

# USC GOULD SCHOOL OF LAW

# CLINICAL PERSPECTIVES

News and Current Issues: Spring/Summer 2015

## Why Farmers Need Copyright Lawyers

*Intellectual Property students go  
to the strawberry fields*

BY DAN NABEL

The Intellectual Property and Technology Law Clinic does not typically make “house calls,” but, a few weeks ago, two of my students and I traveled to a sunny strawberry farm in Santa Maria, California to learn how copyright law was making it difficult for farmers to repair their own tractors. To do that, we needed to understand how computers—and the copyrighted software that increasingly runs them—have begun to dominate the world of modern agricultural equipment.

Like most people, we always thought of farmers the way Paul Harvey did back in 1978 when he gave his “So God Made a Farmer” speech.

“[God said,] ‘I need somebody with arms strong enough to rustle a calf and yet gentle enough to deliver his own grandchild. Somebody to call hogs, tame cantankerous machinery, come home hungry, have to wait for lunch until his wife’s



Out in the strawberry field: (left to right) Prof. Dan Nabel, Mark Hilkert '17, Kyle Wiens, Homero Contreras and Homero Contreras Jr.

done feeding visiting ladies and tell the ladies to be sure and come back real soon—and mean it.’ So God made a farmer,” Harvey said.

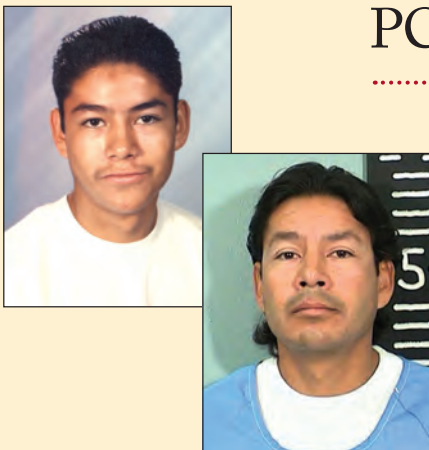
We were about to discover that it never occur-

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red to us that the act of taming “cantankerous machinery” might now require a farmer to consult a copyright lawyer first. So, as an official clinic (continued on page 8)

## PCJP Victory: First Juvenile Offender Released



Edel Gonzalez at age 16 (left) and 39 (right).

The first juvenile offender resentenced under the California Fair Sentencing for Youth Act was released from prison in March thanks to the work of law students with USC Gould’s Post-Conviction Justice Project.

Edel Gonzalez, who was sentenced to life without the possibility of parole for a crime he committed at age 16, was represented by the PCJP and Irell and Manella.

“It was extremely fulfilling to be part of this case,” said Scott Mills ’16, who represented Gonzalez under the direction of PCJP co-

director Heidi Rummel “I have learned so much working with my professors from both a legal and personal standpoint.”

Gonzalez, 39, served 24 years in prison for being present at a murder committed by adults. He was the youngest person in Orange County to receive a life sentence without the possibility of parole. After taking into account Gonzalez’s pristine prison record and the passage of two new laws, California parole officials and Gov. Jerry Brown determined that Gonzalez was suitable for parole.

# A Win-Win

## *USC Gould's Mediation Clinic and the Department of Consumer Affairs partnership benefits students and community*



Listen, hear, negotiate: Co-mediation team Deema Abini '14 (left) and Gerard Olson '14

BY CHRISTINA SCHWEIGHOFER

When a local school district recently sued hundreds of employees for a return of overpaid wages, two USC law students found themselves in the midst of the disputes—as mediators. On behalf of the Los Angeles County Department of Consumer Affairs (DCA), and through their work in the USC Gould Mediation Clinic, Gerard Olson '14 and Deema Abini '14 facilitated communication between the two sides to help them reach a resolution.

The series of mediations were set over several days. Working together as a co-mediation team, Olson and Abini presided over the mediations, listened carefully to the considerations and concerns that each side brought to the table, assessed the strengths and weaknesses of the claims, and helped forge workable deals. Many of the cases resulted in a same-day settlement.

