

Aaron Schwabach

225 Cedar Street, San Diego CA 92101 | 619-525-1685 | aschwabach@cwsl.edu

Education: **Berkeley Law**, University of California, Berkeley, California
J.D.

University of Westminster, London, United Kingdom
Ph.D. in Law

Antioch College, Yellow Springs, Ohio
B.A. in Political Science

Bar Admissions: California
Florida

Current position: **California Western School of Law**, San Diego, California
Professor of Law
July 2024 to present

Currently Teaching: Professional Responsibility

Selected Courses Previously Taught: Advanced Internet Law
Comparative Law
Conflict of Laws
Decedents' Estates
Environmental Law
International Business Transactions
International Dispute Resolution
International Environmental Law
International Internet Law
Kosovo in International Law
Legal Writing I, II, III, & IV
Mastering the Performance Test
Property I & II
Public International Law

**Prior Academic
Experience:**

**University of Arkansas at Little Rock, William H. Bowen School of
Law, Little Rock, Arkansas**

7/2020 to 6/2024

Thomas Jefferson School of Law, San Diego, California

8/1994 to 2/2020

Gonzaga University School of Law, Spokane, Washington

8/1993 to 7/1994

University of Miami School of Law, Miami, Florida

8/1990 to 7/1992

**Other
Experience:**

Kurzban, Kurzban, and Weinger, Miami, Florida

Associate Attorney

5/1992 to 11/1992

**Office of the Chief Administrative Hearing Officer, Executive Office
of Immigration Review, U.S. Department of Justice, San Francisco,
California**

Attorney Advisor

12/1989 to 7/1990

Berry & Appleman, San Francisco, California

Law Clerk

2/1988 to 5/1988

Bartko, Welsh, Tarrant, & Miller, San Francisco, California

Law Clerk

5/1988 to 8/1988

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Publications

Books:

Internet and the Law: Technology, Society, and Compromises, 2nd Edition (ABC-CLIO 2014)

Fan Fiction and Copyright: Outsider Works and Intellectual Property Protection (Ashgate Publishing 2011)

Intellectual Property: A Reference Handbook (ABC-CLIO 2007)

Internet and the Law: Technology, Society, and Compromises (ABC-CLIO 2005)

International Environmental Disputes: A Reference Handbook (ABC-CLIO 2005)

Book Chapters:

“Legal Issues in Online Fan Fiction,” in *The Routledge Companion on Media Education, Copyright and Fair Use* (Renee Hobbs ed., Routledge 2018)

“Fan Works and the Law,” in *New Directions in Popular Fiction* (Ken Gelder ed., Palgrave Macmillan 2017)

“Harry Potter and the Unforgivable Curses,” in *The Law & Harry Potter 67* (Jeffrey Thomas and Franklin Snyder eds., Carolina Academic Press 2010)

“*Zeran v. America Online* and the Development of Trolling Culture,” in *Zeran v. America Online 63* (Eric Goldman and Jeff Kosseff eds., SCU 2020) (previously published online; see Other Works below)

Law Review Articles:

Fan Works and the Elusive Border between Derivative and Transformative Uses: A Fanfic Law Retrospective and an Optimistic Look Forward, 57 *Loyola Los Angeles L. Rev.* 385 (2024)

Innate Property: The Danger of Incongruency between Law and the Biological and Behavioral Roots of Property and Possessiveness, 2022 *Cardozo Law Review de•novo* 189 (2022)

Fan Works and the Environmental Law of Copyright, 24 *Tulane J.Tech & Intell. Prop.* 141 (2022)

A Hole in the Bottom of the Sea: Does the UNCLOS Part XI Regulatory Framework for Deep Seabed Mining Provide Adequate Protection against Strip-Mining the Ocean Floor? 39 *Va. Env'tl. L.J.* 39 (2022)

Bringing the News from Ghent to Axanar: Fan Works and Copyright after Deckmyn and

