





Mark Lemley

William Neukom Professor of Law and Senior Fellow at the Stanford Institute for Economic Policy Research

Stanford Law School

 Curriculum Vitae available Online

 Resume available Online

Bio

BIO

Mark Lemley is the William H. Neukom Professor of Law at Stanford Law School and the Director of the Stanford Program in Law, Science and Technology. He is also a Senior Fellow at the Stanford Institute for Economic Policy Research and is affiliated faculty in the Symbolic Systems program. He teaches intellectual property, patent law, trademark law, antitrust, the law of robotics and AI, video game law, and remedies. He is the author of eight books and 185 articles, including the two-volume treatise IP and Antitrust. His works have been cited nearly 300 times by courts, including 15 times by the United States Supreme Court, and more than 18,000 times in books and law review articles, making him the most-cited scholar in IP law and one of the four most cited legal scholars of all time. He has published 9 of the 100 most-cited law review articles of the last twenty years, more than any other scholar. His articles have appeared in 23 of the top 25 law reviews, in Nature Biotechnology, in top economic journals such as the American Economic Review and the Review of Economics and Statistics, and in multiple peer-reviewed and specialty journals. They have been reprinted throughout the world, and translated into Chinese, Japanese, Korean, Spanish, Italian, and Danish. He has taught IP law to federal and state judges at numerous Federal Judicial Center and ABA programs, has testified eight times before Congress, and has filed more than 50 amicus briefs in the U.S. Supreme Court, the California Supreme Court, and the federal circuit courts.

Mark is a founding partner of Durie Tangri LLP. He litigates and counsels clients in all areas of intellectual property, antitrust, and internet law. He has argued 27 federal appellate cases and numerous district court cases as well as before the California Supreme Court. He has participated in more than three dozen cases in the United States Supreme Court as counsel or amici. His client base is diverse, including Genentech, Dykes on Bikes, artists, computer scientists, and nearly every significant Internet company.

Mark is a founder of Lex Machina, Inc., a startup company that provides litigation data and analytics to law firms, companies, courts, and policymakers. Lex Machina was acquired by Lexis in December 2015.

Mark has been named California Lawyer's Attorney of the Year twice. He received the California State Bar's inaugural IP Vanguard Award. He won the 2018 World Technology Award for Law. In 2017 he received the P.J. Federico Award from the Patent and Trademark Office Society. Back when he was young, he was named a Young Global Leader by the Davos World Economic Forum and Berkeley Law School's Young Alumnus of the Year. He has been recognized as one of the top 50 litigators in the country under 45 and one of the 25 most influential people in IP by American Lawyer, one of the 100 most influential lawyers in the nation by the National Law Journal, and one of the 10 most admired attorneys in IP by IP360. He is a member of the American Academy of Arts and Sciences, the American Law Institute, and the IP Hall of Fame.

Mark clerked for Judge Dorothy Nelson on the United States Court of Appeals for the Ninth Circuit and has practiced law in Silicon Valley with Brown & Bain and with Fish & Richardson and in San Francisco with Kecker & Van Nest. He has previously held faculty positions at Berkeley Law School and the University of Texas School of Law. In his spare time, Mark enjoys cooking, travel (back when that was a thing), yoga, and feeding his addiction to video games (at this writing, Genshin Impact).

ACADEMIC APPOINTMENTS

- Professor, Stanford Law School
- Senior Fellow, Stanford Institute for Economic Policy Research (SIEPR)
- Faculty Affiliate, Institute for Human-Centered Artificial Intelligence (HAI)
- Member, Wu Tsai Neurosciences Institute

PROGRAM AFFILIATIONS

- Public Policy
- Symbolic Systems Program

Research & Scholarship

CURRENT RESEARCH AND SCHOLARLY INTERESTS

intellectual property, Internet, and antitrust law; law and AI/robotics

Teaching

COURSES

2021-22

- Intellectual Property and Antitrust Law: LAW 4006 (Win)
- Intellectual Property: Trademarks: LAW 4012 (Aut)
- Introduction to Intellectual Property: LAW 4005 (Spr)

2020-21

- Discussion (1L): Robot Ethics: LAW 240L (Aut)
- Introduction to Intellectual Property: LAW 4005 (Spr)
- Remedies: LAW 7038 (Aut)
- Video Game Law: LAW 4029 (Win)

