

# John M. Golden

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## Experience

The University of Texas School of Law

Loomer Family Professor in Law, 2010–. Assistant Professor, 2006–2010.

Faculty Director, Andrew Ben White Center in Law, Science and Social Policy, 2011–.

Faculty Advisor: *Texas Intellectual Property Law Journal*, 2006–; *Texas Law Review*, 2014–.

Faculty Coordinator: Drawing Board colloquium series, 2014–.

Courses: Administrative Law; Contracts; Patent Law; innovation-related seminars.

Select Committees: School of Law Dean Review Committee, 2017–2018 (faculty-elected member);

Appointments, spring 2009, 2010–2011, 2012–2013 (chair of unitary committee in 2012–2013);

Governance, 2011–2012; Standards and Rules, 2007–2008, 2009–2010.

Academic Visits or Lectureships

Tilburg Institute for Law, Technology & Society and Law & Economics Center, Fellow, fall 2016.

Harvard Law School, Visiting Professor, spring 2015; Hieken Lecturer, fall 2004 & 2005.

University of California, Berkeley, College of Engineering, Visiting Professor, fall 2011.

Harvard Business School, Visiting Scholar, fall 2008.

Clerkships

Hon. Stephen Breyer, U.S. Supreme Court, 2002–2003.

Hon. Michael Boudin, U.S. Court of Appeals for the First Circuit, 2000–2001.

Wilmer Cutler Pickering Hale and Dorr LLP, and Hale and Dorr LLP, Boston, Mass.

Associate in the intellectual property department, 2001–2002, 2003–2006.

## Education

Harvard Law School, J.D. *magna cum laude*, 2000. Sears Prize for first-year G.P.A.

*Harvard Law Review*, 1998–2000; primary editor chair, 1999–2000.

Harvard University, Ph.D. in Physics, 1997; A.M. in Physics, 1994. Dissertation on quantum dots.

Teaching Fellow for courses on statistical physics and atomic, molecular and optical physics, 1996.

Harvard College, A.B. *summa cum laude* in Physics and History, 1992. Thesis on Spanish history.

## Legal Articles

*Redundancy and Anti-Redundancy in Copyright*, 51 CONN. L. REV. (forthcoming article with Oren Bracha).

*Channeling Patent Damages*, REV. LITIG. & TEX. INTELL. PROP. L.J. (forthcoming symposium foreword).

*Discretion in Patent Damages*, REV. LITIG. (forthcoming symposium article).

Chapters on Injunctions and Reasonable Royalties, in PATENT REMEDIES AND COMPLEX PRODUCTS: TOWARD A GLOBAL CONSENSUS (forthcoming book with multiple coauthors for each chapter).

*Empirical Studies Relating to Patents—Remedies*, in 2 THE ECONOMICS OF INTELLECTUAL PROPERTY LAW (B. Depoorter, P. Menell & D. Schwartz eds., forthcoming) (with Thomas F. Cotter).

“From PI to IP”: *Litigation Response to Tort Reform*, 20 AM. L. & ECON. REV. 168–213 (2018) (with Ronen Avraham).

*Remedies and Procedure: Patent Law’s Continuing Frontiers*, 17 CHI.-KENT J. INTELL. PROP. 290–295 (2018) (symposium essay).

*Patent Damages: Working With Limits*, 36 REV. LITIG. i–xi (2017) & 25 TEX. INTELL. PROP. L.J. v–xiv (2017) (symposium foreword).

