A Finding Aid to the Collection in the Library of Congress

Prepared by Michael Spangler with the assistance of Jessica Miller and Chanté Wilson Revised and expanded by Nicholas Newlin



Manuscript Division, Library of Congress

Washington, D.C.

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Collection Summary

Title: Giles S. Rich Papers **Span Dates:** 1790-1999 **Bulk Dates:** (bulk 1956-1999)

ID No.: MSS84755

Creator: Rich, Giles S., 1904-1999

Extent: 130,000 items; 660 containers plus 1 oversize and electronic files; 262 linear feet

Language: Collection material in English

Repository: Manuscript Division, Library of Congress, Washington, D.C.

Abstract: Federal judge and patent attorney. Legal case files, correspondence, administrative files, subject file, speeches, and writings documenting the career of Giles S. Rich as a judge on the United States Court of Customs and Patent Appeals

and the United States Court of Appeals for the Federal Circuit.

Selected Search Terms

The following terms have been used to index the description of this collection in the Library's online catalog. They are grouped by name of person or organization, by subject or location, and by occupation and listed alphabetically therein.

People

Arnold, Tom--Correspondence.

Frost, George E., 1918- -- Correspondence.

Gladney, Frank Y. (Frank Young), b. 1877--Correspondence.

Hand, Learned, 1872-1961--Correspondence.

Latman, Alan--Correspondence.

Rao, Paul P., 1899- -- Correspondence.

Rich, Giles S.

Schneider, Homer J.--Correspondence.

Smith, Arthur M. (Arthur Mumford), 1903- -- Correspondence.

Watson, Robert C.--Correspondence.

Organizations

United States. Court of Appeals (Federal Circuit)
United States. Court of Customs and Patent Appeals.

Subjects

Biotechnology industries.

Biotechnology--Patents.

Computer software industry.

Computer software--Patents.

Design protection.

Intellectual property.

Patent laws and legislation.

Patents--Standards.

Pharmaceutical industry--Patents.

Pharmaceutical industry.

Occupations

Jurists.

Lawyers.

Administrative Information

Provenance

The papers of Giles S. Rich, federal judge and patent attorney, were bequeathed by Rich to the Library of Congress and received in 2000 and 2001.

Processing History

The papers of Giles S. Rich were arranged and described in 2002. The finding aid was revised and expanded in 2007 to reflect material not described in the original version.

Transfers

Items have been transferred from the Manuscript Division to other custodial divisions of the Library. Sound and video recordings have been transferred to the Motion Picture, Broadcasting, and Recorded Sound Division. A book has been transferred to the Anglo-American Acquisitions Division. All transfers are identified in these divisions as part of the Giles S. Rich Papers in the Manuscript Division.

Copyright Status

Copyright in the unpublished writings of Giles S. Rich in these papers and in other collections in the custody of the Library of Congress is reserved. Consult a reference librarian in the Manuscript Division for further information.

Access and Restrictions

Restrictions apply governing the use, photoduplication, or publication of items in this collection. Consult a reference librarian in the Manuscript Division for information concerning these restrictions.

Electronic Format

Electronic files were received as part of the papers of Giles S. Rich. Consult reference staff in the Manuscript Division for more information.

Preferred Citation

Researchers wishing to cite this collection should include the following information: Container number, Giles S. Rich Papers, Manuscript Division, Library of Congress, Washington, D.C.

Biographical Note

Date 1904, May 30	Event Born, Rochester, N.Y.
1926	Bachelor of science, Harvard College, Cambridge, Mass.
1929	Bachelor of law, Columbia University School of Law, New York, N.Y.
1929-1952	Private practice in patent and trademark law, Williams, Rich and Morse, New York, N.Y.
1931	Married Gertrude Verity Braun (died 1953)
1942-1956	Lecturer on patent law, Columbia University School of General Studies, New York, N.Y.
1950-1951	President, New York Patent Law Association

1950	Member, Drafting Committee, Coordinating Committee of the National Council of Patent Law Associations, which drafted the Patent Act of 1952
1952-1956	Private practice in patent and trademark law, Churchill, Rich, Weymouth and Engel, New York, N.Y.
1953	Married Helen Gill Field
1956-1982	Associate judge, United States Court of Customs and Patent Appeals
1963	Received Charles F. Kettering Award from the Patent, Trademark, and Copyright Research Institute, George Washington University, Washington, D.C.
1963-1969	Adjunct professor of patent law, Georgetown University Law Center, Washington, D.C.
1979	Wrote the opinion for <i>In re Bergy</i> recognizing the patentability of genetically engineered life forms
1980	In re Bergy affirmed by the Supreme Court in Diamond v. Chakrabarty
1982-1999	Circuit judge, United States Court of Appeals for the Federal Circuit, created by the merger of the Court of Customs and Patent Appeals and the Court of Claims
1999, June 9	Died, Washington, D.C.