These mediations were part of a successful collaboration between the Mediation Clinic and the DCA, where the student mediators resolved matters running the gamut from small claims disputes between neighbors to civil court cases like the one involving the school district.

Caroline Torosis, the dispute resolution

program manager and legislative analyst at the DCA, lauded the law students for their work.

"I was impressed with the high level of skills that they had," she said. "Everyone was very professional. The fact that we are able to have great quality individuals help us mediate those cases is really important to us."

Torosis, who enjoys working with the students because of their enthusiasm, sees the partnership as mutually beneficial. "The students are getting real-life experience," she said, "We've expanded to mediate more than 200 court cases each month."

The partnership between the Mediation Clinic and the DCA is now in its second year. The director of the Mediation Clinic, Prof. Lisa Klerman, pointed out that mediation experience teaches students problem solving and persuasive-ness, two crucial skills in the law world.

"Regardless of practice area," Klerman said, "effective lawyers are those who are skilled at persuasion at every step: attracting clients, convincing a judge, charming a jury, navigating the politics of working in a law firm, negotiating with opposing counsel, putting deals together constructively and even occasionally talking clients down from the proverbial ledge."

The consumer agency provided Olson and

Abini each with a desk, resources and access to conference rooms at the agency's downtown office, where they could conduct their mediation work.

Olson mediated about two-dozen cases while at the DCA. His work included contacting parties by phone, who were sometimes reluctant to participate in a mediation, in order to point out the benefits of resolving their disputes by mediation rather than court. But mostly his work consisted of setting up and conducting the mediations. Some parties he worked with were represented by attorneys, and others were self-represented.

Looking back on the experience he gained through spending his entire 2L year in the Mediation Clinic and additional time as a 3L in the Advanced Mediation Clinic, Olson said that being in court several days a week strengthened his professional confidence.

"Being able to participate in that world and helping to resolve disputes helps immeasurably," Olson said. "I can't imagine starting out as a young lawyer and never having been in court or seen how to interact with the court staff or the judicial officers."

The alumnus, who started work with an environmental law firm in downtown Los Angeles in September, is convinced that the Mediation Clinic experience gave him a leg up in the highly competitive legal market. "It certainly helps for people coming out of school to have marketable skills beyond academics," he said.

Olson described the work as challenging and intensive. "In mediation, the parties control the outcome and can get remedies that might not even be available in court," he said.

Abini, who also found employment with a large Los Angeles law firm, said mediations are a win for everyone. "No one leaves with exactly what they want," she said, "but everyone leaves with a mediated resolution they can live with."





One project, two clinics: (left to right) Prof. Dan Nabel, client Artak Avakyan, Jessica Harnsberger '17, Ara Baghdassarian '17 and Prof. Michael Chasalow



## One-Stop Legal Resource

*USC clinics collaborate to meet game developer's needs*

BY CHRISTINA SCHWEIGHOFER

A mobile gaming app is not always fun and games. Any serious developer needs to navigate the legal waters surrounding a new business venture. Two clinics at USC Gould provided a one-stop resource for Artak Avakyan.

Avakyan initially contacted the Intellectual Property and Technology Law Clinic (IPTLC) for assistance with trademark issues and work-for-hire agreements. In their first meeting with him, Alexandria Chu '16, Ara Baghdassarian '17 and Prof. Dan Nabel, the interim director for the IPTLC, learned that their client also needed assistance forming a company.

Nabel promptly reached out to USC's Small Business Clinic (SBC), directed by Prof. Michael Chasalow. The ensuing partnership provided Chu and SBC student Jessica Harnsberger '17 with a unique learning experience that demonstrated how attorneys in law firms join forces to work on different aspects of one matter.

The challenge the students faced revolved around work-for-hire agreements and the timing of two activities: the creation of the game and the forming of the LLC. The app was still in

development when the SBC started drafting the LLC's operating agreement.

"We needed to make sure," Harnsberger said, "that the language we included in our Operating Agreement actually made sense with respect to the game our client was creating and that the game itself was placed into the LLC in the proper manner that would protect our client's intellectual property rights while keeping in mind the applicable corporate and tax requirements."

