CASE IP Law
The Spangenberg Center for Law, Technology & the Arts

IP Venture Clinic Working with Student Startup to Bring New Concussion Screening Technology to Market

Ranked as a top IP Law Program by PreLaw Magazine in 2017
The Spangenberg Center for Law, Technology & the Arts, supported by a $3 million gift from the Spangenberg Family Foundation, focuses on intellectual property, innovation and technology transfer. In a field where science, economics, philosophy and the law intersect, the center explores legal issues concerning biotechnology, computerization and the creative arts. The center offers a JD degree concentration in Law, Technology & the Arts, as well as a dual degree program with an MA in Art History and Museum studies. The center also offers a Masters in Patent Practice, a one-year program for science, engineering and technology graduates who want to learn patent law without earning a three-year JD degree. The center is nationally recognized, and recently earned an A in both technology and intellectual property law from PreLaw Magazine in 2017.
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In a field of more than 200 entries from college startups from around the country, a company co-founded by a Case Western Reserve University student stood out. Reflexion Interactive Technologies placed third in the national Student Startup Madness Competition’s final round at South by Southwest Interactive in March 2017.

Success during the competition was an important next step in taking Reflexion from concept to commercialization, a long and challenging path that is being paved with the help of a unique third-year law clinic focused on removing economic and legal barriers for Ohio inventors.

Reflexion Interactive Technologies was founded by three college students in August, 2015, with an idea that emerged from the personal experience of co-founder and CMO Matthew Roda. While playing ice hockey in high school, Roda was injured while sliding head first into the boards.

Without any technology available to help understand the complex symptoms of a concussion, Roda was asked three simple questions - where are you, what year is it, and who is the president? Roda passed the test and finished the game, but couldn’t remember any of it. He had suffered a concussion so severe, he was unable to attend school of the next two months.

From youth sports teams to professional sports leagues, awareness of the short and long term implications of concussions has come a long way as new research and technology has been dedicated to studying their effects. But the ability to quickly and accurately diagnose concussions has, for many, shown little progress. Players and coaches around the world are often relying on the same overly simplistic test questions that have been asked of athletes from decades ago.

Roda, a junior at Penn State, along with Cornell University senior Patrick Walsh (CIO) and CWRU junior Matt Campagna (CEO), are pushing a new innovation to the market that combines today’s technology with the modern medical understanding of concussion’s immediate effects on an athlete’s neurological function, spatial awareness, depth perception and peripheral vision.

The Reflexion Edge is a portable, collapsible, LED touchscreen that resembles an ultra-wide Light Brite. The equipment is designed to give athletes a weekly 30 second test where they quickly touch the individual lights as they turn on in order to establish a baseline of their motor skills. Following any collision where a possible concussion is suspected, teams can quickly compare an athlete’s performance against their regular test results and better determine if they should be allowed to return to the field.
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With the concept and technology in place, Reflexion took the next step forward in Fall 2016, when they were taken on as a client of the Intellectual Property Venture Clinic (IPVC), part of Case Western Reserve University School of Law’s Spangenberg Center for Law, Technology & the Arts.

The IPVC launched in 2013 with the help of a $679,400 grant from the Burton D. Morgan Foundation as part of a large scale effort to foster innovation and spur economic development in northeast Ohio. The grant allows the law school to not only provide one-of-a-kind training for law students in the business world, but also offer free legal and business expertise to student inventors and local startup companies as they enter the market. Reflexion is just one of more than 40 IPVC clients being handled by the clinic’s 11 law students, with several more startups in waiting for consideration.

“On one side, you have a great new idea, but it doesn’t have the resources to take the next step,” said Professor Ted Theofrastous, manager of the IPVC. “On the other, you have investors looking for opportunities in a market where significant barriers are preventing many startups from ever reaching the stage of being a commercial property. We’re working to bridge that gap, give our students strong experience in the broad spectrum of corporate, tax, contract and patents, trademarks, trade secrets and what they learned in class out in the real world. When they graduate, they will have the people skills, confidence and tangible experience to showcase themselves to employers.”

For Reflexion’s Matt Campagna, the work done in the clinic was an indispensible asset to the company.

“The clinic really became part of the team, and I find myself going to them more and more for general advice because they became so knowledgeable about the company. Frankly, we wouldn’t have been able to do a bit of what we have without them because it wouldn’t have been in the budget.”

“We would have needed to raise more money or give up more control of the company. Having the clinic there to help structure things the way they need to be and do things right the first time has given us a lot of protection for ourselves, our employees, and our intellectual property,” said Campagna. “We would have been stretched to find other ways to do it because it cost so much.”