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Scope and Content Note

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The papers of Giles Sutherland Rich (1904-1999) span the years 1790-1999, with the bulk of the material concentrated in the period 1956-1999. The collection chiefly documents Rich's long and influential career in patent and intellectual property law as a judge on the United States Court of Customs and Patent Appeals and its successor the United States Court of Appeals for the Federal Circuit. In 1997 at the age of 92, Rich achieved recognition as the oldest serving active federal judge, a status he reinforced by continuing to serve until his death two years later. He is especially well-known for his opinions recognizing patents in the biotechnology and computer software industries and for his contributions to the Patent Law of 1952. Rich's extensive case files constitute the main body of his papers, which are organized in the following series: Pre-Judicial File; Correspondence File; United States Court of Customs and Patent Appeals; United States Court of Appeals for the Federal Circuit; Subject File; Legal Reference File; Speeches, Writings, and Events File; Miscellany; Addition; Oversize; and Electronic Files.

The <u>Pre-Judicial File</u> represents Rich's activities as a patent attorney prior to his appointment to the federal judiciary in 1956. Although he practiced patent law for more than twenty-five years, his papers contain only a few of his legal files and a teaching file relating to courses he taught at Columbia University. Rich considered his contributions to the Patent Law of 1952 a major achievement, but material relating to his efforts is limited.

The <u>Correspondence File</u> largely reflects Rich's period of service on the bench and contains letters exchanged with attorneys, judges, government officials, and professional organizations. Topics of discussion include points of law, legislation, and the effects of decisions by various United States courts. Much of the correspondence is general in nature including scheduling, invitations, and personal notes. Prominent correspondents include Tom Arnold, George E. Frost, Frank Y. Gladney, Learned Hand, Alan Latman, Paul P. Rao, Homer J. Schneider, Arthur M. Smith, and Robert C. Watson.

The <u>United States Court of Customs and Patent Appeals</u> series is composed of an <u>administrative file</u> and an extensive <u>case file</u>. The series contains some of Rich's most important opinions in patent law and, together with the case file in the United States Court of Appeals for the Federal Circuit series, documents the development of patent and intellectual property law as well as growth in science and technology in the United States during the last half of the twentieth century. The

<u>administrative file</u> contains correspondence exchanged with various federal judges and material relating to Rich's appointment to the court, his service as acting chief judge, and the merger of the Court of Customs and Patent Appeals with the United States Court of Claims.

The <u>case file</u> documents the legal debates and consensus-building process of the court's five-judge panels and includes final and draft copies of opinions, notes from oral arguments, correspondence and law clerks' memoranda, vote tallies, circulated opinions, briefs, transcripts, and background material. Grouped chronologically by annual terms, the case file contains patent and customs cases in which Rich wrote majority, concurring, or dissenting opinions. Annual terms begin in October and generally run through June of the following year, and cases are arranged by docket number mostly within the term in which they were first argued or submitted. A new docket number system introduced in the annual term for 1974-1975 includes a prefix identifying the federal fiscal year in which a case was docketed.

A file for *In re Bergy* relates to the patentability of genetically engineered life-forms under the existing patent laws. The *Bergy* decision, which was subsequently affirmed by the Supreme Court in the *Diamond v. Chakrabarty* case, is credited with contributing to the rapid expansion of the biotechnology industry. Sound recordings of oral arguments for *In re Bergy* and *In re Chakrabarty* have been transferred to the Library's Motion Picture, Broadcasting, and Recorded Sound Division. Other prominent cases include *In re Benson* and *In re Diehr* in which Rich argued for the extension of patent protection to computer software programs. His opinion in *Diehr* was ultimately upheld by the Supreme Court. The file also contains customs and trademark cases.

