

# around **CAMPUS**

## Dean Announces Joint Venture with Cal Press

Paul Verkuil announced recently that Cardozo has entered into a relationship with the University of California Press to publish Philosophy, Social Theory and The Rule of Law—an international and inter-institutional series of scholarly books. The series will be relaunched under the

auspices of the Jacob Burns Institute for Advanced Legal Studies.

Eric Smoodin, philosophy editor, University of California Press, said, “We are convinced that it will be a successful and ongoing series for us. The renewed interest that Cardozo has shown matches our own, and I’m especially impressed by the ideas and quality of scholarship among the Cardozo editors.”

Professors Arthur Jacobson and Michel Rosenfeld, who were among the series founders, will remain on the editorial board, which will be expanded to include Prof. Peter Goodrich and two members of the University of California faculty. Eight books have already been published, and plans call for publishing two or more books per year over the course of the five-year agreement. These edited

compilations introduce and make accessible European jurisprudence and philosophy to an American audience while providing a focus for people interested in the intersection of the three fields.

Professor Jacobson noted that this marks the first time that a law school has formalized a relationship with a university press. “It will be exciting for our students and important for

## LL.M. Program Flourishes

In January, 18 students graduated from Cardozo’s LL.M. program and 15 more began their studies, joining 34 LL.M. candidates who entered in the fall. Approximately 60% of the students are studying intellectual property, and two-thirds come from abroad; all add to the growing diversity found on campus.

This year, students represent 30 countries, coming from Europe, Asia, the Middle East, South America, and New Zealand. The variety of interests and backgrounds among the LL.M. students is well shown by Victor Knapp and Elina Koci. Knapp is a criminal defense lawyer and an actor who recently appeared in a film, playing a ter-

rorist. Koci, who is Albanian, won a Ron Brown Fellowship to study intellectual property law and is known as Albania’s first specialist in the area of IP.

According to Toni Fine, director of graduate and international programs, several new programs were instituted

this year to enhance the graduate student experience and strengthen the bonds between LL.M.s and the larger Cardozo community. Among them are informal, weekly roundtables that feature invited guests speaking on topics of particular interest, an alumni mentoring program, and a system that pairs incoming students with those who are returning.



the faculty.” Future books will be printed with credits to the Jacob Burns Institute for Advanced Legal Studies, the Benjamin N. Cardozo School of Law, and Yeshiva University.

According to Dean Verkuil, “The University of California Press is, with Harvard, Yale, Princeton, and Chicago, one of the top university presses in the country.” He said that this publishing venture will attract scholars to and increase the intellectual reputation of Cardozo.

The book series will also provide a focus for promoting and publishing future scholarly conferences—one on Nietzsche scheduled for the spring may become the basis of a future book, as may one planned on Spinoza. Professor Goodrich said, “It adds to Cardozo’s huge reputation in interdisciplinary legal studies, creating an international dialogue in an area that is known to be insular—legal philosophical thought.”

In a separate but related agreement, University of California Press has agreed to publish Cardozo Studies of Law and Literature. According to Prof. Richard Weisberg, Cardozo will retain complete editorial control of the journal while “all of the business, marketing, and printing will be handled by this wonderful university press, which will help to build the field of law and literature.” The journal will be relaunched, with a name change, probably in the fall of 2001.

Professor Weisberg said

that a new editorial structure will be put in place so that he, Professor Goodrich, Michael Pantazakos, and Prof. Penelope Pether of Washington Law School at American University will be general editors each responsible for one number a year. “This expansion will further enrich the scope and content of our seminal journal.” Up to 10 student editors will continue to work on the publication, including the one chosen annually by the Law School as the Floersheimer Fellow in the Humanities.

### Dickinson Gives Tenzer Lecture

The attorney examiners who review patent applications for the United States may be dealing with innovations that are “unimaginable,” but the spate of useful and novel inventions