To date, Reflexion has raised more than $150,000 from angel investors, grants, and the Ben Franklin Technology Partners. In May 2017, they took first place in The Investment, a Shark Tank inspired competition for Kent State University student inventors for an additional $15,000. The company also completed phase one of its clinical study in the same month. The IPVC’s work with Reflexion will continue through series A financing, a company’s first significant round of venture capital financing, when they will have enough resources to afford their own legal services. When that happens, the clinic’s mission will be accomplished.

“You can’t buy ideas or force creativity. There is an organic factor to it. So we’re working to foster an innovative and lucrative marketplace here where the best minds and best ideas can thrive,” said Theofrastous. “I’m very proud of the work our students have done across all of our clients, and we look forward to being a part of launching the next generation of Ohio businesses.”

FUSION Program

trains students to bring advanced medical imaging technologies to the marketplace.

For the 2016-2017 academic year, students in the Fusion program worked to commercialize three Case Western Reserve University technologies in the advanced imaging industry. The Fusion program provides an intensive, five-year approach to learning by combining law, business, science and engineering students into teams that work together to study and implement commercialization strategies.

The inventions analyzed by the student teams include an MRI fingerprinting technology used to diagnose different forms of cancer, nanoscale bubbles that can be injected to make tissue more responsive to CT scans; and a reactive agent that provides faster and cleaner high resolution CT scans.

Founded in 2009, the Fusion program selects a new scientific focus each year and partners with researchers from Case Western Reserve and outside institutions such as NASA. Recent research has included Economics and Genetic, Diagnostic, Image, modulation and Neuro Stimulation Technologies, Advanced Energy Technologies and Systems, Neuro Device Platform Technology, Innovation, and Advanced Applications in Networked Neuro Devices.

CWRU alum appointed Chief Judge of U.S. Court of Federal Claims

On March 13, 2017, President Trump selected Susan G. Braden as the chief judge of the U.S. Court of Federal Claims. Judge Braden ‘73, served on Federal Claims bench since 2003, when she was appointed by President Bush and unanimously confirmed by the U.S. Senate.

Prior to joining the U.S. Court of Federal Claims, Braden received several awards for her trailblazing work in intellectual property and has been recognized by the American Bar Association, the New York Intellectual Property Lawyers Association and the American Inns of Court.

Braden also served as a judicial adviser on the American Law Institute’s reinstatement of the law on copyright project, as a member of the American Intellectual Property Law Association’s Judges Special Committee, as chair of the Intellectual Property Committee of the Advisory Council of the U.S. Court of Federal Claims, and as chair of the American Bar Association’s Intellectual Property Law Task Force. She also served for three years as a member of the Standing Committee on Ethics and Professional Responsibility—Judges Advisory Committee to the American Bar Association, and helped the American Law Institute draft its restatement of law for restitution and unjust enrichment.

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the Intellectual Property Venture Clinic (IPVC) filed its first amicus brief with the U.S. Court of Appeals for the Federal Circuit on October 5, 2017, a milestone achievement for the third-year clinic. The brief, prepared in partnership with The Ohio Venture Association, was filed in support of Aqua Products Inc.’s attempt to amend patent claims on its automatic swimming pool cleaner jet drive propulsion system, which was denied by the Patent Trial and Appeal Board (PTAB) and subsequently upheld by the court on appeal. The brief, prepared by Adjunct Professor Tim O’Hearn, a former partner at Jones Day and judge on the PTAB, and April Hu, a 3L law student studying in the clinic, supported Aqua Products Inc.’s position that the Patent Act of 1952 explicitly protects patent owners and that any challenge to a patent should leave the burden of proof on the challenging party, not the patent holder. The brief concludes that “assigning the burden to patentees to establish patentability of amendments is an error and should be overturned.”

Law clinics typically offer service to individuals and entities with limited resources. The IPVC takes that model and applies it to startup companies.

The recent decision by The Federal Circuit to grant a petition for rehearing before the full court presented the clinic an opportunity to expand its growing role in the intellectual property space. "Law clinics typically offer service to individuals and entities with limited resources," said Professor Craig Nard, director of the Spangenberg Center for Law, Technology and the Arts. "The IPVC takes that model and applies it to startup companies, which typically have no affordable avenues for legal services. By working directly with inventors and startups, the clinic constructs commercialization strategies, drafts business formation documents and secures intellectual property rights for its clients."

