

# KRISTELIA GARCÍA

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## ACADEMIC APPOINTMENTS

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### University of Colorado Law School

Associate Professor of Law, 2014-Present

Faculty Director at the Silicon Flatirons Center for Law, Technology, and Entrepreneurship, 2014-present

### Yale Law School

Affiliated Fellow at the Information Society Project, 2012-Present

### The George Washington University Law School

Frank H. Marks Fellow in Intellectual Property & Visiting Associate Professor, 2012-2014

## EDUCATION

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### Yale Law School, J.D. 2003

*Yale Journal of Law & Technology*, Editor-in-Chief

John M. Olin Fellow in Law, Economics and Public Policy

### Columbia University, B.A. in Economics, *cum laude*, 2000

Kluge Scholar

Dean's List

King's Crown Award

## PUBLICATIONS

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### Articles

*The Emperor's New Copyright*, 103 B.U. L. REV. \_\_\_\_ (forthcoming 2023) [[ssrn](https://ssrn.com)]

*Authoring Prior Art*, 75 VAND. L. REV. 1159 (2022)(with Joseph Fishman) [[ssrn](https://ssrn.com)]

*Pay-to-Playlist: The Commerce of Music Streaming*, 12 U.C. IRVINE L. REV. 805 (2022)(with Christopher Buccafusco) [[ssrn](https://ssrn.com)]

*Copyright and Economic Viability: Evidence from the Music Industry*, 17 J. EMPIRICAL LEGAL STUD. 4 (2020)(with James Hicks and Justin McCrary) [[ssrn](https://ssrn.com)]

*Super-Statutory Contracting*, 95 WASHINGTON L. REV. 1783 (2020) [[ssrn](https://ssrn.com)]

*Monetizing Infringement*, 54 UC DAVIS L. REV. 265 (2020) [[ssrn](https://ssrn.com)]

*A Reconsideration of Copyright's Term*, 71 ALABAMA L. REV. 351 (2019)(with Justin McCrary) [[ssrn](https://ssrn.com)]

*Copyright Arbitrage*, 107 CALIF. L. REV. 199 (2019) [[ssrn](https://ssrn.com)]

*Facilitating Competition by Remedial Regulation*, 31 BERKELEY TECH. L. J. 183 (2016) [[ssrn](https://ssrn.com)]

*Penalty Default Licenses: A Case for Uncertainty*, 89 N.Y.U. L. REV. 1117 (2014) [[ssrn](https://ssrn.com)]

*Private Copyright Reform*, 20 MICH. TELECOMM. & TECH. L. REV. 1 (2013) [[ssrn](https://ssrn.com)]

## Chapters, Shorter Publications & Other Writings

*Contracts & Copyright: Contemporary Musician Income Streams*, Chapter in THE OXFORD HANDBOOK OF MUSIC LAW & POLICY (Sean O'Connor, ed., 2020) [[ssrn](#)]

*Technological Rights Accretion*, 36 YALE J. ON REG.: NOTICE & COMMENT (Sept. 19, 2018) [[ssrn](#)]

*Improving the Quality & Consistency of Copyright Infringement Analysis in Music*, BERKELEY TECH. L.J. COMMENTARIES (Jan. 23, 2018) [[ssrn](#)]

*Royalty Securitization*, HARVARD J. LAW & TECH. DIGEST (Oct. 23, 2017) [[ssrn](#)]

## TEACHING

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*University of Colorado School of Law*: Property (Spring 2015, Spring 2016, Spring 2017, Spring 2018, Spring 2022), Copyright (Spring 2016, Spring 2017, Fall 2017, Fall 2018, Spring 2020, Spring 2022, Fall 2022), Trademark & Unfair Competition (Fall 2014, Fall 2015, Spring 2020, Fall 2022), Seminar: The Law & Economics of Copyright (Spring 2018), Seminar: Content & Platforms (Spring 2021)

*The George Washington University Law School*: Trademark & Unfair Competition, Spring 2014, Seminar: Artistic Freedom & Control in Copyright (Summer 2013, Summer 2014), Seminar: Opportunities & Challenges in Digital Copyright (Spring 2013)