- Subsequent Developments*, 22 Texas Rev. Entertainment and Sports L. 37 (2021)
- The Internet Archive's National Emergency Library: Is There an Emergency Fair Use Superpower?*, 18 Northwestern J. Technology & Intellectual Property 187 (2021)
- Convergence and Divergence: The Treatment of Certain Aspects of Real Property under the Civil Codes of Qatar and California*, 2015 International Rev. of L. 7 (2015)
- Desalination and International Watercourse Law*, 2013 Utah OnLaw 297 (2013)
- Reclaiming Copyright from the Outside In: What the Downfall Hitler Meme Means for Transformative Works, Fair Use, and Parody*, 8 Buffalo Intellectual Property J. 1 (2012)
- Of Charities and Clawbacks: The European Union Proposal on Successions and Wills as a Threat to Charitable Giving*, 17 Colum. J. Eur. L. 447 (2011)
- Thomas Jefferson, Slavery, and Slaves*, 33 Thomas Jefferson L. Rev. 1 (2011)
- The Harry Potter Lexicon and the World of Fandom: Fan Fiction, Outsider Works, and Copyright*, 73 U. Pitt. L. Rev. 387 (2009)
- Reprinted in *Entertainment, Publishing and the Arts Handbook* (Karen Tripp ed., Thomson Reuters 2010)
- Intellectual Property Piracy: Perception and Reality in China, the United States, and Elsewhere*, 2 Journal of International Media and Entertainment Law 65 (2007)
- Reprinted in *Chinese translation as 艾伦·施瓦巴赫 [Aaron Schwabach], 知识产权中的盗版问题: 中美等国的认知与现实 [Intellectual Property Piracy Issue: China, America, and Other Countries' Perception and Reality]*, 电子知识产权 [Electronics Intellectual Property], Feb. 15, 2008, at 22, (余俊 [Yu Jun] and 路晓芳 [Lu Xiaofang], translators)
 - Reprinted in *Chinese translation as 知识产权盗版: 中美等国的认知与现实*, Chinese Intellectual Property Review (Liu Chuntian, ed.; Beijing: Commercial Press 2011) (Yu Jun and Lu Xiaofang, translators)
 - Reprinted in *English in 42 Law/Technology* 5 (2009)
- Measures to Protect the Tibetan Antelope under the CITES Framework*, 29 Thomas Jefferson L. Rev. 251 (2007)(coauthored with Liang Qinghua)
- Reprinted in ICFAI [Institute of Chartered Financial Analysts of India] J. Envtl. L., Oct. 2007, at 30
 - Reprinted in *Endangered Species and Forests: Legal Perspectives* 145 (A. Usha ed., Hyderabad, India: Amicus Books 2008)
- Harry Potter and the Unforgivable Curses: Norm-formation, Inconsistency, and the Rule of Law in the Wizarding World*, 11 Roger Williams U. L. Rev. 309 (2006)
- Reprinted in *The Lawyer Chronicle*, Nov. 7, 2011
- Harry Potter and the Law*, 12 Texas Wesleyan L. Rev. 427 (2005)(with Jeff Thomas [lead author] et al.)
- Ecocide and Genocide in Iraq: International Law, the Marsh Arabs and Environmental Damage*

in Non-international Conflicts, 15 *Colo. J. Int'l Env'tl. L. & Pol'y* 1 (2003)

- *Updated and reprinted in Environmental Damage* (P. Moohana Krishna ed., Hyderabad, India: Amicus Books 2010)

Kosovo: Virtual War and International Law, 15 *L. & Literature* 1 (2003)

How Protectionism is Destroying the Everglades, 31 *Env'tl. L. Rptr.* 14,999 (2001)

- *Reprinted in abridged form as How Free Trade Can Save the Everglades*, *National Wetlands Newsletter*, Jan.-Feb. 2002, at 7

How Free Trade Can Save the Everglades, 14 *Georgetown Int'l Env'tl. L. Rev.* 301 (2001)

NATO's War in Kosovo and the Final Report to the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, 9 *Tulane J. Int'l & Comp. L.* 167 (2001)

From Schweizerhalle to Baia Mare: The Continuing Failure of International Law to Protect Europe's Rivers, 19 *Va. Env'tl. L.J.* 431 (2000)

