

Introduction to the 2012 Editors' Symposium: *The Philosophical Foundations of Intellectual Property*

LARRY ALEXANDER*
STEVEN D. SMITH**

The outstanding collection of articles following this Introduction constitutes the 2012 Editors' Symposium of the *San Diego Law Review*. The Editors' Symposium, an annual event, began with the 2004 Symposium, *What Is Legal Interpretation?*, which appeared in these pages in Volume 42.¹ It was followed in 2005 by the Symposium, *The Meaning of Marriage*,² in 2006 by the Symposium, *The Rights and Wrongs of Discrimination*,³ in 2007 by the Symposium, *Informational Privacy: Philosophical Foundations and Legal Implications*,⁴ in 2008 by the Symposium, *National Borders and Immigration*,⁵ in 2009 by the Symposium, *Isaiah Berlin*,

* Warren Distinguished Professor of Law, University of San Diego School of Law.

** Warren Distinguished Professor of Law, University of San Diego School of Law.

1. Symposium, *What Is Legal Interpretation?*, 42 SAN DIEGO L. REV. 461 (2005).
2. Symposium, *The Meaning of Marriage*, 42 SAN DIEGO L. REV. 821 (2005).
3. Symposium, *The Rights and Wrongs of Discrimination*, 43 SAN DIEGO L. REV. 733 (2006).
4. Symposium, *Informational Privacy: Philosophical Foundations and Legal Implications*, 44 SAN DIEGO L. REV. 695 (2007).
5. Symposium, *National Borders and Immigration*, 45 SAN DIEGO L. REV. 863 (2008).

Value Pluralism, and the Law;⁶ in 2010 by the Symposium, *Freedom of Conscience: Stranger in a Secular Land*;⁷ and in 2011 by the Symposium, *The Morality of Preventive Restriction of Liberty*.⁸ All nine symposia were organized by the Institute for Law and Philosophy at the University of San Diego School of Law, and all consisted of papers and comments presented at the School of Law. The 2013 Editors' Symposium, *The Status of International Law and International Human Rights*, will take place in May 2013, with subsequent publication of its papers in Volume 50 of the *San Diego Law Review*.

What justifies intellectual property rights—copyrights, patents, trademarks, and the like? Are they justified by their consequences, the increase in the public welfare that they bring about? Or is their justification based on the natural rights of creators, irrespective of those rights' contribution to the public weal? And what is the scope of the intellectual property rights that these different justifications of them imply? Is, for example, the term of years of copyright and patent protection based on an estimate of that term's social consequences or on an estimate of when another person would have created a similar work or invention? Or is the "fair use" doctrine a consequentialist-based regulation of the limits of creators' natural rights?

This is the topic that a distinguished group of scholars discuss and debate in the pages that follow. The importance of the topic and their contributions to it cannot be overstated.

In seeking to make an annual Editors' Symposium a reality, the Institute and the *San Diego Law Review* have worked to build a permanent endowment sufficient to finance it. To that end, we have solicited—and shall continue to solicit—donations from all former editors of the *San Diego Law Review*. Those who have contributed to date are listed at the beginning of the issue. We are very, very grateful for your generosity and hope this product vindicates our seeking your support. Thank you.

6. Symposium, *Isaiah Berlin, Value Pluralism, and the Law*, 46 SAN DIEGO L. REV. 753 (2009).

7. Symposium, *Freedom of Conscience: Stranger in a Secular Land*, 47 SAN DIEGO L. REV. 899 (2010).

8. Symposium, *The Morality of Preventive Restriction of Liberty*, 48 SAN DIEGO L. REV. 1075 (2011).