2019-20

- Discussion (1L): Robot Ethics: LAW 240L (Aut)
- Intellectual Property: Trademark and Unfair Competition Law: LAW 4012 (Aut)
- Introduction to Intellectual Property: LAW 4005 (Spr)

2018-19

- Discussion: The Ethical Robot: LAW 682L (Spr)
- Intellectual Property and Antitrust Law: LAW 4006 (Win)
- Intellectual Property: Trademark and Unfair Competition Law: LAW 4012 (Win)

STANFORD ADVISEES

Doctoral Dissertation Advisor (AC)

Yutang Hsiao, Antoni Terra

Publications

PUBLICATIONS

- **Interfaces and Interoperability After Google v. Oracle** *TEXAS LAW REVIEW*
Lemley, M. A., Samuelson, P.
2021; 100 (1): 1-54
- **DISAPPEARING CONTENT** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A.
2021; 101 (4): 1255-1288
- **Does Alice Target Patent Trolls?** *JOURNAL OF EMPIRICAL LEGAL STUDIES*
Lemley, M. A., Zyontz, S.
2021
- **THE SPLINTERNET** *DUKE LAW JOURNAL*
Lemley, M. A.
2021; 70 (6): 1297-1327
- **Abandoning Trade Secrets** *STANFORD LAW REVIEW*
Hrdy, C. A., Lemley, M. A.
2021; 73 (10): 1-66
- **Chief Justice Webster** *IOWA LAW REVIEW*
Lemley, M. A.
2020; 106 (1): 299-323
- **THE MEDICARE INNOVATION SUBSIDY** *NEW YORK UNIVERSITY LAW REVIEW*
Lemley, M. A., Ouellette, L., Sachs, R. E.
2020; 95 (1): 75-129
- **WITHOUT PREAMBLE** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A.
2020; 100 (2): 357-88
- **Playing Both Sides? Branded Sales, Generic Drugs, and Antitrust Policy** *HASTINGS LAW JOURNAL*
Carrier, M. A., Lemley, M. A., Miller, S.
2020; 71 (2): 307-58
- **YOU MIGHT BE A ROBOT** *CORNELL LAW REVIEW*
Casey, B., Lemley, M. A.
2020; 105 (2): 287-361
- **UNFAIR DISRUPTION** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A., McKenna, M. P.
2020; 100 (1): 71-131
- **Pledging intellectual property for COVID-19.** *Nature biotechnology*
Contreras, J. L., Eisen, M. n., Ganz, A. n., Lemley, M. n., Molloy, J. n., Peters, D. M., Tietze, F. n.
2020; 38 (10): 1146-49
- **Remedies for Robots** *UNIVERSITY OF CHICAGO LAW REVIEW*
Lemley, M. A., Casey, B.
2019; 86 (5): 1311-96
- **THE RIGHT OF PUBLICITY: PRIVACY REIMAGINED FOR A PUBLIC WORLD (Book Review)** *MICHIGAN LAW REVIEW*
Book Review Authored by: Lemley, M. A.
2019; 117 (6): 1153-78