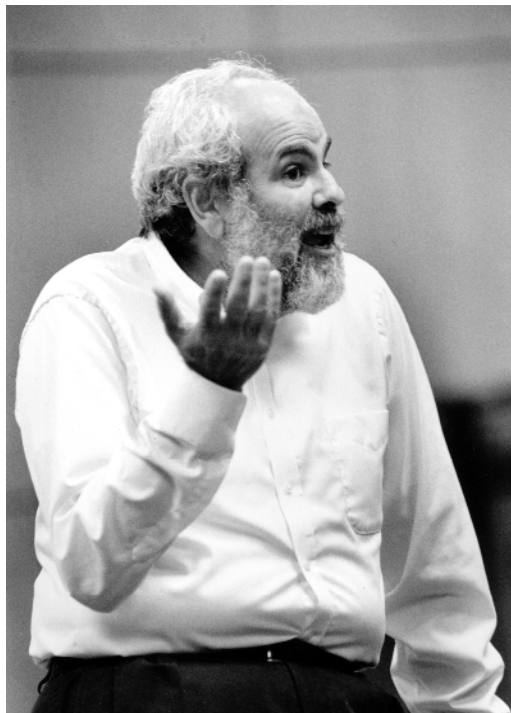
need not be “unmanageable.” In fact, the economy has been well served by an intellectual property system that “is strong by being flexible.”

That was the message from Q. Todd Dickinson, the Clinton administration’s point man on domestic and international intellectual property issues, when he gave the Annual Tenzer Distinguished Lecture in Intellectual Property. In addition to directing the United States Patent and Trademark Office, Dickinson was the Under Secretary of Commerce for Intellectual Property.

In “E-Commerce and Business Methods Patents: An Old Debate for a New Economy,” Dickinson said



that despite the controversy surrounding such patents there is nothing in the legal standards governing intellectual property that would deny limited property rights to their developers. A novel point-and-click method for ordering goods over the Internet deserves protection in much the way the cash register did in the 19th century. Dickinson added, however, that the Patent Office has revised its



### Legal Aid President Talks on Public Interest Law

At the first lecture of the Access to Justice series, sponsored by the Jacob Burns Ethics Center, Daniel Greenberg, president and attorney in chief, Legal Aid Society, spoke about “Client Commitment and Curiosity: How to Think About a Career in Public Interest Law.”

procedures to control the number of business method patents it issues.

In areas such as the protection of databases that “can be pirated in the blink of an eye,” Dickinson said that his agency has tried to set a balance between protection of inventors’ property rights and the wide dissemination of innovation. As evidence of its success, he noted that this country’s biotechnology industry is healthier than those of its European competitors, resulting in research scientists moving to the United States. At the same time, there is a growing appreciation of intellectual property in once-skeptical developing countries.

The Patent Office has moved to make more than two million patents and registered trademarks and applications freely available on the Internet and to implement electronic filing of trademark and patent applications. This activity is taking place against a backdrop of increasing globalization and international legal norms for the protection of intellectual property. As a result, while officials ponder the effects of sophisticated computer networks, they also must develop effective global enforcement mechanisms to protect the folklore of traditional cultures.

Dickinson concluded that the US intellectual property system is well prepared for the challenges of the future. “We are not a typical government agency,” he said.



Avatar Records announced the donation of \$10,000 to the Innocence Project at a press conference held in the Jacob Burns Moot Court Room. The donation was made in advance of a January release of *Oz—The Soundtrack*, an all-star rap compilation from the HBO prison drama *Oz*. Avatar President Larry Robinson is shown here giving the contribution to Prof. Barry Scheck while some of the actors and rappers look on. A per copy royalty will be donated to the Innocence Project as well. Shown at back (from left) are *Oz* cast member De'an Winters, *Oz* musical supervisor Chris Tergeson, *Oz* creator and executive producer Tom Fontana, and sound track artist Pharoahe Monch.



Senior Associate De'an Stewart Sterk inaugurated a monthly bagel lunch to create a way for the entire Cardozo community to meet informally and to keep the lines of communication open. “First Wednesday” has been well-attended by students, faculty, and administration. David Tawil '02, SBA senator, said, “Encouraging this kind of interaction is a great idea; it significantly boosts school morale.”

## Conference Debates Cooperating Witnesses

A recent United States Supreme Court decision described how the story of a key prosecution witness evolved, under careful coaching, from “muddled memories,” to providing a very detailed and powerful account of a capital murder.

The FBI was rocked by revelations that key mob informants in Boston had used their relationship with federal agents to eliminate their competition while they continued to commit crimes, up to and including murder.

In Canada, the government of Ontario convened

a commission to examine the case of a young man who had been exonerated of murder charges 10 years after the testimony of jailhouse informants played a pivotal role in his conviction.

These and other cases were cited in an ambitious day-long conference at Cardozo on what organizers described as a troubling “conundrum”: Is justice obtainable in a system that increasingly relies on deals struck with “cooperating witnesses”—also known as “criminal informants” or “snitches”—who barter false testimony in exchange for lenient treatment by prosecutors of their own law-breaking? More than 150 prosecutors, defense attor-

neys, judges, and academics attended the conference, which Prof. Ellen Yaroshefsky, the conference organizer, said was the first opportunity for criminal justice system professionals to debate issues surrounding the use of informants. It was sponsored by the Jacob Burns Ethics Center and the Cardozo Law Review.

