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FROM THE EDITOR

This issue highlights the proceedings of the Silicon Flatirons Telecommunications Program's Seventh Anniversary Symposium, which this year focused on the next wave of innovation in digital broadband migration.¹ From the panel on network management, two articles examine the changing nature of the network neutrality debate. Professor Jerry Kang discusses how aspects of the network neutrality debate have evolved into questions about "anti-discrimination." He uncovers several surprising lessons that can be learned from comparing and contrasting race discrimination with net discrimination. Professor Howard Shelanski then analyzes unanswered questions that create risks for committing to any single solution to the network neutrality debate. He examines the policy implications that arise from these uncertainties. Three articles then follow from the panel on digital rights management ("DRM"). Professor Pamela Samuelson and Jason Schultz show that copyright owners may be harming consumers of digital products because of the lack of effective notice about their DRM restrictions. They argue that regulation is needed while simultaneously preserving the goals of protecting copyright using DRM. Professor Neil Netanel discusses issues arising for mobile phone carriers who might be tempted to create "walled gardens" in which DRM is used to lock customers into a provider's services rather than to protect against copyright infringement. Professor Mark Lemley sorts through the patchwork of safe harbor provisions intended to protect Internet intermediaries against liability for intellectual property infringement. He argues for a uniform safe harbor rule based on the trademark immunity statute.

In addition to our symposium articles, this issue presents two additional contributions. Warren Lavey examines several recent global telecommunications mergers and acquisitions, contrasting the conditions imposed for national security and labor protection reasons with congressional and federal agency efforts to deregulate the industry. His findings and analysis suggest several ways to create more coherence when the global telecommunications industry faces the tensions between

1. The Silicon Flatirons Telecommunications Program, The Digital Broadband Migration: The Next Wave of Innovation, http://www.silicon-flatirons.org/conferences_old/20070211nextwave.asp (last visited Nov. 1, 2007); *see also* University of Colorado at Boulder Telecommunications Program, SFTP Conference Videos, http://telecom.colorado.edu/index.php?load=content&page_id=126 (last visited Nov. 1, 2007) (offering videos of the conference proceedings).

deregulation and U.S. national security and labor concerns. Our Production Editor, Michael Beylkin, concludes this issue with an article discussing the Supreme Court decision in *eBay, Inc. v. MercExchange, L.L.C.* and its ramifications for the biotech and pharmaceutical industries.² He argues that the Court's equitable test for injunctive relief in patent infringement cases should not cause any fear within these industries.

I wish to thank all our authors for providing excellent articles for this issue. Articles Editors Conor Boyle, Brian Geoghegan, Scott Grayson, and Karam Saab have played critical roles in working with each of our authors to make each article the best it can be. Without their hard work and dedication, this issue would not have been possible. Production Editor Michael Beylkin then spent countless hours helping fine tune each article so that it meets the high standards we set for publication. I will never be able to adequately thank him for all that he has done. Once again, the journal is indebted to Assistant Production Editor Mike Boucher, who has volunteered significant amounts of his time to helping on all aspects of production.

Associate Editors Patrick Thiessen, Venu Menon, Mike Varco, Ed Hafer, and Joe Chen have given generously of their time to a myriad of tasks, helping out wherever we needed them. Our Note and Comment Editors Tina Amin, Scott Challinor, Gil Selinger, and Kaydee Smith, along with our Executive Editor Carin Twining, have collectively helped choose and supervise our team of Members. In addition, I wish to thank all our Members who have given so much time and energy to cite checking this issue. Thanks also to our Managing Editor, Todd Blair for his vital role in promoting the journal and coping with our finances.

Beyond our members and editors, many other people deserve endless thanks. Our Office Manager, Martha Utchenik, has always had an open door, being available to answer questions and give overall guidance to the journal production process. Brad Bernthal, Dale Hatfield, and Jill Van Matre have provided input and insight that has driven all of us to produce better work. Our alumnae deserve thanks for their encouragement and support. And of course, the continued support of the Silicon Flatirons Program Advisory Board also makes this journal possible.

Professors Paul Ohm and Phil Weiser, our faculty co-advisors, deserve heartfelt thanks. Both Paul and Phil provide critical advice and endless support to the journal's staff. They create amazing opportunities and make valuable connections for our future careers. They also provide constant intellectual stimulation, both in and out of the classroom.

2. *eBay, Inc. v. MercExchange, L.L.C.*, 126 S. Ct. 1837 (2006).

Lastly, I wish to thank my family members whose support, advice, and encouragement have made this incredible learning experience possible for me.

We hope that you find the articles contained in this first issue of the sixth volume of the *Journal on Telecommunications & High Technology Law* insightful and thought provoking.

David B. Wilson
Editor-in-Chief

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