Humanitarian Intervention and Environmental Protection: The Effect of the Kosovo War on the Law of War, 6 *Colum. J. E. Eur. L.* 405 (2001)

The Tisza Cyanide Disaster and International Law, 30 *Env'tl. L. Rptr.* 10,509 (2000)

Yugoslavia v. NATO, Security Council Resolution 1244, and the Law of Humanitarian Intervention, 27 *Syracuse J. Int'l L. & Comm.* 77 (2000)

Environmental Damage Resulting from the NATO Military Action Against Yugoslavia, 25 *Colum. J. Env'tl. L.* 117 (2000)

The Legality of the NATO Bombing Operation in the Federal Republic of Yugoslavia, 11 *Pace Int'l L. Rev.* 407 (1999)

Thomas Jefferson and Sally Hemings, 21 *Thomas Jefferson L. Rev.* 101 (1999)

Using International Law to Prevent Environmental Harm from Increased Use of Desalination, 34 *Tex. Int'l L.J.* 187 (1999)

Thomas Jefferson as an Unsuccessful Advocate for Freedom in Howell v. Netherland, 20 *Thomas Jefferson L. Rev.* 129 (1998)

The United Nations Convention on the Law of Non-Navigational Uses of International Watercourses, Customary International Law, and the Interests of Developing Upper Riparians, 33 *Texas Int'l L.J.* 257 (1998)

- *Reprinted as Appendix D to ABA/CEELI, Analysis of the Draft Convention on the Use of Water and Biological Resources and Conservation of Biodiversity of the Dniester River for the Republic of Moldova*, Apr. 25, 2000

Jefferson and Slavery, 19 *Thomas Jefferson L. Rev.* 63 (1997)

An Analysis of First-Year Student WESTLAW Use: Why Vendor-Provided Training Isn't Enough, 16 *Legal Reference Services Q.* 7 (1997)

Diverting the Danube: The Gabcikovo-Nagymaros Dispute & International Freshwater Law, 14

Berkeley J. Int'l L. 290 (1996)

Doctrine or Dictum: The Ker-Frisbie Doctrine and Official Abductions which Breach International Law, 25 U. Miami Inter-Am. L. Rev. 19 (1993)(with Sid Patchett)

Employer Sanctions and Discrimination: The Case for Repeal of the Employer Sanctions Provisions of the Immigration Reform and Control Act of 1986, 4 La Raza L.J. 1 (1991)

The Sandoz Spill: The Failure of International Law to Protect the Rhine from Pollution, 16 Ecology L.Q. 443 (1989)

- *Reprinted in part in* Plater, Abrams, & Goldfarb, *Environmental Law and Policy: Nature, Law, and Society* 999 (1992)
- *Reprinted in part in* Weiner, Favre & Chopra, *International Environmental Law* 6 (1993)

Other Works:

Zeran v. America Online and the Development of Trolling Culture, in *Commemorating the 20th Anniversary of Internet Law's Most Important Judicial Decision (Zeran 20th Anniversary Essay Collection*, Eric Goldman and Jeff Kosseff eds.), *The Recorder*, Nov. 10, 2017, available at <http://www.law.com/therecorder/sites/therecorder/2017/11/10/zeran-v-america-online-and-the-development-of-trolling-culture/>, published as a chapter in *Zeran v. America Online* 63 (Eric Goldman and Jeff Kosseff eds. 2020)

The Specter of Civil Law Clawback Actions Haunting US and UK Charitable Giving, *Probate & Property Magazine*, April 2012, at 60

Overview: Online Censorship, in ABC-CLIO Issues Database (2011)

The French Yahoo Cases, in ABC-CLIO Issues Database (2011)

Outlook: The Future of Online Censorship in a World of Information Without Borders, in ABC-CLIO Issues Database (2011)

American Branch of the International Law Association, Intellectual Property Section, White Paper: *Major International Intellectual Property Developments*, May 4, 2010 (Aaron Fellmeth, Rapporteur; Peter K. Yu & Aaron Schwabach, co-authors)