The case provided real-world practice in several ways. To begin with, the students learned the importance of collaboration.

"In a law firm," Chasalow said, "different departments and different attorneys with different expertise must work together on complex matters. Often an associate must coordinate assignments given by different partners and synthesize different work styles."

This kind of experience could set the USC law students apart because law firm associates who have learned to collaborate with their colleagues are more successful than others.

As Nabel pointed out, they become more efficient and effective advocates, and they are likely to generate additional business by helping

existing clients identify legal needs in other areas.

"Such associates tend to make partner," Nabel said, "and each opportunity we give our students to collaborate with their colleagues in other clinics helps build this understanding."

The project also required the students to coordinate client communications. They had to make sure not to bombard the game developer with information, and their messages needed to be consistent.

The students found their clinical experience inspiring.

"It's great when you can help clients with everything they need," Chu said. "They can come to one place, and the SBC helps with the small business support, and we can help with IP. It's just great to see how happy they are."

Baghdassarian agreed, adding, "Working on this project was an amazing practical learning experience."

Nabel and Chasalow are already looking forward to having their students work together on additional cases. Possible cooperative ventures could even involve collaborations across USC schools.

"I think this project will provide a good foundation for future collaboration," Chasalow said.

# Making a Difference in Phnom Penh and The Hague

*USC Gould students intern with  
international criminal tribunals*

BY CHRISTINA SCHWEIGHOFER

Graduation and the bar exam still months ahead, Siobhan Coley-Amin '15 and Jillian Chou '15 are already immersed in real cases of international criminal law. As judicial interns at international courts in The Hague, Netherlands, and in Phnom Penh, Cambodia, the students are involved firsthand in the tribunals' efforts to prosecute people responsible for mass atrocities.

Coley-Amin and Chou both participated in the International Human Rights Clinic at USC Gould. Prof. Hannah Garry, director of the clinic, is a keen proponent of internships at international criminal tribunals because they teach students the law and skills necessary for practice in a globalized world.

"Even better," Garry said, "they give students the chance, early in their legal career, to play a meaningful role in the global movement to end impunity for war crimes, crimes against humanity and genocide."

Coley-Amin chose to intern at the Extraordinary Chambers in the Courts of Cambodia (ECCC), which is commonly known as the Cambodia or Khmer Rouge Tribunal. The Cambodian Genocide, with at least 1.7 million victims, dates 40 years back.

Since starting her work in January with the Supreme Court Chamber, the appellate chamber of the tribunal, Coley-Amin has been impressed by how much time and effort the court spends to achieve "the ultimate goal of any judicial system, fairness," and how it seeks to work as efficiently as possible, in part because of the advanced age of the defendants.

Chou was, at least in part, drawn to law school because she wanted to learn how an international legal framework can bring truth and justice to

victims of mass atrocities. Now a judicial intern for Ghanain Judge Akua Kuenyehia in the Appeals Chamber at the International Criminal Court (ICC) in The Hague, she has been able to meet highly respected judges and attorneys from all over the world. She views her internship as "a huge opportunity to learn how to pursue a career in international criminal law."

Chou is overseas as the first recipient of the A. Peter Kezirian Jr. '89 Fellowship in Public Service and International Law. Established in 2012, it enables students at USC Gould to take part in international law projects around the world. Kezirian's passion for using international law as a change agent manifested itself in a variety of engagements, including his service on task forces evaluating NATO's military role in Bosnia and Kosovo.

Considering their future careers, Coley-Amin and Chou are taking it

one step at a time. In the fall, Chou will clerk for Judge Ronald S. W. Lew in the Central District of California, while Coley-Amin will depart for another internship, this time in the Appeals Chamber for the Special Tribunal for Lebanon in The Hague.