Now the clinic is moving a step further and venturing into a wider advocacy role, using the amicus brief as a vehicle to articulate viewpoints and positions relevant to the intellectual property system. The amicus brief, prepared by Adjunct Professor Tim O’Hearn, a former partner at Jones Day and judge on the PTAB, and April Hu, a 3L law student studying in the clinic, supported Aqua Products Inc.’s position that the Patent Act of 1952 explicitly protects patent owners and that any challenge to a patent should leave the burden of proof on the challenging party, not the patent holder. The brief concludes that “assigning the burden to patentees to establish patentability of amendments is an error and should be overturned.”
Case Western Reserve University School of Law has been selected to host the 2018 Works-In-Progress Intellectual Property Colloquium. Now in its 15th year, the WIPIP is one of the largest intellectual property scholarship conferences in the U.S. More than 100 scholars from the United States and around the world will present their cutting-edge projects in development, take questions and comments from the audience and receive early stage feedback on their ongoing research. The conference will feature multiple concurrent sessions grouped across the broad spectrum of intellectual property law. Information about submissions and registration will be available online at law.case.edu/lectures-events.
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advocates on First Amendment issues. “We’re defending the core principals of the First Amendment - whatever industry or individuals that we believe are being demonstrably harmed,” said Kabat. “Cleveland is home to a robust community of creative people in technological, performing arts and cultural institutions. They work in a space that suffers persistent threats and claims by well-heeled interests seeking to censor or assert ownership over their work and many don’t have the means to defend themselves. We’re looking for issues to make sure that the rights of writers, artists, and other vital contributors to our culture are being enforced as well.”

In partnership with the City Club of Cleveland, the lab has also convened an advisory board to identify current issues in the community ranging from governmental transparency to creative expression in the arts. The board will help steer The First Amendment and the Arts Project to community needs and cases that have significant impact on the area, where the lab’s students will take part in important legal work on behalf of the community.

The lab has already planted a flag for the public’s First Amendment right of access to court records and proceedings, challenging a gag and sealing order entered in a civil fraud action in Summit County. That case is just the beginning: the lab has identified several other pressing issues where the public’s interests are underrepresented and its participants will take an active role in protecting the public’s rights. “The students will perform research, draft briefs, work with clients and join us in court, doing all of the work that media lawyers would do,” said Kabat. “We are treating this like a flagship law journal, where it will ultimately be run by students. They’ll learn to take accountability in representing clients and moving cases forward all while building out the public’s rights in an underserved area.”

This fall, the lab is hosting its inaugural conference, titled “Ghosts in The Machinima: Interactive, Augmented, and Virtual Worlds.” The conference, to be held on October 13th in partnership with the City Club of Cleveland and local virtual reality firm EventWorks4D, will examine the omnipresent alterations to reality enabled by new technologies and the legal and cultural consequences of living in an increasingly virtual world. Keynoted by Philip Levlveld, who led Disney’s strategic planning in new media and technology before helming the studio-driven entertainment technology consortium at the University of Southern California’s School of Cinematic Arts, the conference will bring together key stakeholders in the video gaming industry, virtual reality evangelists, amateur directors and performance artists to discuss the law’s impact on the entertainment and technology of tomorrow.
Launched in the summer of 2011, The Great Lakes Sports and Entertainment Law Academy is an affiliation between Cleveland-Marshall College of Law and Case Western Reserve University School of Law, giving students from the two schools the chance to gain exposure and real world experience in sports and entertainment law.

Now the three-week summer academy will expand its reach nationally, with the courses being offered online to all law students in good academic standing that are attending ABA recognized law schools following the completion of their first year.

“The Academy has been a great success for the last few years, giving Case and Cleveland-Marshall students intense exposure to sports and entertainment law,” said Craig Nard, Director of the Spangenberg Center for Law, Technology & the Arts. “These industries have their roots at the local level, so it makes sense to offer the academy in a way that helps students take what they learn online and use that to tap into their own communities.”

Academy students choose between two concentrations—Sports Law and Entertainment Law—with each concentration comprised of two courses and four total credits. The courses focus on doctrine, drafting and negotiation in simulation-based exercises.

Additionally, students have the option to compete for high-profile externships in the sports and entertainment industries following completion of the coursework. GLSELA has partnered with several institutions, including the Rock and Roll Hall of Fame, Lake County Captains, SPIRE Institute (an Olympic Training Site), Cleveland State University Athletic Department, Case Western Reserve University Athletic Department, Case Western Reserve University Office of General Counsel & Athletic Department, Dietz Trott Sports & Entertainment, Vuguru Studios and the Greater Cleveland Film Commission.