Intellectual Property, 1945 to Present, *World History Encyclopedia* (Fred Nadis ed., Santa Barbara: ABC-CLIO, 2011)

File-sharing, *World History Encyclopedia* (Fred Nadis ed., Santa Barbara: ABC-CLIO, 2011)

America Online, entry in the *Encyclopedia of American Civil Liberties* (Paul Finkelman ed., New York: Routledge 2006)

Internet Filtering at Libraries and Free Speech, entry in the *Encyclopedia of American Civil Liberties* (Paul Finkelman ed., Routledge 2006)

The Internet and Intellectual Property, entry in the *Encyclopedia of American Civil Liberties* (Paul Finkelman ed., Routledge 2006)

How Free Trade Can Save the Everglades, National Wetlands Newsletter, Jan.-Feb. 2002, at 7 (see above)

Comments on the Draft Convention on the Use of Water and Biological Resources and Conservation of Biodiversity of the Dniester River Between Moldova and Ukraine, American Bar Association Central and Eastern European Law Initiative, Jan.18, 2000

Comments on Republika Srpska Local Self-Government Law, American Bar Association Central and Eastern European Law Initiative, June 12, 2000

Death Watch on the Rhine, 75 Bus. & Soc. Rev. 36 (1990)

“Professional Responsibility,” in Thomas Jefferson School of Law Bar Passage Handbook (2000)

International Environmental Law, UNESCO Encyclopedia of Life Support Systems §1.36.2 (2002)

Law Regarding Protection of the Environment During Wartime, UNESCO Encyclopedia of Life Support Systems §1.36.4.5 (2002)

Law, UNESCO Encyclopedia of Life Support Systems Theme 6.31 (2002), *reprinted in* III Knowledge for Sustainable Development 611 (2002)

Non-Western Philosophies of Law, UNESCO Encyclopedia of Life Support Systems §6.31.1.3 (2002)

Philosophies and Systems of Law, UNESCO Encyclopedia of Life Support Systems Topic 6.31.1 (2002)

The Role of International Law and Institutions, UNESCO Encyclopedia of Life Support Systems Theme 1.36 (2002)(with Art Cockfield), *reprinted in* I Knowledge for Sustainable Development 757 (2002)

Transboundary Environmental Harm and State Responsibility, UNESCO Encyclopedia of Life Support Systems §1.36.2.2 (2002)

Presentations and miscellaneous:

Editorial Board, Hungarian Yearbook of International Law and European Law, February 2020 to present

Editorial Board, Probate & Property (ABA Real Property, Trust and Estate Law Section Magazine), August 2020 to present

Copyright as Economy and Ecosystem, University of Westminster Law School, London, UK (May 18, 2022)

Fan Works and Copyright Law, University of Westminster Law School (via video conferencing, June 7, 2022)

Digital Lending and Copyright Law, San Diego Law Library, San Diego, CA (Jan. 19, 2021)

Fan Works and the Ecology and Economy of Copyright, Boston University School of Law, Boston, Massachusetts (February 28, 2020)

Protection of Parody in the Context of the Relevant Judgments (Deckmyn v. Vandersteen and Campbell v. Acuff-Rose Music), Scientific Symposium: Intellectual Property in the Digital World, Patent Office of the Republic of Poland, Warsaw, Poland (June 21, 2018)

Legal Boundaries of Parody and Criticism on the Internet (panel), Scientific Symposium: Intellectual Property in the Digital World, Patent Office of the Republic of Poland, Warsaw, Poland (June 21, 2018)

Effective Protection of Internet Domains and Trademarks (panel), Scientific Symposium: Intellectual Property in the Digital World, Patent Office of the Republic of Poland, Warsaw, Poland (June 22, 2018)

Environmental Law under the Trump Administration (panel moderator), American Constitution Society San Diego Lawyer Chapter, Thomas Jefferson School of Law, San Diego, CA (September 27, 2017)

They're Playing Our Song: Political Campaigns, Music and Intellectual Property Disputes (panel), Thomas Jefferson School of Law, San Diego, CA (November 3, 2015)