Playing a meaningful role: Jillian Chou '15 (above) and Siobhan Coley-Amin '15 (below)





# “They Never Gave Up on Me”

*Hilda Riggs, a longtime client of the Post-Conviction Justice Project, has been released after two decades in prison*



BY GILIEN SILSBY

Students, alumni and professors with USC’s Post-Conviction Justice Project welcomed home longtime client Hilda Riggs, a 50-year-old victim of spousal abuse, who served two decades in prison for a murder committed by her batterer.

Riggs was embraced by her mother and her two children—whom she had not seen since the 1990s. Her son was 11 years old and her daughter was three days old, born in prison, when she began serving her sentence.

Riggs was convicted of first-degree murder and sentenced to 25 years to life for accompanying her husband, Billy Ray Riggs, while he kidnapped and later killed a stranded motorist in Riverside County.

The PCJP has long argued that Riggs’ conviction should be set aside and a new trial ordered so that she could introduce expert testimony showing the psychological effect of the years of violent domestic abuse she endured at the hands of her husband. The courts denied her a new trial, but she was found suitable for parole and was released from prison on Nov. 6.



Homecoming: (above) Hilda Riggs is welcomed by USC Gould alumnus, Michael Reynolds, who worked on her case pro bono as an attorney at O’Melveny & Myers. (left) Hilda Riggs reunites with her son. (below) PCJP Co-director Heidi Rummel greets Riggs with a hug.

The day of her release, Riggs celebrated with her family and current and former USC law students at her mother’s home in Compton. “I can’t tell you how wonderful it is to be home with my family,” Riggs said. “I have a lot of catching up to do.”

Riggs was 18 years old and a single mother when she moved to Texas with Billy Ray Riggs—twice her age and the paternal grandfather of her son—because she said she believed he would provide a complete family for her and her son. Instead, he isolated and controlled them, subjecting her to severe physical and emotional abuse.

“The evidence is overwhelming—we know that Mr. Riggs regularly beat her with baseball bats and barbells, strangled her until she lost consciousness, and threatened her by shoving a pistol in her mouth and pulling the trigger on an empty chamber,” said Prof. Heidi Rummel, co-director of USC Gould PCJP, which represented Riggs with attorneys at O’Melveny & Myers LLP.

Riggs pleaded guilty to first-degree murder to avoid a capital prosecution—not understanding that she had a potential defense based on battered woman syndrome, Rummel said. Every expert who has examined her—including the District Attorney’s own expert who testified at her husband’s trial—concluded that Riggs was in fear for her life and did not voluntarily participate in the crimes committed.

“The Board of Parole hearings finally recognized that Riggs is not a danger to the community and is eager to become a positive influence in the lives of her children and other victims of abuse,” Rummel said.

On the day of her release, Riggs said she was overwhelmed by the support of her family and current and former PCJP students, some of whom worked on her case even after law school.

“They never gave up on me,” Riggs said. “That has meant the world to me. Now I’m looking most forward to getting to know my children and helping us heal.”



# Expanding USC Gould's Global Presence

**As director of the International Human Rights Clinic, Professor Hannah Garry reflects on its first five years**



Prof. Hannah Garry

As director of USC Gould's International Human Rights Clinic, Prof. Hannah Garry has one goal: to give students the opportunity to work on projects and cases that confront issues ranging from human trafficking to genocide.

Under Garry's guidance, students seek justice on behalf of victims, hold perpetrators accountable for their crimes and work toward progressive development of the law.

Thanks to the clinic's partnership with international courts and tribunals as well as human rights organizations, students acquire the knowledge and skills needed for effective lawyering in the field. In a meaningful way, they also contribute to the work of organizations and advocates engaged in the protection of human rights. Almost five years after she launched the clinic, Garry spoke about its partnerships and successes—and about how it has helped to expand the global presence of USC Gould.