- **The Patent Enforcement Iceberg** *TEXAS LAW REVIEW*
Lemley, M. A., Richardson, K., Oliver, E.
2019; 97 (4): 801–33
- **HOW ESSENTIAL ARE STANDARD-ESSENTIAL PATENTS?** *CORNELL LAW REVIEW*
Lemley, M. A., Simcoe, T.
2019; 104 (2): 607–42
- **The Sound and Fury of Patent Activity** *MINNESOTA LAW REVIEW*
Feldman, R. C., Lemley, M. A.
2019; 103 (4): 1793–1877
- **INTELLIGENT DESIGN** *DUKE LAW JOURNAL*
Buccafusco, C., Lemley, M. A., Masur, J. S.
2018; 68 (1): 75–139
- **LAW, VIRTUAL REALITY, AND AUGMENTED REALITY** *UNIVERSITY OF PENNSYLVANIA LAW REVIEW*
Lemley, M. A., Volokh, E.
2018; 166 (5): 1051–1138
- **Can a Court Change the Law by Saying Nothing?** *VANDERBILT LAW REVIEW*
Gugliuzza, P. R., Lemley, M. A.
2018; 71 (3): 765–820
- **IS PATENT ENFORCEMENT EFFICIENT?** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A., Feldman, R.
2018; 98 (2): 649–67
- **FUNCTIONALITY SCREENS** *VIRGINIA LAW REVIEW*
Buccafusco, C., Lemley, M. A.
2017; 103 (7): 1293–1378
- **Is Pepsi Really a Substitute for Coke? Market Definition in Antitrust and IP** *CAMBRIDGE HANDBOOK OF ANTITRUST, INTELLECTUAL PROPERTY, AND HIGH TECH*
Lemley, M. A., McKenna, M. P., Blair, R. D., Sokol, D. D.
2017: 183–203
- **Patent Licensing, Technology Transfer, and Innovation** *AMERICAN ECONOMIC REVIEW*
Lemley, M. A., Feldman, R.
2016; 106 (5): 188-192
- **READY FOR PATENTING** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A.
2016; 96 (3): 1171-1195
- **If You Can't Beat 'Em, Join 'Em? How Sitting by Designation Affects Judicial Behavior** *TEXAS LAW REVIEW*
Lemley, M. A., Miller, S. P.
2016; 94 (3): 451-484
- **Do Patent Licensing Demands Mean Innovation?** *IOWA LAW REVIEW*
Feldman, R., Lemley, M. A.
2015; 101 (1): 137-189
- **Antitrust Arbitration and Illinois Brick** *IOWA LAW REVIEW*
Lemley, M. A., Leslie, C. R.
2015; 100 (5): 2115-2133
- **Our Divided Patent System** *UNIVERSITY OF CHICAGO LAW REVIEW*
Allison, J. R., Lemley, M. A., Schwartz, D. L.
2015; 82 (3): 1073-1154

-
- **Faith-Based Intellectual Property** *UCLA LAW REVIEW*
Lemley, M. A.
2015; 62 (5): 1328-1346
 - **IP IN A WORLD WITHOUT SCARCITY** *NEW YORK UNIVERSITY LAW REVIEW*
Lemley, M. A.
2015; 90 (2): 460-515
 - **Does "Public Use" Mean the Same Thing It Did Last Year?** *TEXAS LAW REVIEW*
Lemley, M. A.
2015; 93 (5): 1119-1136
 - **ANTITRUST ARBITRATION AND MERGER APPROVAL** *NORTHWESTERN UNIVERSITY LAW REVIEW*
Lemley, M. A., Leslie, C. R.
2015; 110 (1): 1-62
 - **Understanding the Realities of Modern Patent Litigation** *TEXAS LAW REVIEW*
Allison, J. R., Lemley, M. A., Schwartz, D. L.
2014; 92 (7): 1769-1801
 - **THE AUDIENCE IN INTELLECTUAL PROPERTY INFRINGEMENT** *MICHIGAN LAW REVIEW*
Fromer, J. C., Lemley, M. A.
2014; 112 (7): 1251-1304
 - **DOES FAMILIARITY BREED CONTEMPT AMONG JUDGES DECIDING PATENT CASES?** *STANFORD LAW REVIEW*
Lemley, M. A., Li, S., Urban, J. M.
2014; 66 (5): 1121-1157
 - **WHY DO JURIES DECIDE IF PATENTS ARE VALID?** *VIRGINIA LAW REVIEW*
Lemley, M. A.
2013; 99 (8): 1673-1736
 - **MISSING THE FOREST FOR THE TROLLS** *COLUMBIA LAW REVIEW*
Lemley, M. A., Melamed, A. D.
2013; 113 (8): 2117-2190
 - **Do applicant patent citations matter?** *RESEARCH POLICY*
Cotropia, C. A., Lemley, M. A., Sampat, B.
2013; 42 (4): 844-854
 - **SOFTWARE PATENTS AND THE RETURN OF FUNCTIONAL CLAIMING** *WISCONSIN LAW REVIEW*
Lemley, M. A.
2013: 905-964
 - **The Fractioning of Patent Law** *Symposium on the Connection between Intellectual Property and the Common Law*
Lemley, M. A.
CAMBRIDGE UNIV PRESS.2013: 504–513
 - **THE REGULATORY TURN IN IP** *HARVARD JOURNAL OF LAW AND PUBLIC POLICY*
Lemley, M. A.
2013; 36 (1): 109-115
 - **PATENT HOLDUP, THE ITC, AND THE PUBLIC INTEREST** *CORNELL LAW REVIEW*
Chien, C. V., Lemley, M. A.
2012; 98 (1): 1-45
 - **EXAMINER CHARACTERISTICS AND PATENT OFFICE OUTCOMES** *REVIEW OF ECONOMICS AND STATISTICS*
Lemley, M. A., Sampat, B.
2012; 94 (3): 817-827