## ACADEMIC SERVICE & PROFESSIONAL AFFILIATIONS

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*Bar Memberships*: New York, California

*Peer Reviewer*: Journal for Empirical Legal Studies

*Professional Affiliations*: American Law and Economics Association, Society for Empirical Legal Studies, Society for Empirical Research on Copyright Issues, Copyright Society of the United States, Techstars Music

*Institutional Service*: Appointments Committee (Fall 2016-Spring 2017, Fall 2018-Spring 2019, Fall 2020-Spring 2021, Fall 2021-Spring 2022), Silicon Flatirons Center Executive Director Search (Spring-Summer 2019), Admissions Committee (Fall 2017-Spring 2018), Faculty Colloquium Committee (Fall 2018-Spring 2019, Fall 2019-Spring 2020), Law & Economics Program Advisory Subcommittee (Spring 2020), IP LLM Faculty Advisor (Fall 2018-present), ATLAS Faculty Advisory Board, Fall 2017-present, Peer Evaluator for Promotion & Tenure Committee (Fall 2017), Faculty Advisor, Latino Law Students Association (Fall 2017-present), Faculty Advisor, Sports & Entertainment Law Student Group (Fall 2016-Spring 2017), Dean Search Committee (Fall 2015-Spring 2016), 1L Faculty Advisor Program (Fall 2015-present), Technology Committee (Fall 2014-Spring 2015), Faculty Advisor, Student Animal Legal Defense Fund (Fall 2014-Spring 2015), Faculty Advisor, Silicon Flatirons Student Group (Fall 2014-present), Director of the Intellectual Property Initiative, Silicon Flatirons Center for Law, Technology, and Entrepreneurship (Fall 2014-present)

## AWARDS, GRANTS AND FELLOWSHIPS

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Gilbert Goldstein Faculty Fellowship, 2022-2023

Provost's Faculty Achievement Award (for *Super-Statutory Contracting*), 2021

Jules Milstein Scholarship Award (for *Copyright Arbitrage*), 2020

The Honorable Nancy F. Atlas IP Inn of Court Sponsored Scholarship Grant (for *Copyright Arbitrage*), 2018

Fellow, Institute for Intellectual Property & Information Law Institute, 2015

Mark Twain Copyright Fellowship (for *Facilitating Competition by Remedial Regulation*), 2015

Leonardo da Vinci Fellowship Research Grant, 2013

## **OTHER EMPLOYMENT**

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### **UNIVERSAL MUSIC GROUP**

Director, 2009-2012

### **MYSPEACE MUSIC, LLC**

Director of Business Development, 2008-2009

### **QUINN EMANUEL URQUHART & SULLIVAN, LLP**

Associate, 2006-2008

### **WACHTELL, LIPTON, ROSEN & KATZ**

Associate, 2003-2006

## **PRESENTATIONS**

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### **Scholarly Presentations**

“Pay-to-Playlist: The Commerce of Music Streaming,” Loyola Law School’s IP Speaker Series, February 2022

“Authoring Prior Art,” University of Pennsylvania Law School’s Copyright Scholarship Roundtable, November 2021

“Pay-to-Playlist: The Commerce of Music Streaming,” George Mason Law & Economics Workshop, September 2021

“Pay-to-Playlist: The Commerce of Music Streaming,” Vanderbilt Faculty Colloquium, August 2021

“Pay-to-Playlist: The Commerce of Music Streaming,” 11<sup>th</sup> Annual NYU Tri-State Region IP Workshop, January 2021

“Pay-to-Playlist: The Commerce of Music Streaming,” Hofstra Law School Intellectual Property Law Colloquium, April 2021

“Monetizing Infringement,” Chicago-Kent College of Law IP Colloquium, March 2020

“Monetizing Infringement,” SMU Law School’s 16<sup>th</sup> Symposium on Emerging Intellectual Property Issues, February 2020

“Monetizing Infringement,” Works-in-Progress Intellectual Property Conference (Santa Clara Law School), February 2020