C.V.: John Golden

- A Restitution Perspective on Reasonable Royalties*, 36 REV. LITIG. 335–377 (2017) (symposium article with Karen E. Sandrik).
- “Troll” Check? A Proposal for Administrative Review of Patent Litigation, 97 B.U. L. REV. 1775–1841 (2017) (with Lauren H. Cohen, Umit Gurun & Scott Duke Kominers).
- Stem Cell Patents in the United States*, in RESEARCH HANDBOOK ON INTELLECTUAL PROPERTY AND THE LIFE SCIENCES 243–255 (D. Matthews & H. Zech eds., 2017).
- Reasonable Certainty in Contract and Patent Damages*, 30 HARV. J.L. & TECH. (Special Symposium) 257–278 (2017), selected for reprinting in INTELL. PROP. L. REV., after “judged one of the best law review articles related to intellectual property law published within the last year.”
- Working Without Chevron: The PTO as Prime Mover*, 65 DUKE L.J. 1657–1699 (2016) (symposium article).
- Redundancy: When Law Repeats Itself*, 94 TEX. L. REV. 629–711 (2016).
- Too Human? Personal Relationships and Appellate Review*, 94 TEX. L. REV. SEE ALSO 70–81 (2016) (comment on Mark A. Lemley & Shawn P. Miller, *If You Can’t Beat ’Em, Join ’Em? How Sitting by Designation Affects Judicial Behavior*, 94 TEX. L. REV. 451 (2016)).
- The Fracking Revolution: A Case Study in Policy Levers to Promote Innovation*, 64 EMORY L.J. 955–1040 (2015) (with Hannah J. Wiseman), selected for reprinting in the LAND USE & ENVIRONMENT LAW REVIEW after being judged “one of the strongest pieces of environmental law scholarship” in 2014–15.
- Litigation in the Middle: The Context of Patent-Infringement Injunctions*, 92 TEX. L. REV. 2075–2115 (2014) (symposium article).
- Flook Says One Thing, Diehr Says Another: A Need for Housecleaning in the Law of Patentable Subject Matter*, 82 GEO. WASH. L. REV. 1765–1795 (2014) (symposium article).
- The Path of IP Studies: Growth, Diversification, and Hope*, 92 TEX. L. REV. 1757–1768 (2014) (symposium foreword with Robert P. Merges & Pamela Samuelson).
- The USPTO’s Soft Power: Who Needs Chevron Deference?*, 66 SMU L. REV. 541–558 (2013) (symposium article).
- Proliferating Patents and Patent Law’s “Cost Disease”*, 51 HOUS. L. REV. 455–501 (2013) (symposium article), draft version selected for presentation at the 2013 Conference on Empirical Legal Studies
- Patent Privateers: Private Enforcement’s Historical Survivors*, 26 HARV. J.L. & TECH. 545–618 (2013).
- Purposive Hopes for Better IP*, 91 TEX. L. REV. 1413–1424 (2013) (book review of CHRISTINA BOHANNAN & HERBERT HOVENKAMP, CREATION WITHOUT RESTRAINT: PROMOTING LIBERTY AND RIVALRY IN INNOVATION (2012)).
- Patent Law’s Falstaff: Inequitable Conduct, the Federal Circuit, and Therasense*, 7 WASH. J.L. TECH. & ARTS 353–378 (2012) (symposium article).
- Injunctions as More (or Less) Than “Off Switches”: Patent-Infringement Injunctions’ Scope*, 90 TEX. L. REV. 1399–1472 (2012), draft versions selected for presentation at the 2011 Conference on Empirical Legal Studies and as a winner of a 2011 Samsung-Stanford Patent Prize.
- The Supreme Court’s Accidental Revolution? The Test for Permanent Injunctions*, 112 COLUM. L. REV. 203–249 (2012) (with Mark P. Gergen & Henry E. Smith).
- Complex Economics and Patent Remedies*, 1 IP THEORY 50–55 (2011) (symposium essay).
- Patentable Subject Matter and Institutional Choice*, 89 TEX. L. REV. 1041–1111 (2011).
- Innovation Dynamics, Patents, and Dynamic-Elasticity Tests for the Promotion of Progress*, 24 HARV. J.L.