- **Is Pepsi Really a Substitute for Coke? Market Definition in Antitrust and IP** *GEORGETOWN LAW JOURNAL*
Lemley, M. A., McKenna, M. P.
2012; 100 (6): 2055-2117
- **Contracting Around Liability Rules** *CALIFORNIA LAW REVIEW*
Lemley, M. A.
2012; 100 (2): 463-486
- **THE MYTH OF THE SOLE INVENTOR** *MICHIGAN LAW REVIEW*
Lemley, M. A.
2012; 110 (5): 709-760
- **POINT OF NOVELTY** *NORTHWESTERN UNIVERSITY LAW REVIEW*
Lemley, M. A.
2011; 105 (3): 1253-1280
- **LIFE AFTER BILSKI** *STANFORD LAW REVIEW*
Lemley, M. A., Risch, M., Sichelman, T., Wagner, R. P.
2011; 63 (6): 1315-1347
- **Patent Quality and Settlement Among Repeat Patent Litigants** *GEORGETOWN LAW JOURNAL*
Allison, J. R., Lemley, M. A., Walker, J.
2011; 99 (3): 677-712
- **Who Chooses Open-Source Software?** *UNIVERSITY OF CHICAGO LAW REVIEW*
Lemley, M. A., Shafir, Z.
2011; 78 (1): 139-164
- **EARNING EXCLUSIVITY: GENERIC DRUG INCENTIVES AND THE HATCH-WAXMAN ACT** *ANTITRUST LAW JOURNAL*
Hemphill, C. S., Lemley, M. A.
2011; 77 (3): 947-989
- **The surprising virtues of treating trade secrets as IP rights** *Workshop on Trade Secrecy/Conference of the Engelberg Center on Innovation Law and Policy*
Lemley, M. A.
EDWARD ELGAR PUBLISHING LTD.2011: 109-139
- **OWNING MARK(ET)S** *MICHIGAN LAW REVIEW*
Lemley, M. A., McKenna, M. P.
2010; 109 (2): 137-189
- **OUR BIZARRE SYSTEM FOR PROVING COPYRIGHT INFRINGEMENT** *JOURNAL OF THE COPYRIGHT SOCIETY OF THE USA*
Lemley, M. A.
2010; 57 (4): 719-742
- **IRRELEVANT CONFUSION** *STANFORD LAW REVIEW*
Lemley, M. A., McKenna, M.
2010; 62 (2): 413-454
- **EXTREME VALUE OR TROLLS ON TOP? THE CHARACTERISTICS OF THE MOST-LITIGATED PATENTS** *UNIVERSITY OF PENNSYLVANIA LAW REVIEW*
Allison, J. R., Lemley, M. A., Walker, J.
2009; 158 (1): 1-37
- **FENCE POSTS OR SIGN POSTS? RETHINKING PATENT CLAIM CONSTRUCTION** *UNIVERSITY OF PENNSYLVANIA LAW REVIEW*
Burk, D. L., Lemley, M. A.
2009; 157 (6): 1743-1799
- **Antitrust Law and Regulatory Gaming** *TEXAS LAW REVIEW*
Dogan, S. L., Lemley, M. A.
2009; 87 (4): 685-729