“Monetizing Infringement,” *Ipse Dixit* podcast, January 2020

“Copyright and Economic Viability: Evidence from the Music Industry,” Conference on Empirical Legal Studies (Claremont McKenna College), November 2019

“Super-Statutory Contracting,” Cardozo Law School Faculty Colloquium, September 2019

“A Reconsideration of Copyright’s Term,” Annual Congress of the Society for Economic Research on Copyright Issues (Faculté d’économie, Montpellier), July 2019

“A Reconsideration of Copyright’s Term,” University of Pennsylvania Law School’s Copyright Scholarship Roundtable, June 2019

“A Reconsideration of Copyright’s Term,” Annual Meeting of the American Law & Economics Association, May 2019

- “Copyright Arbitrage,” Loyola Law School’s IP Speaker Series, April 2019
- “The Effect of Survivorship Bias on a Winner-Take-All Market,” Texas A&M University School of Law’s Symposium on Copyright’s Excess: Money and Music in the U.S. Recording Industry, February 2019
- “Reconceptualizing Copyright’s Term,” University of Texas Law School’s Intellectual Property Workshop, December 2018
- “Reconceptualizing Copyright’s Term,” Intellectual Property Scholars Conference (UC-Berkeley School of Law), August 2018
- “Copyright Arbitrage,” University of Pennsylvania Law School’s Copyright Scholarship Roundtable, June 2018
- “Contract v. Copyright: Contemporary Musician Income Streams,” University of Washington School of Law’s New Music Ecosystem Conference, May 2018
- “Copyright Arbitrage,” Yale Law School’s Law & Technology Speaker Series, April 2018
- “Content ID, or, Who Needs the DMCA?,” Texas A&M School of Law’s Symposium on the DMCA at 20, March 2018
- “Copyright Arbitrage,” St. Louis University Law School Faculty Workshop, November 2017
- “Reconceptualizing Copyright’s Term,” Intellectual Property Scholars Roundtable (Vanderbilt Law School), April 2017
- “Reconceptualizing Copyright’s Term,” University of Houston Law Center Colloquium, April 2017
- “Good News for People Who Love Bad News: The Consequences of Private Deal-making for Musicians,” Whittier Law School’s Entertainment Law Symposium, November 2016
- “Facilitating Competition by Remedial Regulation,” University of Pennsylvania Law School’s Copyright Scholarship Roundtable, November 2015
- “Facilitating Competition by Remedial Regulation,” Spangenberg Center for Law, Technology & the Arts Faculty Colloquium (Case Western Reserve University School of Law, Cleveland, OH - November 2015
- “Facilitating Competition by Remedial Regulation,” BYU’s Law and Entrepreneurship Colloquium, October 2015
- “Facilitating Competition by Remedial Regulation,” Intellectual Property Scholars’ Conference (DePaul Law School), August 2015
- “Competition by Penalty Default,” Northwestern University Law School’s Searle Workshop, May 2015
- “Competition by Penalty Default,” Marquette University Law School’s IP Law Colloquium, April 2015
- “Substantial Similarity as Fair Use in Music,” University of Washington Law School’s Fair Use in the Digital Age Conference, April 2015
- “Competition by Penalty Default,” Lewis & Clark Law School’s IP in the Trees Workshop, November 2014
- “Competition by Penalty Default,” Colorado Bar Association Intellectual Property Section Meeting, September 2014
- “Competition by Penalty Default,” Intellectual Property Scholars Conference (UC-Berkeley School of Law), August 2014
- “Competition by Penalty Default,” Mark Twain Copyright Fellowship Conference, January & June 2014
- “Competition by Penalty Default,” Intellectual Property Scholars Roundtable (Drake University Law School), March 2014
- “Penalty Default Licenses: A Case for Uncertainty,” Intellectual Property Scholars’ Conference (Cardozo School of Law), August 2013

“Penalty Default Licenses: A Case for Uncertainty,” Northwestern University School of Law’s Searle Roundtable, July 2013

“Private Rights Creation & Default Penalty Licenses,” WIPO Advanced Research Forum on IP Rights, May 2013