## **The clinic turns five years old this year. What have been your proudest accomplishments?**

I am pleased to say that the clinic's global reach and impact has far exceeded my expectations. We have partnered with international courts and tribunals prosecuting mass atrocities, such as war crimes, crimes against humanity, and genocide. Students have worked remotely with judges at the International Criminal Court in The Hague, the International Criminal Tribunal for Rwanda in Tanzania, the Extraordinary Chambers in the Courts of Cambodia in Cambodia and the Special Tribunal for Lebanon in The Hague. We have also partnered with local organizations on serious human rights abuses happening right here at home. In 2012, the clinic started representing survivors of human trafficking living in Los Angeles who were subjected to involuntary servitude in homes, hotels and

caregiving facilities, as well as commercial sex. Students have successfully represented eight clients from Latin America and Southeast Asia.

## **Your students are engaged in extraordinary international tribunal work. Can you express the involvement in numbers?**

Since the clinic launched, we've had about 20 USC Gould students complete judicial internships with all of the existing international criminal tribunals. So, three to four each year. In fact, so far, every clinic student who has applied has been accepted. USC has been well represented in The Hague, Phnom Penh and Arusha, Tanzania, as USC Gould students work on site for three to six months.

## **How have you been able to secure these experiences?**

The international criminal justice bar is relatively small and, because I had several years' practice experience in The Hague and Arusha prior to teaching, I was able to tap into pre-existing contacts who trust me to recommend strong students. As the clinic has consistently produced top quality work in partnership with these tribunals, demand for our students has grown. Judges and legal officers know that when USC International Human Rights Clinic students arrive on site, they have the training and experience to hit the ground running, having already spent a year doing international criminal justice work in the clinic. Clinic students have been motivated to secure these non-paid internships because of the generous support of USC alumni and other donors. I have been able to work with Dean Bob Rasmussen, to secure \$6,000 travel grants for each student who has gone.

## **What about the clinic's engagement beyond strictly legal work?**

The clinic has worked alongside human rights organizations on advocacy campaigns, raising awareness and calling for action on mass atrocities in Darfur, Sudan, the eastern Democratic Republic of the Congo, Sri Lanka and Guatemala. With respect to the Armenian genocide, we partnered with the Armenian National Committee of America to provide legal research and analysis in support of an amicus curiae brief before the U.S. Supreme Court advocating for recognition of the exterminations as genocide.

## **Can you discuss the clinic's engagement beyond its legal work?**

I started a one-year fellowship program with Chambers at the Special Tribunal for Lebanon in 2013. After Harvard, we are the only U.S. law school invited to do so, and the first fellow has now been hired as legal staff at the tribunal. I also launched an international law speakers series, bringing high level scholars and practitioners from around the world to USC each year. Finally, I have sent clinic students to work as externs with the Human Rights and Special Prosecutions Section at the U.S. Department of Justice.



(above) Trafficking survivor Joey Pavillar with his wife and sons from the Philippines. Student attorneys Michelle Shaffie and Joel Frost Tift helped with family reunification after five years apart. (below) Siyuan An, John Flynn and Dorna Moini, interns at the ICTY in The Hague.





## Alumna Named Irmas Teaching Fellow

*Jean Lantz Reisz '05 finds her dream job*

BY LORI CRAIG

Jean Lantz Reisz, a former USC Gould clinical student, returned to the law school recently in a prestigious position as the Audrey Irmas Clinical Teaching Fellow—or as she likes to call it, her dream job.

For the next two years, she will work with faculty and students in USC's Immigration Clinic, helping students defend immigrants in removal proceedings, and presenting claims for asylum and protection under the convention against torture.

"I think that clinical teaching is the best of both worlds," said Reisz. "I still get to provide direct services and go to court and represent clients, but I also get to teach students. I found the Immigration Clinic to be my favorite part of law school, and I'm excited to supervise students in becoming advocates, learning lawyering skills and representing clients."

Reisz has worked in both the public and private sectors, most recently serving at the Inner City Law Center. Before joining the agency, she spent three years as a senior associate with Archer Norris and five years with the Los Angeles Public Defender's and Alternate

Public Defender's office.

"Jean has wide-ranging legal experience in criminal and civil law," said Immigration Clinic Director Niels Frenzen. "Her interest in clinical teaching and familiarity with the clinics will serve our students and clients well."