The <u>United States Court of Appeals for the Federal Circuit</u> series reflects Rich's work as a member of the circuit court formed by the combined Court of Customs and Patent Appeals and the Court of Claims. Created in 1982, the new court was given greatly expanded nationwide jurisdiction in patent appeal cases in order to provide more uniformity in patent law. The court's jurisdiction also included appeals in the fields of international trade, government contracts, claims against the government, and federal personnel. Material related to the court include an <u>administrative file</u>, a <u>case file</u>, and an <u>en banc</u> case file. Opinions by Rich include State Street Bank & Trust Co. v. Signature Financial Group recognizing patents for business and financial methods and In re Alappat, another computer software program case decided en banc. Files include final and draft copies of opinions, notes from oral arguments, administrative sheets, correspondence and law clerks' memoranda, vote tallies, circulated opinions, briefs, transcripts, and background material. Grouped by annual terms as the file was originally organized in Rich's offices, the <u>case files</u> primarily relate to cases in which Rich authored opinions. Annual terms run from October through September, and cases are mostly filed in the term in which they were first argued or submitted. Files for the 1990s are incomplete and many include only Rich's notes and law clerks' memoranda. The <u>administrative file</u> includes correspondence of the court, minutes and reports from judges' conferences, a personal file, and material related to cases before the court concerning the air traffic controllers' strike in 1981.

The <u>Subject File</u> contains material documenting Rich's participation in drafting legislation affecting design protection and the pharmaceutical industry. Other prominent files include material relating to patent cases appealed to the Supreme Court. In *Graham v. John Deere Co.* the Court affirmed the concept of "nonobviousness," a standard for granting patents cowritten by Rich into the Patent Act of 1952. Other key files treat biotechnology, software protection, trademarks, and the history of the Court of Customs and Patent Appeals. The <u>Legal Reference File</u> covers a broad range of issues related to patents, including files pertaining to the legislative history of patent law.

The Speeches, Writings, and Events File contains items related to Rich's books, judicial seminars, speeches, articles, notes, and background material. Book files include material pertaining to Rich's *A Brief History of the United States Court of Customs and Patent Appeals* and his *Collected Papers on Patent Law*. A chronological file of articles, speeches, and events attended by Rich spans the breadth of his career. Prominent in the file is correspondence and other material relating to his Charles F. Kettering Award address in 1964 expounding the merits of the "nonobviousness" standard for patents.

The Miscellany series includes biographical and genealogical material, memorials, photographs, and printed matter.

An <u>Addition</u> series includes case files from the 1982-1983 annual term of the United States Court of Appeals for the Federal Circuit.

Arrangement of the Papers

This collection is arranged in eleven series:

- Pre-Judicial File, 1904-1962
- Correspondence File, 1932-1999
- <u>United States Court of Customs and Patent Appeals, 1945-1989</u>
- United States Court of Appeals for the Federal Circuit, 1958-1999
- Subject File, 1790-1999
- <u>Legal Reference File, 1849-1999</u>
- Speeches, Writings, and Events File, 1909-1999
- Miscellany, 1825-1999
- <u>Addition, 1982-1983</u>
- Oversize, undated
- Electronic Files, 1997

Description of Series

Container Series

BOX 1-7 <u>Pre-Judicial File, 1904-1962</u>

Correspondence, legal files, teaching files, clippings, notes, and printed matter. Arranged alphabetically by type of material or topic and chronologically therein.

BOX 7-16 Correspondence File, 1932-1999

Letters with attachments received and copies of letters sent.

Arranged alphabetically by name of person, organization, or topic and chronologically therein.

BOX 16-339 United States Court of Customs and Patent Appeals, 1945-1989

BOX 16-29 Administrative File, 1945-1989

Correspondence, memoranda, notes, copies of opinions, reports, printed matter, and clippings.

Arranged alphabetically by name of person, organization, or topic and chronologically therein.

BOX 27-339 Case File, 1956-1982

Opinions in various stages of preparation, circulated opinions, memoranda, correspondence, administrative sheets, notes on argued cases, case assignments, vote tallies, motions, briefs, transcripts, reports, printed matter, clippings, and background material.