“Penalty Default Licenses: A Case for Uncertainty,” Georgetown University Law Center’s Pre-Tenure Early Stage Projects Workshop, May 2013

“Private Copyright Reform,” Intellectual Property Scholars Roundtable (Drake University Law School), April 2013

“Private Copyright Reform,” IP Works-in-Progress Intellectual Conference (Seton Hall Law School), February 2013

“Private Copyright Reform,” Albany Law School’s Scholarship Development Workshop, February 2013

### **Panels, Commentary, and Moderation**

“Music Copyright Infringement in the United States,” Music Copyright Infringement: Global Perspectives, UIC School of Law, March 2022

“Taylor Swift’s Time Off Tour and How It Involves Copyrights, Contracts, and Personal Control of Creative Works,” Santa Clara University School of Law, March 2021

“Lay Listeners, Sheet Music & Chord Progressions: The Future of Copyright Infringement Analysis,” University of Colorado Law School, March 2020

“Content in a Multiplatform World and Related Legal Issues,” 17<sup>th</sup> Annual Rocky Mountain IP & Technology Institute, May 2019

“It’s a Barbie World: Intellectual Property, Rights of Publicity, and the Gender Wars,” University of Colorado Law School, March 2019

“Section 512 Safe Harbor: Challenges and Opportunities in User-Generated Content,” University of Colorado Law School, March 2018

“Policy and Predictions in an Era of Rapid Technological Change,” University of Colorado Law School, February 2018

“Blurred v. Bright: The Changing Analysis of Copyright Infringement in Music,” University of Colorado Law School, March 2017

“Innovation and Incentives in the Creative Arts,” University of Colorado Law School, March 2016

“Innovation in the Creation and Distribution of Content,” University of Colorado Law School, March 2015

“Intellectual Property Strategy and the Long Tail: Evidence from the Recorded Music Industry,” Northwestern University Law School, October 2014

“Technological Change, Ethics, and the Law,” Colorado Bench and Bar Conference, October 2014

“The Future of Copyright Competition Policy,” Colorado Bar Association IP Section, September 2014

“Beg, Borrow or Steal: Art and Copyright Law,” South by Southwest Music Conference, March 2014

“Compulsory Licenses and Online Music,” South by Southwest Music Conference, March 2014

“The Artist’s Copyright Conundrum,” South by Southwest Music Conference, March 2013

“Yours, Mine and Ours: Ownership of Cultural Capital,” Yale Law School’s Entertainment and the Law Conference, October 2012

“Copyright,” TPRC Annual Research Conference, September 2012

“Movies and Music Go Social,” Digital LA, September 2011

“It’s All About the Music: An Examination of the D.I.Y. Approach to a Music Career,” Yale in Hollywood Summit, March 2011

“Artists Go Social,” Digital LA, April 2010

“Music Now! Innovations & Business Models,” Yale in Hollywood Summit, March 2010

## **MEDIA**

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Joe Patrice, “‘Copyright Is Hard’ Defense Is Biggest Joke Surrounding Comedian Lawsuits Against Pandora,” ABOVE THE LAW (Apr. 18, 2022)

Isaiah Poritz, “Comedians’ Feud With Streaming Giants Asks: Who Can Use My Joke?,” BLOOMBERG (Apr. 18, 2022)

Rachelle Hampton, “How Is TikTok’s Grammy-Winning Bridgerton Musical Legal?,” SLATE (Apr. 6, 2022)

Rachelle Hampton and Allegra Frank, “Is Tumblr About to Get All of Its Creators Sued?,” SLATE (Aug. 12, 2021)

Chris Stokel-Walker, “Jeff Price is sick of comedians getting screwed by Pandora and Spotify,” INPUT (Feb. 23, 2022)

“Spotify-Joe Rogan Saga,” AIRTALK WITH LARRY MANTLE (Jan. 31, 2022)

Op-ed with Christopher Buccafusco, “Spotify’s ‘Discovery Mode’ Is Payola, Just Not the Bad Kind,” BILLBOARD (June 28, 2021)