Environmental Protection during Wartime from the Second World War through NATO's War in Kosovo, Geza Marton Doctoral School of Legal Studies/Working Group on Law of the Hungarian Academy of Sciences, University of Debrecen, Debrecen, Hungary (June 25, 2015)

Schweizerhalle and Baia Mare: The Role of International Law in Protection of Freshwater Resources, Geza Marton Doctoral School of Legal Studies/Working Group on Law of the Hungarian Academy of Sciences, University of Debrecen, Debrecen, Hungary (June 24, 2015)

State Responsibility and International Protection of the Environment, Geza Marton Doctoral School of Legal Studies/Working Group on Law of the Hungarian Academy of Sciences, University of Debrecen Faculty of Law, Debrecen, Hungary (June 23, 2015)

The Study and Practice of Law in the United States

- Zhejiang University, Hangzhou, China (May 27, 2016)
- University of Debrecen Faculty of Law, Debrecen, Hungary (June 25, 2015)
- Tongji Institute, Shanghai, China (Nov. 30, 2015)
- East China University of Political Science and Law, Shanghai, China (Nov. 30, 2015)
- East China University of Political Science and Law, Shanghai, China (Dec. 1, 2015)
- Shanghai University of Political Science and Law, Shanghai, China (Dec. 3, 2015)
- Shanghai International Studies University, Shanghai, China (Dec. 2, 2015)
- Donghua University, Shanghai, China (Dec. 2, 2015)
- Wuhan University, Wuhan, China (Dec. 3, 2015)
- Zhongnan University, Wuhan, China (Dec. 3, 2015)
- Wuhan University, Wuhan, China (Dec. 4, 2015)
- Zhongnan University, Wuhan, China (Dec. 4, 2015)
- Beijing Institute of Technology, Beijing, China (Dec. 7, 2015)

- China Scholarship Council, Beijing, China (Mar. 7, 2016)
- LongTu, Beijing, China (Mar. 7, 2016)
- Guangzhou Foreign Studies University, Faculty of International Education, Guangzhou, China (Mar. 9, 2016)
- Guangzhou Foreign Studies University, Faculty of Law, Guangzhou, China (Mar. 9, 2016)
- Shanghai University of Political Science and Law, Shanghai, China (Mar. 10, 2016)

Fan Fiction and Copyright, Professor Speaker Series, Cryptozoic Entertainment, Irvine, California, 6/15/13

The BP Oil Spill in the International Legal Perspective, International Affairs Group, University of California at San Diego, International House, Eleanor Roosevelt College, University of California at San Diego, 10/4/10

版权、盗版与经济权利 (*Copyright, Piracy, and Economic Rights*), Zhongnan University of Economics & Law, Wuhan, Hubei, China, 9/22/10

知识产权盗版：中美等国的认知与现实 (*Intellectual Property Piracy: Perception and Reality in China, the United States, and Elsewhere*), Zhejiang University, Guanghua School of Law, Hangzhou, Zhejiang, China, 9/21/10

Harry Potter and the Rule of Law and related (Harry Potter) presentations:

- Law and Humanities Institute, Law and Magic, San Diego, CA, 6/6/14
- Legal Writing Institute, Once Upon a Legal Time: Applied Legal Storytelling, Chapter 2 (panel, conference), Portland, Oregon, 7/24/09
- HP Education Fanon, Azcatraz (conference) San Francisco, 7/20/09
- Ericson Elementary School, San Diego, CA, 10/9/08
- San Diego County Law Library, San Diego, CA, 9/12/06 and 9/18/08
- The Power of Stories: Intersections of Law, Culture and Literature, University of Gloucestershire, Gloucester, UK, 7/26/05

Fair Use and Fan Creativity, HP Education Fanon, Azcatraz (conference) San Francisco, 7/20/09

Perception Gaps between Developed and Developing Countries on Intellectual Property Piracy, Southwest University of Political Science and Law, World Trade Organization: Dislocations and Solutions (conference), Chongqing, China, 12/2/06

Fulbright Senior Specialist, Zhejiang University College of Law, Hangzhou, Zhejiang, China, Nov.-Dec. 2006