Over the past two decades, the proliferation of digital technologies and broadband internet connections has provided consumers with unprecedented access to inexpensive, easy-to-locate, perfect copies of copyrighted media through peer-to-peer (P2P) networking programs. In the wake of these technologies, content creators, technology makers, corporations, consumers, and copyright owners have taken sides over issues as diverse as compensation, privacy, fair use, and enforcement in the P2P community. Today’s symposium focuses on discovering and utilizing methods to resolve these conflicts through the law, policy, and ever more sophisticated technological measures.

Approximately nine months ago, the Supreme Court’s decision in *MGM v. Grokster* was the first to address the concept of a disputed technology’s “substantial non-infringing uses” since the Court’s decision in *Sony v. Betamax* over 20 years ago. The depth and viability of this standard, which proponents argue fosters innovation and opponents argue insulates primary and secondary copyright infringers from prosecution, have been hotly debated since the *Betamax* decision. In its decision, the Court left the *Betamax* standard largely undisturbed and in its stead created a new theory of secondary copyright liability. Borrowed from patent law, liability under this new theory arises from a technology creator’s “intent to induce” primary users to commit infringing acts, regardless of the amount of knowledge or control the technology creator may be able to exercise over users.

How will courts interpret this “intent to induce” in light of new technologies? How will technology makers improve existing technologies and create new ones under this broad and largely untested form of liability? Must copyright owners continue to enforce their rights in court, or are there alternative legal and technological mechanisms that are more efficient and less costly for all involved? Will this new threat of liability prove to be a solution that will pay off for copyright owners and the public at large, or will it ultimately force entrepreneurs, manufacturers, and consumers to pay more for less?

It is with these and other questions in mind that the *Michigan Telecommunications and Technology Law Review* proudly presents the symposium “21st Century Copyright Law in the Digital Domain.” Using the Supreme Court’s decision in *MGM v. Grokster* as a launching point, it is our hope that today’s discussions will spur new answers to these questions and positively impact the changing landscape of copyright and digital technology.
Symposium Panels

Panel I: Grokster and Its Aftermath
Would the VCR exist without the Betamax decision? Would there be a market for the iPod if its creators had launched it after Grokster? As digital technology marches forward and consumers become increasingly tech-savvy, the Grokster decision will have far-reaching implications for creators of content and technology, consumers and users of peer-to-peer software, and the entrepreneurs seeking to capitalize on the dissemination of technology and content. This panel will explore how courts are to navigate the increasingly challenging concept of “substantial non-infringing uses” in copyright law and how creators, owners and innovators will respond.

Panel II: Implications for Technological Innovation
How are policy makers to create legislation that protects content owners’ rights without arresting the development of new and revolutionary technologies? One of the main policy implications of Grokster is the unknown effect that hard-line rules created to protect content owners in the present will have over the rapidly changing pace of technological innovation. As the information sector continues to spur economic development across the globe, the Grokster decision will affect both existing technologies and attitudes towards the creation of new ones. This session will explore the trade-offs between protecting content owners and fostering technological advancement.

Panel III: International Alternatives and Enforcement
What are the proper means for enforcing U.S. copyright laws when cyberspace has no borders? What are the merits and detriments of solutions utilized in other nations? The United States is not alone in its determination to resolve the difficulties presented by digital technologies on content owners’ rights, both at home and abroad. Other nations have implemented different solutions to the challenge of digital copyright with varying success. This panel will discuss the merits of these differing approaches in foreign countries and the challenges they pose to U.S. enforcement of its policies internationally.

Panelists

Hai Abelson, Class of 1923 Professor of Computer Science and Engineering
Massachusetts Institute of Technology

Michael W. Carroll, Associate Professor of Law
Villanova University

Niva Elkin-Koren, Professor of Law
Co-Director, Haifa Center of Law and Technology
University of Haifa, Israel

Edward W. Felten, Professor of Computer Science and Public Affairs
Princeton University

Michael Geist, Canada Research Chair in Internet and E-commerce Law
University of Ottawa

Susan M. Kornfield
University of Ottawa

Lynda Oswald, Professor of Business Law
University of Michigan, Ross School of Business

Richard Owens, Executive Director
Centre for Innovation Law and Policy
University of Toronto

Margaret Jane Radin, Wm. Benjamin Scott and Luna M. Scott Professor of Law
Stanford Law School

R. Anthony Reese, Thomas W. Gregory Professor
University of Texas Law School

Fred von Lohmann, Senior Intellectual Property Attorney
Electronic Frontier Foundation

Barbara Simons, Former President
Association for Computing Machinery
Retired, IBM Research

David Sohn, Staff Counsel
Center for Democracy & Technology

Schedule of Events

Friday, March 24, 2006

9:00 a.m. Registration and Continental Breakfast
9:45 a.m. Welcome and Introductory Remarks
10:00 a.m. Keynote Address: Pamela Samuelson
10:30 a.m. Break
10:45 a.m. Panel I: Grokster and Its Aftermath
12:15 p.m. Lunch
1:45 p.m. Panel II: Implications for Technological Innovation
3:15 p.m. Break
3:30 p.m. Panel III: International Alternatives and Enforcement
5:00 p.m. Closing Remarks
6:30 p.m. Dinner Banquet (Campus Inn)
Final Remarks: Pamela Samuelson

Keynote Speaker
Pamela Samuelson

Pamela Samuelson is a Chancellor’s Professor of Law and of Information Management at the University of California at Berkeley, a Director of the Berkeley Center for Law & Technology, and an advisor to the Samuelson Law, Technology and Public Policy Clinic at Boalt Hall. She teaches courses on intellectual property, cyberlaw and information policy, and she has written and spoken extensively about the challenges they pose to U.S. enforcement of its policies internationally.