Caitlin Rockett, “The real disruption is coming: How NFTs are changing the world of collectibles and art,” BOULDER WEEKLY (Mar. 11, 2021)

Patrik Perez, “Veteran-owned Denver roofing company still fighting to keep name after liquor company files trademark opposition,” DENVER 7 ABC NEWS (Feb. 5, 2021)

“Taylor Swift’s Masters,” NPR MARKETPLACE (Nov. 16, 2020)

“Can a Computer Algorithm End Music Copyright Law as We Know It?,” WILD WILD TECH (Aug. 26, 2020)

“Episode #161: Brian v. Brian,” REPLY ALL (May 14, 2020)

Harriet Alexander, “Computer Coders Create Every Melody Possible in Bid to Help Musicians Avoid Copyright Suits,” BLOOMBERG LAW (Feb. 26, 2020)

Alexis C. Madrigal, “The Hard Drive With 68 Billion Melodies,” THE ATLANTIC (Feb. 26, 2020)

Anandashankar Mazumdar, “Copyright Verdict Against Robin Thicke Hit ‘Blurred Lines’ Stands,” BLOOMBERG BNA PATENT, TRADEMARK & COPYRIGHT LAW DAILY (Mar. 21, 2018)

Kaley Laquea, “CU Law School Offers New Legal Specialties,” LAW WEEK COLORADO (Aug. 11, 2017)

“YouTube Draws Musicians’ Ire with Low Royalty Fees,” BLOOMBERG LAW RADIO (July 19, 2017)

Anandashankar Mazumdar, “Duran Duran Can’t Yank Back U.S. Rights in 80s Hits,” BLOOMBERG BNA PATENT, TRADEMARK & COPYRIGHT LAW DAILY (Dec. 2, 2016)

Anandashankar Mazumdar, “Streaming’s Future Might Be in Negotiated Rates,” BLOOMBERG BNA PATENT, TRADEMARK & COPYRIGHT LAW DAILY (Dec. 21, 2015)

Alicia Wallace, “Denver’s Out Front in ‘David and Goliath’ Battle with Billboard Company,” THE DENVER POST (Dec. 8, 2015)

Blake Brittain, “‘Dancing Baby’ Ruling Leaves Copyright Concerns in Its Wake,” BLOOMBERG BNA ELECTRONIC COMMERCE & LAW REPORT (Nov. 4, 2015)

Blake Brittain, “Musicians More Careful After ‘Blurred Lines’ Case,” BLOOMBERG BNA PATENT, TRADEMARK & COPYRIGHT LAW DAILY (Sept. 17, 2015)

This Week in Law 311: Risky Business (July 17, 2015)

Jason Blevins, “Telluride Foundation says Brazil stole its logo for Olympics,” DENVER POST (July 16, 2015)

Anandashankar Mazumdar, “Music Licensing Reform Faces Much Controversy, Requires More Thought,” BLOOMBERG BNA PATENT, TRADEMARK & COPYRIGHT LAW DAILY (Feb. 13, 2015)

Episode 219: “Future of Copyright in the US, Grammys, Deezer Elite, Rhapsody, Apple As a Label?,” DIGITAL MUSIC TRENDS (Feb. 12, 2015)

Felicia Fonseca, “Company seeks rights to names of iconic Grand Canyon lodges,” Associated Press (Jan. 26, 2015)

Episode 201: “iHeartMedia, U2 Snowballs, Samples & Copyright, Deezer Elite, Alt-J, Facebook & Videos,” DIGITAL MUSIC TRENDS (September 17, 2014)

Greg Sandoval, “Pandora wins court fight aimed at blocking music from internet radio services,” The Verge (Sept. 18, 2013)

“How Private Copyright Deals Are Cutting Artists Out...,” DIGITAL MUSIC NEWS (September 18, 2013)

“Termination Rights,” FUSE NEWS (September 11, 2013)

Episode 142: “Piracy ads cut, six warnings, Gig-it launch, Pandora’s bill, Aimee Mann’s suit,” DIGITAL MUSIC TRENDS (July 26, 2013)

“Artist Termination Rights,” DIGITAL MUSIC TRENDS (March 13, 2013)