Chris Harrington
In-House Counsel, Cleveland Cavaliers
Former Student & GLSELA Executive Assistant
Already supporting dozens of clients headed into its third year, the Intellectual Property Venture Clinic’s (IPVC) Patent Pro Bono Program recently secured its first patent for a local Ohio inventor.

“We hope this patent is the first of many,” said Michael Russell, staff attorney and client coordinator for the law school’s Milton A. Kramer Law Clinic IPVC Patent Pro Bono Program. “The entire IPVC program not only benefits entrepreneurs who otherwise couldn’t afford the legal services, but our law students, who gain valuable, real-life experience in patent law work.”

Like many inventors, Doug DeWalt’s challenge was a lack of resources. After a family babysitter was diagnosed with multiple sclerosis at age 18, he began work in his basement on an ultraviolet lamp to help people afflicted with the disease. Despite his promising work, a patent seemed out of reach.

“We wanted to find a way to help local inventors who lack financial means connect with and participate in the regional entrepreneurial economy,” IPVC Managing Attorney Ted Theofrastous said. “Our main goal was to get a system in place to efficiently review and cultivate what has turned out to be hundreds of candidates. We screen them to find out whether they have something that is truly patentable and meet the program’s income requirements. Then we match them up with volunteer IP attorneys who may want to help them.”

Depending on an inventor’s legal needs, a referral could also be made to law students in the IPVC, where they would have access to a broader range of IP and venture representation.

“Our program goes one step toward resolving a difficult Catch-22,” Theofrastous said. “Entrepreneurs without solid intellectual property are likely to struggle raising funds. Meanwhile, these community inventors do not have the financial resources necessary to prepare and file a patent application. The pro bono program attempts to address that conundrum.”

Today, DeWalt has started his own business, Rayminder, to make and market the lamp, hoping his grant of a patent will lead to clinical trials. He also intends to seek U.S. Food and Drug Administration approval of the device.

The Patent Pro Bono Program also continues to grow, experimenting with new ways to connect inventors with volunteers. Recently, the program held its first “Patent Pro Bono Day,” where over a dozen volunteer patent attorneys met with pre-screened inventors to review and advance their case. The open session was sponsored by the Cleveland Intellectual Property Law Association, which has actively supported the program since its inception.
Professor Craig Nard leads national conversation on the marijuana industry and the patents that are poised to make it BIG business.

Neither marijuana, nor human interest in it, is new. The relationship between man and the plant dates back 5,000 years, but today's emerging acceptance of the plant for recreational, religious and medical use has opened a floodgate of complex scientific and legal questions in the United States.

In recent decades, the drug has shifted from a black market commodity into the infancy of a multi-billion-dollar industry, with eight states approving the drug for recreational use and nearly thirty more allowing it for medicinal purposes. As with any business, the potential for profit relies on the legal protection of ideas.

Professor Craig Nard, one of the nation's most cited experts in patent law and Director of the Spangenberg Center for Law, Technology & the Arts, has weighed in on the issue of patents and the future of legal marijuana in the United States in numerous media outlets and publications including Business Insider, Salon, International Business Times and PBS NewsHour.

"Where there is money to be made now or in the future, entrepreneurs will take risks," said Nard. "Many cannabis patent applicants are positioning themselves today for what they expect to see within the foreseeable post-Trump future: marijuana being legal for recreational and medical use from coast to coast according to federal and state laws alike."

While the business motivations of the marijuana industry are relatively straightforward, with demand driving legal and illegal production of the drug, deciphering how marijuana fits with current law is far more complex.

Despite its current classification as a Schedule I drug by the federal government, the race for marijuana related patents is well underway. Dozens of patents have been issued, ranging from patches to administer the drug, specialized vaporizers, plant breeding and strains, beverages, and production.

"Ironically, it's not just prospecting businesses that are seeking these patents. The government has patented a method of administering a therapeutically effective amount of a cannabinoids," said Nard. "Our patent system was designed and confirmed by the courts to be amoral and nonjudgmental, putting the mundane and the controversial on a level playing field. However, that doesn't mean that the current laws and patent enforcement aren't in conflict."

"Say the owner of a patent on a particular strain of cannabis sues a marijuana grower in Colorado – which legalized pot for recreational use – for patent infringement in a federal court. Patent law is exclusively federal, so the grower cannot successfully argue that patent law doesn't matter. Yet the grower can assert that the patent is unenforceable, not because it fails to satisfy the patent laws, but because the patent covers an illegal substance," said Nard.