● **THE SURPRISING VIRTUES OF TREATING TRADE SECRETS AS IP RIGHTS** *STANFORD LAW REVIEW*

Lemley, M. A.
2008; 61 (2): 311-353

● **Categorical analysis in antitrust jurisprudence** *IOWA LAW REVIEW*

Lemley, M. A., Leslie, C. R.
2008; 93 (4): 1207-1270

● **Rethinking patent law's presumption of validity** *STANFORD LAW REVIEW*

Lichtman, D., Lemley, M. A.
2007; 60 (1): 45-72

● **Grounding trademark law through trademark use** *IOWA LAW REVIEW*

Dogan, S. L., Lemley, M. A.
2007; 92 (5): 1669-1701

● **Patent holdup and royalty stacking** *TEXAS LAW REVIEW*

Lemley, M. A., Shapiro, C.
2007; 85 (7): 1991-2049

● **Should patent infringement require proof of copying?** *MICHIGAN LAW REVIEW*

Lemley, M. A.
2007; 105 (7): 1525-1536

● **Should property or liability rules govern information?** *TEXAS LAW REVIEW*

Lemley, M. A., Weiser, P. J.
2007; 85 (4): 783-841

● **The (unnoticed) demise of the doctrine of equivalents** *STANFORD LAW REVIEW*

Allison, J. R., Lemley, M. A.
2007; 59 (4): 955-984

● **Terms of use** *MINNESOTA LAW REVIEW*

Lemley, M. A.
2006; 91 (2): 459-483

● **UNILATERAL REFUSALS TO LICENSE** *JOURNAL OF COMPETITION LAW & ECONOMICS*

Hovenkamp, H., Janis, M. D., Lemley, M. A.
2006; 2 (1): 1-42

● **What the right of publicity can learn from trademark law** *STANFORD LAW REVIEW*

Dogan, S. L., Lemley, M. A.
2006; 58 (4): 1161-1220

● **Patenting nanotechnology** *STANFORD LAW REVIEW*

Lemley, M. A.
2005; 58 (2): 601-630

● **Probabilistic patents** *JOURNAL OF ECONOMIC PERSPECTIVES*

Lemley, M. A., Shapiro, C.
2005; 19 (2): 75-98

● **Property, intellectual property, and free riding** *TEXAS LAW REVIEW*

Lemley, M. A.
2005; 83 (4): 1031-1075

● **Reducing digital copyright infringement without restricting innovation** *STANFORD LAW REVIEW*

Lemley, M. A., Reese, R. A.
2004; 56 (6): 1345-1434

- **Valuable patents** *GEORGETOWN LAW JOURNAL*
Allison, J. R., Lemley, M. A., Moore, K. A., Trunkey, R. D.
2004; 92 (3): 435-479
- **Balancing ease and accuracy in assessing pharmaceutical exclusion payments** *MINNESOTA LAW REVIEW*
HOVENKAMP, H., Janis, M. D., Lemley, M. A.
2004; 88 (3): 712-721
- **Ending abuse of patent continuations** *BOSTON UNIVERSITY LAW REVIEW*
Lemley, M. A., Moore, K. A.
2004; 84 (1): 63-?
- **Policy levers in patent law** *VIRGINIA LAW REVIEW*
Burk, D. L., Lemley, M. A.
2003; 89 (7): 1575-1696
- **Are the US patent priority rules really necessary?** *HASTINGS LAW JOURNAL*
Lemley, M. A., Chien, C. V.
2003; 54 (5): 1299-1333
- **Anticompetitive settlement of intellectual property disputes** *MINNESOTA LAW REVIEW*
HOVENKAMP, H., Janis, M., Lemley, M. A.
2003; 87 (6): 1719-1766
- **Biotechnology's uncertainty principle** *PERSPECTIVES ON PROPERTIES OF THE HUMAN GENOME PROJECT*
Burk, D. L., Lemley, M. A.
2003; 50: 305-353
- **The growing complexity of the United States patent system** *BOSTON UNIVERSITY LAW REVIEW*
Allison, J. R., Lemley, M. A.
2002; 82 (1): 77-144
- **The end of end-to-end: Preserving the architecture of the Internet in the broadband era** *UCLA LAW REVIEW*
Lemley, M. A., Lessig, L.
2001; 48 (4): 925-972
- **Who's patenting what? An empirical exploration of patent prosecution** *Conference on Taking Stock: the Law and Economics of Intellectual Property Rights*
Allison, J. R., Lemley, M. A.
VANDERBILT LAW REVIEW.2000: 2099-2174
- **Private property** *Conference on Cyberspace and Privacy - A New Legal Paradigm*
Lemley, M. A.
STANFORD UNIV, STANFORD LAW SCHOOL.2000: 1545-57
- **Encouraging software reuse** *STANFORD LAW REVIEW*
Lemley, M. A., O'BRIEN, D. W.
1997; 49 (2): 255-304