Professor Yaroshefsky said that most prosecutors are convinced that many significant cases could not be made without the help of cooperating witnesses. They also believe that vigorous cross-examination, careful corroboration, and other checks built into the system are sufficient to prevent wrongful convictions based on false testimony.

However, Professor Yaroshefsky and her colleagues indicated that false testimony was a factor in 21% of 77 wrongful convictions.

The whole problem is “grossly exaggerated,” said Shirah Neiman, deputy US Attorney for the Southern District of New York. She insisted that most informants signed up by her office tell the truth, and careful procedures catch mistakes before any damage is done.

Some prosecutors and investigators rely on “common sense” or their “gut” to ferret out informants who are lying. But Saul Kassin, a professor of psychology, argued that “as a general rule, we are terrible human lie detectors.” Studies indicate that most people’s ability to detect a falsehood is not significantly better than would be achieved by flipping a coin. “Experts,” such as FBI agents and judges, do not do much better.

Prosecutors and judges scoffed at Kassin’s research, suggesting that psychologists were looking for lucrative expert witness fees. Neiman said that psychologists “obfuscate” the issues of a trial and shade the truth to help their clients.

Judge Stephen S. Trott of the United States Court of Appeals for the Ninth Circuit, who gave the luncheon keynote and participated on one panel, said that prosecutors had to be very careful in working with informants. The screening system works pretty well, but “there are way too many individual



Cardozo professors were on the airwaves, in the press, on TV, and even online at dot.com news services. They were on hand at all hours of the day to help interpret for Americans and the world the complex and unprecedented legal developments in the weeks following the presidential election. Marci Hamilton, Michael Herz, John McGinnis, Leslie Newman, Monroe Price, David Rudenstine, Dean Paul Verkuil, and Ed Zelinsky were on CNN, CBS, NBC, MSNBC, NY1, National Public Radio, Fox News, and WPIX. They were quoted in the New York Times, USA Today, The Jerusalem Post, had op-eds published in the New York Post, and were consulted for background expertise for other media outlets. See p. 15.



Gerald Lefcourt, Esq., and Loretta Lynch, US Attorney, Eastern District of NY, were commentators at conference panel.

“Prosecutors are in a key position to do that.” To help them do a better job, panelists offered a variety of suggestions. Among them were better supervision and training, fuller documentation of plea negotiations including the use of videotaping, beefed-up internal standards, additional court hearings to reveal “tainted” testimony, more detailed instructions by judges to alert juries to the problems of informant testimony, tougher punishment for informants who lie, and a restriction, if not outright ban, on the use of jailhouse snitches.

disasters where the justice goes haywire.” Criminals understand that the best way to get out of trouble is to cut a deal with the government. “Frequently they tell the truth, but frequently they lie,” he said.

Prof. H. Richard Uviler, Columbia Law School, said that prosecutors do not hesitate to revoke the “contracts” of witnesses who lie. But Prof. Bennett L. Gershman of Pace said that many prosecutors are motivated by a “conviction psychology” instead of a desire to “do justice.” Witnesses have an incentive to tell prosecutors not the truth, but what they want to hear. This trait is encouraged by improper coaching of witnesses, “the dark, dirty secret of the American adversary system.”

Traditionally, partisans of the adversary system have relied on cross-examination at trial to disclose if any witness is lying. New York attorney Gerald Lefcourt complained that prosecutors do not turn over enough information to facilitate effective questioning. “It’s the policy to make sure that defense attorneys are not fully prepared,” he said. Other speakers said

prosecutors may be reluctant to turn over more than the bare minimum of information because they think it would be used by the defendant, who has as much, if not more, incentive to lie as the informant.

In any case, US District

Judge Gerald E. Lynch, who sits in the Southern District, pointed out that since most cases are resolved through pleas, “95% of defendants never get any trial.” Cross examination—“the great engine of truth”—may be irrelevant in such a system.

When all is said and done, however, “somebody has to tell who is telling the truth,” said Judge Lynch.