"The grower could argue that the patent owner can't stop him from doing something that a state's law permits, and that federal law forbids the patent owners from doing. The patent owner may respond that federal law gives him the right to stop others from using or growing their patented invention. Therefore, a patent on a particular strain of pot may be used to stop someone from growing or selling it, even in a state that has legalized weed."

"In theory, patent owners may sue to stop anyone from growing specific kinds of patented pot plants in any state or territory – whether or not pot is legal there. To date, this hasn't happened and we don't know how this would play out in court. Until marijuana is rescheduled, there is a potential conflict that could result in some very interesting litigation."
The Spangenberg Center for Law, Technology & the Arts hosted its annual distinguished lecture on October 18, 2016, featuring the Honorable Kathleen O’Malley ’82, a federal judge of the United States Court of Appeals for the Federal Circuit. Her lecture, The Uneasy Relationship Between Innovation and Intellectual Property Protection, explored the history of congressional patent regulations, their effect on the patent system and innovation, and what changes are needed to recognize the diverging incentives and protections needed for different industries that will best promote the “Progress of Science” across all fields.

O’Malley concluded with the idea that no one-size-fits-all statutory scheme can achieve the best results, as it could encourage innovation in one area but hinder it in another in this time of rapidly advancing technology.

In Spring 2017, Andy Geronimo ’10 joined the Spangenberg Center for Law, Technology & the Arts as a fellow with the recently started First Amendment and the Arts Project. Geronimo, who was raised in Shaker Heights, graduated with an English degree from Fort Lewis College in Colorado before returning to Cleveland for law school.

While studying law, he worked for the Cleveland Metropolitan Bar Association and the Office of the Federal Public Defender. Geronimo also helped form the law school’s Journal of Law, Technology & the Internet, expanding it from a blog to a peer reviewed print publication.

Since graduating, he has worked as an attorney for a number of law firms and companies, including the Cleveland Metropolitan Bar Association, BakerHostetler and Singerman, Mills, Desberg & Kauntz Co., LPA, with experience in attorney ethics, insurance defense and municipal defense litigation, and business and real estate litigation.

Geronimo will be the second member of his family to work at the law school. His wife, Caitlin Bell, is an adjunct professor of law teaching White Collar Crime: Prosecution & Defense.
The Masters in Patent Practice program is the first of its kind in Ohio and one of only a handful in the nation. The program is designed to prepare students with undergraduate degrees in engineering, computer science or a physical science to quickly start their careers as patent agents - a career with a national median income of $124,000 in 2015 and an average salary of $95,000 here in Cleveland, Ohio.

The degree is an alternative for students who want to utilize their technical training to enter a field with growing demand. According to the USPTO, there are about 11,000 registered patent agents. Because of the greater scientific comprehension ability through law school, the program’s ability to bottleneck the process patent applications go through once patent applications and an in-depth review of marketing the USPTO, there are about 11,000 registered patent agents. Because of the greater scientific comprehension ability through law school, the program’s ability to bottleneck the process patent applications go through once patent applications and an in-depth review of patent applications to help with the litigation, appeals and review processes.


Creative Commons and the Future of Copyright, Intellect, 2015


Ownership and Deception in the Digital Economy (MIT Press)


Chairman/CEO of Magis, LLC, a privately owned sports marketing, management and investment company.

Faculty Advisor to the Harvard Law School’s Committee on Sports and Entertainment Law and its Journal on Sports and Entertainment Law. He is also Faculty Supervisor of Harvard Law School’s Entertainment Law and Sports Law Clinical Program.

Visiting Professor and Director of the Sports Law Honors Track and LLM Program at the University of Miami in the spring term.


Theodore Theofrastous Distinguished Practitioner in Residence Professional


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Took part in a panel discussion devoted to the questions “What should histories and theories of intellectual property be doing?” at the 7th annual workshop, July 22-24, 2015 of the International Society for the History and Theory of Intellectual Property (ISHITP). The workshop was hosted by the University of Pennsylvania School of Law. Also participating on the panel were Lionel Bently (Law, Cambridge U), Kathy Bowery (Law, U New South Wales), and Adrian Johns (History, U Chicago).

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Took part in a panel discussion devoted to the questions “What should histories and theories of intellectual property be doing?” at the 7th annual workshop, July 22-24, 2015 of the International Society for the History and Theory of Intellectual Property (ISHITP). The workshop was hosted by the University of Pennsylvania School of Law. Also participating on the panel were Lionel Bently (Law, Cambridge U), Kathy Bowery (Law, U New South Wales), and Adrian Johns (History, U Chicago).

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