While a student at USC Gould, Reisz joined the Immigration Clinic for the summer before her 2L year and spent the 2L academic year as a Clinical Course Student Supervisor. She said her experience with the clinic gave her invaluable experience working with clients and engaging with expert witnesses—skills that served her in the Public Defender's office and as a trial attorney.

Her clinic involvement also gave direction to her legal career.

"I realized that this is what I wanted to do with my law degree," said Reisz, who as a 3L received the Mason C. Brown Award for Trial Advocacy. "What most appealed to me was being an advocate for people who really don't have anyone to stand up for them."

Now, in addition to teaching, Reisz will



Back at USC Gould: (left to right) Prof. Niels Frenzen, director of the Immigration Clinic, and Jean Lantz Reisz '05

supervise Immigration Clinic students as they manage caseloads, attend merit hearings, and conduct briefs in front of immigration appeals judges and the Ninth Circuit Court of Appeals. With the Post-Conviction Justice Project, Reisz will guide students conducting parole hearings for parole-eligible women serving life sentences and seeking re-sentencing for juveniles serving sentences of life without the possibility of parole.

Reisz is the second person to hold the Audrey Irmas Clinical Teaching Fellowship, which was established in 2011 and is funded primarily by Audrey Irmas, a longtime supporter of USC and USC Gould. Four generations of Irmas' family have attended USC, with four family members graduating from the law school.

## PCJP Changes Laws; Fights for Second Chances

Newly released from prison, PCJP clients shared their journeys recently at a special event at USC Gould, "Stories of Lost Childhood: Children Serving Adult Sentences." Gary "Malachi" Scott, Anna Humiston and Michael Mendoza were convicted and sentenced as juveniles to life terms in prison. After stellar records of rehabilitation, they were released following decades in prison thanks to PCJP's work on changing laws affecting juvenile offenders.

Scott, a juvenile offender released from San Quentin Prison, discussed the group he co-founded, Kid C.A.T. at San Quentin. "It became my lifeline," he said. "I had a purpose and I continue to have purpose. That is to help young people avoid the huge mistakes I made."



(left to right) Michael Mendoza, Anna Humiston and Gary "Malachi" Scott

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*(Why Farmers..., continued from page 1)*

project, we went (quite literally) out into the field to delve directly into the legal problems faced by modern farmers.

The legal issue involved with repairing agricultural equipment arises from a law enacted back in 1998 called the Digital Millennium Copyright Act (DMCA). Among other things, the DMCA prohibits people from breaking digital locks (also known as “technological protection measures”) employed to protect copyrighted works. For example, studios use CSS encryption to protect films that you buy on a DVD or Blu-ray Disc to prevent piracy. If you break the CSS encryption, you violate the DMCA.

For farmers, the DMCA is starting to have increasing relevance. The days of tinkering with farm equipment using a wrench and screwdriver are largely a thing of the past. These days, farmers need a computer to talk to their tractors just to find out what’s wrong with them. But accessing tractor software may require proprietary dealer



Computers instead of wrenches and screwdrivers: Paul Luiz, a diesel mechanic, would benefit from an exemption under the DMCA.

software and a special password that only the dealer or manufacturer has access to. If a farmer breaks into the computerized system—even just to diagnose and repair the tractor that the farmer lawfully owns—he or she may incur DMCA liability.

And that’s just silly.

To help solve this problem, our clinic teamed up with numerous California farmers, the Electronic Frontier Foundation and a company called iFixit to petition the U.S. Copyright Office for an

exemption under the DMCA. If granted, the exemption would essentially give farmers a “right to repair” their own farm equipment or make modifications and improvements. Over the next few months, the Copyright Office will receive public comments and ultimately make a ruling on our proposed exemption. In the meantime, you may see more copyright lawyers like us riding tractors.

## USC GOULD SCHOOL OF LAW CLINICAL PERSPECTIVES

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*For questions and further information,  
email [usclclinics@law.usc.edu](mailto:usclclinics@law.usc.edu) or call (213) 740-9690*

*[www.law.usc.edu/why/academics/clinics](http://www.law.usc.edu/why/academics/clinics)*