#### Intellectual Property Program Launches Speakers Series

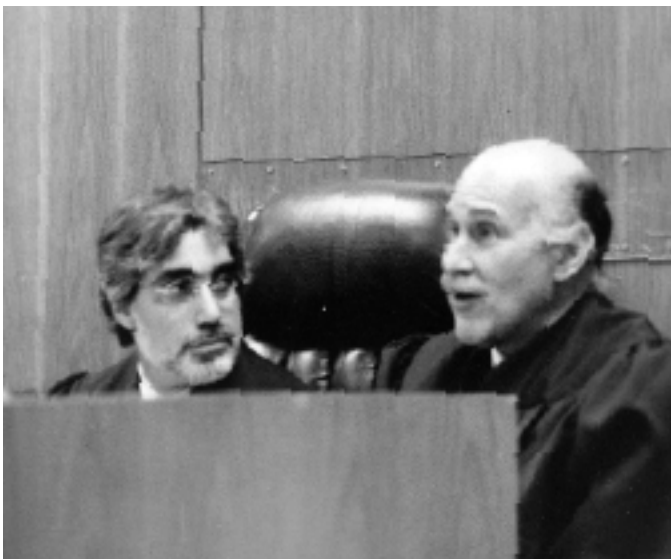
In the fall, the inauguration of the Law School’s Intellectual Property Speakers Series was instituted to provide another forum at Cardozo for discussion of cutting-edge issues in the field. Students were invited to the colloquium following each faculty talk. Speakers included: Alfred C. Yen, associate dean for academic affairs and professor of law, Boston College Law School; Julie Cohen, associate professor of law, Georgetown University Law Center; and (pictured below) Peter Feng, associate professor of law and deputy head of the law department, University of Hong Kong. Speakers in the spring are: Michael Froomkin, professor of law, University of Miami School of Law; Robert Denicola, Margaret Larson Professor of Intellectual Property Law, University of Nebraska College of Law; Wendy Gordon, Paul J. Liacos Scholar-in-Law and professor of law, Boston University Law School; and Arti Rai, associate professor of law, University of San Diego Law School.



## Moot Court Team Advances to Finals

Cardozo's Moot Court Honor Society won second place in the team competition for the Annual National Moot Court Competition for region II held at the New York City Bar Association. The team advanced to the nationwide competition held in January. Winning team members were Aglaia Davis '01, who also was a runner-up for Best Oralist; and Jason Halper '01 and Jennifer Loyd '01. The team also won Best Brief in region II. They argued whether it violates the first amendment to hold a newspaper civilly liable for obtaining information in violation of the federal violation statute.

Judges for the finals were (on left) Hon. Marty Schulman, NY State Supreme Court; Ira Glasser, executive director of the American Civil Liberties Union; and (not pictured) Dean Stewart Sterk.



The Paulsen Moot Court Competition, as is the tradition, wrestled with topical issues before the US Supreme Court—this year they argued about the constitutionality of police roadblocks and drug testing of pregnant women. The winner was Mary Alestra '01 and runner-up for Best Oralist was Scott Sisun '01. The other two finalists were Rachel Hirschfeld '01 and Aaron Kranich '02.

## Panel Explores Ways to Bring Technological Advantages to More Communities

The emergence of the Internet and new technologies has created a gap between those people and communities that make effective use of information technology and those that cannot because of lack of knowledge and/or access to hardware. This phenomenon is known as the digital divide. At "Bridging the Digital Divide: Equality in the Information Age," legal experts and consumer advocates discussed the social implications of this issue and ways in which various communities can engage in and be empowered by technology.

Panelists were Tracy Cohen, regulatory advisor, Internet Service Providers Association of South Africa, and research associate, Wits

This year, orientation was extended to include a special luncheon in addition to the traditional boat cruise. Cardozo's First Annual New Students Luncheon was held at the

recently opened Center for Jewish History, just a few blocks from Cardozo. A good number of faculty and current students were on hand to welcome members of the class of 2003. Shown here are Tran Smith '03 and Portia Downing '03.



University, Johannesburg; Mark Cooper, director of research, Consumer Federation of America; Mary Keelan, telecommunications advocacy consultant, Libraries for the Future; and Sefaan Verhulst, scholar-in-residence, Markle Foundation, and director, Programme in Comparative Media Law & Policy,

Mary Keelan



University of Oxford. Peter Yu '99, executive director of the Intellectual Property Law Program and deputy director of the Howard M. Squadron Program in Law, Media & Society at Cardozo, moderated.