Organized chronologically by annual court term and alphabetically thereunder by type of material. Opinion files are grouped by type of appeal and filed numerically thereunder by docket number. Material in individual opinion files is mostly filed as received with final and draft opinions followed in order by correspondence, notes, background material, and printed copies of briefs and transcripts of record.

BOX 340-581 United States Court of Appeals for the Federal Circuit, 1958-1999

BOX 340-358 **Administrative File, 1958-1999**

Correspondence, memoranda, notes, copies of opinions, reports, printed matter, and clippings.

Arranged alphabetically by topic, name of person or organization, or type of material and chronologically therein.

BOX 359-536 Case File, 1982-1999

Opinions in various stages of preparation, circulated opinions, memoranda, correspondence, administrative sheets, notes, case assignments, vote tallies, motions, briefs, transcripts, reports, printed matter, clippings, and background material.

Organized chronologically by annual court term and alphabetically thereunder by type of material. Opinion files are arranged numerically by docket number. Material in individual opinion files is mostly arranged as received with final and draft opinions followed in order by administrative sheets, correspondence, notes, background material, and printed copies of briefs and transcripts of record.

BOX 537-581 En Banc Case File, 1982-1999

Opinion files with opinions in various stages of preparation, circulated opinions, memoranda, correspondence, administrative sheets, notes, vote tallies, motions, briefs, transcripts, reports, printed matter, clippings, and background material.

Organized chronologically by annual court term and filed numerically thereunder by docket number. Material in individual opinion files is mostly arranged as received with final and draft opinions followed in order by administrative sheets, correspondence, notes, background material, and printed copies of briefs and transcripts of record.

Subject File, 1790-1999

Correspondence, notes, reports, opinions, printed matter, transcripts, clippings, and background material.

Arranged alphabetically by topic, name of organization, or type of material and chronologically thereunder.

BOX 610-617 Legal Reference File, 1849-1999

Correspondence, notes, reports, printed matter, clippings, and background material. Arranged alphabetically by topic and chronologically thereunder.

BOX 617-652 Speeches, Writings, and Events File, 1909-1999

Handwritten, typed, and printed copies of articles, speeches, and books with related notes, printed matter, and research material.

Grouped alphabetically and arranged chronologically or alphabetically therein.

BOX 653-657 <u>Miscellany</u>, 1825-1999

Awards, biographical and genealogical material, clippings, memorials, photographs, and printed matter.

Arranged alphabetically by type of material and chronologically thereunder.

BOX 658-660 Addition, 1982-1983

Opinions, memoranda, correspondence, notes, briefs, transcripts, and reports from the United States Court of Appeals for the Federal Circuit.

Organized chronologically by annual court term and thereunder by type of material. Opinion files are arranged according to docket number.

BOX OV 1 Oversize, undated

Index cards.

Arranged and described according to the series, containers, and folders from which the items were removed.

BOX EL 1-EL 2 Electronic Files, 1997

Arranged and described according to the series, containers, and folders from which the items were removed. Unprocessed and unavailable.

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вох 1-7	Pre-Judicial File, 1904-1962
	Correspondence, legal files, teaching files, clippings, notes, and printed matter.
	Arranged alphabetically by type of material or topic and chronologically therein.
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BOX 3	Transcript of proceedings, 1950
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                          Arranged alphabetically by name of person, organization, or topic and chronologically therein.
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                          APLA Quarterly Journal, 1974-1977, undated
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	administrative sheets briefs, transcripts, rep Organized chronological material. Opinion file docket number. Mate and draft opinions fo	notes on argued cases, case assignments, vote tallies, motions, ports, printed matter, clippings, and background material. It by annual court term and alphabetically thereunder by type of es are grouped by type of appeal and filed numerically thereunder by trial in individual opinion files is mostly filed as received with final flowed in order by correspondence, notes, background material, and fis and transcripts of record.
BOX 27	administrative sheets briefs, transcripts, rep Organized chronological material. Opinion file docket number. Mate and draft opinions for printed copies of brie	notes on argued cases, case assignments, vote tallies, motions, ports, printed matter, clippings, and background material. ly by annual court term and alphabetically thereunder by type of as are grouped by type of appeal and filed numerically thereunder by trial in individual opinion files is mostly filed as received with final flowed in order by correspondence, notes, background material, and
BOX 27	administrative sheets briefs, transcripts, rep Organized chronological material. Opinion file docket number. Mate and draft opinions fo printed copies of brie	notes on argued cases, case assignments, vote tallies, motions, ports, printed matter, clippings, and background material. It by annual court term and alphabetically thereunder by type of as are grouped by type of appeal and filed numerically thereunder by rial in individual opinion files is mostly filed as received with final flowed in order by correspondence, notes, background material, and fis and transcripts of record.
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	BOX 456	(1 folder)	

