and Social Media  
 (moderator)  
 IP Scholars Conference (discussant)  
 New York State Bar Association (discussant)  
 NYU Law School Brown Bag Lunch (speaker)  
 Politico Supreme Court and the Drug Industry Breakfast Briefing (panelist)  
 NYU Law School Conference on *Philadelphia National Bank* (moderator)
- 2012 ABA Antitrust Section Fall Forum (panelist)  
*Concurrences* Fall Dinner (speaker)  
 Conference on Empirical Legal Studies (discussant)  
 Federal Bar Council Antitrust Section (panelist)  
 George Mason AG Public Policy Conference on the Pharmaceutical Industry  
 (moderator)  
 Georgetown Global Antitrust Enforcement Symposium (panelist)  
 NAAG Midwestern Conference (panelist)  
 New York State Bar Association Antitrust Law Section Annual Meeting (review  
 of antitrust developments)  
 University of Pennsylvania Symposium on the Evolving Internet (discussant)
- 2011 ABA Antitrust Section Spring Meeting (mock Supreme Court argument)  
 Food and Drug Law Institute Hatch-Waxman Conference (panelist)  
 Kernochan Center Symposium on Collective Rights Organizations, Columbia  
 Law School (panelist)
- 2010 Association of the Bar of the City of New York (Milton Handler Lecture)  
 Conference on Empirical Legal Studies (discussant)

- International Competition Network Teleseminar on Unilateral Conduct  
(panelist)  
New York State Bar Association Antitrust Law Section  
Stanford/ABA Antitrust and Innovation Symposium (Stanford) (panelist)  
Stanford Institute for Economic Policy Research (SIEPR) Associates Meeting  
SIEPR Antitrust and Intellectual Property Conference (panelist)
- 2009 Antitrust Enforcement in the Pharmaceutical Industry Symposium, San Francisco, CA (keynote)  
*Columbia Law Review* Annual Banquet (toastmaster)  
DOJ/FTC Federal-State Conference on Competition and Energy Markets (panelist)  
Google Book Search Debate, Federalist Society (New York, NY) (moderator)  
Minnesota State Bar Association Antitrust Section, Minneapolis, MN  
NAAG Antitrust Federalism Conference (panelist)  
Petrie-Flom Pharmaceutical Research, Development, and Markets Conference, Harvard Law School (discussant)  
Pharmaceutical Congress on Paragraph IV Disputes, Philadelphia, PA (panelist)
- 2008 Antitrust and Network Neutrality, New York University Law School (panelist)  
Business Law and Innovation Conference, Columbia Law School (discussant)  
Intellectual Property Owners Association Conference, Washington, DC (panelist)  
Law and Economics Consulting Group, New York, NY  
NAAG Antitrust Training Session, Salt Lake City, UT  
*New Yorker* Annual Conference, New York, NY  
Pharmaceutical Congress on Paragraph IV Disputes, Philadelphia, PA (panelist)  
Rutgers School of Law Patent Law and Pharmaceuticals Symposium (panelist)  
Telecommunications Policy Research Conference, Arlington, VA (panelist)

## TEACHING

Antitrust Law: Fall 2006, Fall 2007, Fall 2008, Spring 2010, Fall 2010, Fall 2011, Fall 2012

Principles of Intellectual Property: Spring 2008, Spring 2009, Spring 2011, Spring 2013

Copyright Law: Fall 2013

Law and Economics Seminar: Fall 2007, Fall 2008, Fall 2010

Intellectual Property Colloquium: Spring 2009

Instructor, George Mason/ABA Antitrust Law and Economics Institute for Federal Judges, Fall 2013

Guest Instructor, Columbia University Graduate School of Journalism, M.A. seminar in business journalism (James Stewart and Sylvia Nasar, instructors), 2007-present

Instructor, University of Amsterdam Law School, Summer 2013

Instructor, University of Tokyo Law School, Summer 2008

## UNIVERSITY SERVICE

*Committees:* Lateral Appointments (2013-2014); Government Service (2013-2014); Entry-Level Appointments (2010-2012); Clerkships and Judicial Relations (2007-2010, 2011; co-chair, 2008-2010); Admissions and Financial Aid (2006-2009); Faculty Curricular Advisory Group (2006-2011)

*Centers and Programs:* Center for Contract and Economic Organization (2006-present); Kernochan Center for Law, Media and the Arts (2006-present); Richman Center for Business, Law, and Public Policy (academic advisory board, 2011-present); Charles E. Gerber Transactional Studies Program (co-chair, 2009-2011)

## PROFESSIONAL ACTIVITIES

Contributing Editor, *Antitrust Law Journal*, 2013-present

Referee or outside reader for American Law and Economics Association, *American Law and Economics Review*, Conference on Empirical Legal Studies, *Harvard Law Review*, *International Review of Law and Economics*, *Journal of Empirical Legal Studies*, *Journal of Law and Economics*, *Journal of Legal Studies*, *Jurimetrics*, Oxford University Press, and *Yale Law Journal*

Executive Committee, Antitrust and Economic Regulation Section, Association of American Law Schools, 2011-present

Chair, Law and Economics Section, Association of American Law Schools, 2011-2012; Chair-Elect, 2010-2011; Secretary, 2009-2010

Member, American Law Institute, 2013-present

Member, American Law and Economics Association, 2004-present; Area Organizer, 2013, 2014

Member, Antitrust Project Advisory Board, National State Attorneys General Program, 2010-present

Member, Board of Advisors, Global Antitrust Institute, 2013-present

Term Member, Council on Foreign Relations, 2007-2012

#### **OTHER POSITIONS HELD**

McKinsey & Company, Palo Alto, CA, Summer Associate, 2000

Antitrust Division, U.S. Department of Justice, Washington, DC, Summer Clerk, 1999

Simpson Thacher & Bartlett, New York, NY, Summer Associate, 1999

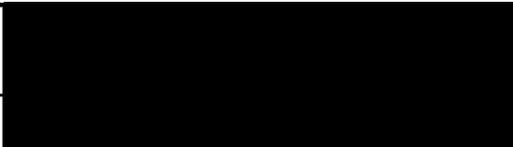
William Kent International, Arlington, VA, Consultant, 1994-1996 (developed business strategy in Asia, Europe, and South America for corporate clients)

May 2014

**Committee on Energy and Commerce**  
**U.S. House of Representatives**  
 Witness Disclosure Requirement "Truth in Testimony"  
 Required by House Rule XI, Clause 2(g)

1. Your Name: <u>C. Scott Hemphill</u>		
2. Are you testifying on behalf of the Federal, or a State or local government entity?	Yes	<input checked="" type="radio"/> No
3. Are you testifying on behalf of an entity that is not a government entity?	Yes	<input checked="" type="radio"/> No
4. Other than yourself, please list which entity or entities you are representing:		
5. Please list any Federal grants or contracts (including subgrants or subcontracts) that <u>you or the entity you represent have received</u> on or after October 1, 2011:		
6. If your answer to the question in item 3 in this form is "yes," please describe your position or representational capacity with the entity or entities you are representing:		
7. If your answer to the question in item 3 is "yes," do any of the entities disclosed in item 4 have parent organizations, subsidiaries, or partnerships that you are not representing in your testimony?	Yes	No
8. If the answer to the question in item 3 is "yes," please list any Federal grants or contracts (including subgrants or subcontracts) that were received by the entities listed under the question in item 4 on or after October 1, 2011, that exceed 10 percent of the revenue of the entities in the year received, including the source and amount of each grant or contract to be listed:		
9. Please attach your curriculum vitae to your completed disclosure form.		

Signature: \_\_\_\_\_



Date: 6/7/14