## Students Organize ABA/ADR Chapter; Negotiation Teams Go to Finals

A dispute resolution section of the American Bar Association is encouraging the development of law school chapters: Cardozo's ADR Society, formed this fall, is one of the first such chap-

ters nationwide. Fifty students have already joined. Through a combination of lectures, symposia, competitions, and public service projects, Society organizers Cynthia Devasia '02 and Jonas Karp '02 hope to educate Cardozo students and the community about dispute resolution. "We intend to show our peers what an important tool mediation

is," said Ms. Devasia.

The Society's inaugural event, "All About ADR," was a presentation by Daniel Weitz '96, statewide ADR coordinator for the New York State Unified Court System. Among the activities planned is setting up or supporting peer mediation programs in K-12 schools.

The Kukin Program for Conflict Resolution hosted

the 12th Annual Cardozo/ABA Negotiation Competition. Two winning teams, Venus Sahwany '02 and Megan Weiss '02 and Alexandra Hochman '01 and Sima Saran '01, went on to represent Cardozo in the ABA Regional Competition held at Albany Law School, where the Sahwany/Weiss team advanced to the final round.

## Budapest is Site of Summer ADR Program

This summer, Cardozo is launching an intensive international conflict resolution program set in the dynamic context of Central and Eastern Europe's emerging democracies. "Managing Conflict and Fostering Democratic Dialogue" will be taught at Central European University (CEU) in Budapest, Hungary, and is co-sponsored with Hamline University School of Law. Students from US and international law schools and graduate programs will learn side by side using multinational examples.

Prof. Lela Love, director of Cardozo's conflict resolution program, hopes to put critical negotiation skills in the hands of future lawyers. She notes, "In Eastern Europe there is not sufficient education about or awareness of mediation, but the need is great. Many of the students

who study with us may be among the next generation of leaders and scholars who will shape their countries' legal systems. Understanding alternative methods of conflict resolution can help establish responsive justice systems that support efforts to institutionalize the rule of law in new democracies."

Faculty in the program come from five countries and include leading professors and practitioners in ADR. The four-week ABA-approved summer program is taught in English and offers six credits. Through highly interactive classes, students will examine mediation theory and skills and the impact of culture and context and can choose to focus on labor disputes in emerging democracies or on international applications of conflict theory.



## Cardozo's Strengths in IP and ADR Converge in Pioneering Panel

In October the Cardozo Online Journal of Conflict Resolution and the International Trademark Association cosponsored a symposium on "Using Alternative Dispute Resolution in Intellectual Property Cases." Participants explored the common ground between these two legal fields, addressing topics such as mediation and arbitration in patent, trademark, and copyright cases, as well as the future of alternative dispute resolution in intellectual property cases. "Both ADR and IP



Jim Davis of Howrey, Simon, Arnold & White (on left) and Thomas Creel of Kaye, Scholer, Fierman, Hays & Handler.

are hot legal areas today. Their confluence brings together two of Cardozo's highest ranked programs and is of great interest to students, mediators, and the practicing bar," noted Professor Love, director of

Cardozo's ADR program.

Panelists included Prof. Hal Abramson, Touro Law School; Thomas L. Creel, Kaye, Scholer, Fierman, Hays & Handler, LLP; Jim Davis, Howrey, Simon, Arnold & White, LLP; and

Bruce Keller, Debevoise & Plimpton. Moderators were Cardozo graduates Prof. David Korzenik '79, Miller & Korzenik, LLP;

and Marc Lieberstein '92, Ostrolenk, Faber, Gerb & Soffen, LLP. An edited transcript of the symposium will be available in the spring at the Online Journal's website: [www.cardozo.yu.edu/cojer](http://www.cardozo.yu.edu/cojer)

## Students Organize Events on Napster and Trademark

The Intellectual Property Law Society sponsored a panel to discuss the effects of the Napster decision on the music industry, recording artists, and fans. "Taking Sides on Napster" featured speakers (below from left) Michael Carlinski, Esq., Orrick, Herrington & Sutcliffe; Marilyn McMillan, chief information technology officer, New York University; Prof. Barton Beebe, moderator; Sam Kaplan, Esq., Boies, Schiller, Flexner; Whitney Broussard, Esq., Selverne, Mandelbaum & Mintz.

"Trademark 101," an open forum on anything and everything to do with trademark, was an opportunity for Cardozo students to ask what they really wanted to know about the field. Panelists on hand to answer their questions were Prof. Barton Beebe; Debbie Cohn, director of trademark examining operations at the US Patent and Trademark Office (USPTO); and Stewart Bellus, attorney, Collard & Roe, and former trademark examiner at the USPTO. The event was sponsored by the AELJ and Center for Professional Development.