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(2 folders)	<i>'</i> .
83-1088 Viray vs. Office of Personnel Management	
BOX 659 83-1099 Wenz v. United States Postal Serv.	
83-1161 Novotny v. Department of Transp.	
83-1175 Dorrance v. Department of Transp.	
(2 folders)	
83-1185 In re Pagano	
83-1200 Genova, Inc. v. Bemis Mfg. Co.	
(2 folders)	
Anterberry v. Department of Health and Human Servs.	
BOX 660 83-1232 <i>In re</i> Lee	
83-1239	
83-1271 McKay v. Merit Sys. Protection Bd.	
83-1298 Young v. Department of Commerce	
83-1328 J.P. Tool Ltd. v. Valeron Corp.	
(2 folders)	
Allen v. Office of Personnel Management	
BOX OV 1 Oversize, undated	
Index cards.	
Arranged and described according to the series, containers, and folders from which the item were removed.	ms
BOX OV 1 Speeches, Writings, and Events File	
Notes and background material	

Topical, undated (Container 647)

BOX EL 1-EL 2 Electronic Files, 1997

Arranged and described according to the series, containers, and folders from which the items were removed. Unprocessed and unavailable.

BOX EL 1 United States Court of Appeals for the Federal Circuit

Case file

1997-1998 term

Opinions

97-1449, Nagel Indus. v. Ford Motor Co.

Ford Motor Co. appeal brief, 1997 (Container 495)

BOX EL 2 United States Court of Appeals for the Federal Circuit

En banc case file

Opinions

1997-1998 term

96-1258, In re Zurko

Supplemental brief of appellants Zurko, et al., 1997 (Container 578)

Appendix: Legal Abbreviations

Legal term **Abbreviation** Administrat [ive, ion] Admin. Administrat [or, rix] Adm'[r,x]Agriculture Agric. America [n] Am. Associate Assoc. Association Ass'n Atlantic Atl. Authority Auth. Automobile Auto. Avenue Ave. Board Bd. Brotherhood Bhd. **Brothers** Bros. **Building** Bldg. Central Cent. Chemical Chem. Commission Comm'n Commissioner Comm'r Committee Comm. Company Co. Consol. Consolidated Construction Constr. Cooperative Coop. Corporation Corp. Department Dep't Development Dev. Distribut [or, ing] Distrib. District Dist. Div. Division East [ern] E. Educ. Education [al] Elec. Electric [al, ity] Electronic Elec. Engineer Eng'r Engineering Eng'g Enterprise Enter. Environment Env't Envtl. Environmental Equipment Equip. Exchange Exch. Execut [or, rix] Ex'[r,x]Federal Fed. Federation Fed'n Financ [e, ial, ing] Fin. Found. Foundation General Gen. Government Gov't

Legal term Abbreviation

Guaranty Guar. Hospital Hosp. Housing Hous. Incorporate Inc. Indemnity Indem. Independent Indep. Industr [y, ies, ial] Indus. Institut [e, ion] Inst. Insurance Ins. International Int'l Investment Inv. Liability Liab. Limited Ltd. Litigation Litig. Machine [ry] Mach. Mfr. Manufacturer Mfg. Manufacturing Market Mkt. Marketing Mktg. Metropolitan Metro. Municipal Mun. Mutual Mut. National Nat'l North [ern] N. Organiz [ation, ing] Org. Pacific Pac. Product [ion] Prod. **Public** Pub. Railroad R.R. Railway Ry. Refining Ref. Road Rd. Savings Sav. Securit [y, ies] Sec. Service Serv. Society Soc'y South [ern] S. S.S. Steamship [s] Street St. Surety Sur. Sys. System [s] Tele [phone, graph] Tel. Transport [ation] Transp. University Univ. Utility Util. West [ern] W.