C.V.: John Golden

- & TECH. 47–110 (2010), with abstract published on-line in JOLT DIGEST, Feb. 28, 2011.
- Intellectual Liability in Context, 88 TEX. L. REV. *SEE ALSO* 211–219 (2010) (comment on Daniel A. Crane, *Intellectual Liability*, 88 TEX. L. REV. 253 (2009)).
- WARF’s Stem Cell Patents and Tensions Between Public and Private Sector Approaches to Research, 38 J.L. MED. & ETHICS 314–331 (2010) (article for a symposium on embryonic stem cells).
- The Federal Circuit and the D.C. Circuit: Comparative Trials of Two Semi-Specialized Courts, 78 GEO. WASH. L. REV. 553–574 (2010) (article for a symposium on the Federal Circuit).
- Principles for Patent Remedies, 88 TEX. L. REV. 505–592 (2010), reprinted in LAW AND ECONOMICS OF INNOVATION (Eli M. Salzberger ed., 2012).
- The Supreme Court as “Prime Percolator”: A Prescription for Appellate Review of Questions in Patent Law, 56 UCLA L. REV. 657–724 (2009).
- Construing Patent Claims According to Their “Interpretive Community”: A Call for an Attorney-Plus-Artisan Perspective, 21 HARV. J.L. & TECH. 321–386 (2008), reprinted in PAT. L. REV. 359–424 (2009), after “judged one of the best law review articles related to patent law published within the last year.”
- “Patent Trolls” and Patent Remedies, 85 TEX. L. REV. 2111–2161 (2007) (commentary for an intellectual property symposium), excerpts reprinted in PATENT REMEDIES: CONTEMPORARY APPROACHES 129–165 (C Sri Krishna ed., 2008).
- Biotechnology, Technology Policy, and Patentability: Natural Products and Invention in the American System, 50 EMORY L.J. 101–191 (2001), reprinted in INTELLECTUAL PROPERTY AND BIOTECHNOLOGY (Arti K. Rai ed., 2011), after being judged “one of the most important and influential previously published English language works in this particular field.”
- Note, Navigating Uncertainty: Gatekeeping in the Absence of Hard Science, 113 HARV. L. REV. 1467–1484 (2000).
- The Supreme Court, 1998 Term—Leading Cases—Census Act—Statutory Interpretation—Statistical Sampling for Purposes of Apportionment, 113 HARV. L. REV. 349–359 (1999).
- Recent Case, Fifth Circuit Holds That Clinical Medical Testimony Must Pass the Daubert Test for Admissibility of Hard Science, 112 HARV. L. REV. 719–724 (1999).

## Physics Articles

- Coulomb Blockade of Strongly Coupled Quantum Dots Studied via Bosonization of a Channel with a Finite Barrier, 65 PHYS. REV. B 115,326 (2002) (with Bertrand I. Halperin).
- Corrections to the Universal Behavior of the Coulomb-Blockade Peak Splitting for Quantum Dots Separated by a Finite Barrier, 56 PHYS. REV. B 4716 (1997) (with Bertrand I. Halperin).
- Higher-Order Results for the Relation Between Channel Conductance and the Coulomb Blockade for Two Tunnel-Coupled Quantum Dots, 54 PHYS. REV. B 16,757 (1996) (with Bertrand I. Halperin).
- Relation Between Barrier Conductance and Coulomb-Blockade Peak Splitting for Tunnel-Coupled Quantum Dots, 53 PHYS. REV. B 3893 (1996) (with Bertrand I. Halperin).

## Additional Writings

- PRINCIPLES OF PATENT LAW: CASES AND MATERIALS (7th ed. 2018) (with F. Scott Kieff, Pauline Newman & Henry E. Smith).
- U.S. Supreme Court Brief for Amici Curiae Professors of Administrative Law, Federal Courts, and Intellectual Property Law in *Oil States Energy Servs., LLC v. Greene’s Energy Group, LLC*, 137 S. Ct. 2239 (2017) (with Thomas H. Lee).
- U.S. Supreme Court Brief for Amici Curiae Legal Scholars in *Medtronic, Inc. v. Mirowski Family Ventures*,

C.V.: John Golden

*LLC*, 134 S. Ct. 843 (2014).

*Are Human Genes Patentable? The Supreme Court Says Yes and No*, 32 HEALTH AFF. 1343–1345 (2013) (with William M. Sage).

*Science and Technology Entrepreneurship for Greater Societal Benefit: Ideas for Curricular Innovation*, in SPANNING BOUNDARIES AND DISCIPLINES: UNIVERSITY TECHNOLOGY COMMERCIALIZATION IN THE IDEA AGE 167–184 (Gary Libecap et al. eds. 2010) (with Lee Fleming & Woodward Yang).

## **Selected Presentations and Lectures**

Keynote Speeches for *TILting Perspectives 2017: Regulating a Connected World* and TILEC Conference on *Competition, Standardization, and Innovation*, Tilburg University, May 18 & Dec. 18, 2017.

Presentations Relating to “Troll” Check? *A Proposal for Administrative Review of Patent Litigation* in 2015–2016: Law & Economics Workshops, Tel Aviv University & Tilburg University; European Policy for Intellectual Property Conference; Annual Conferences of Society of Institutional & Organizational Economics and American Law & Economics Association; PatCon 6; BIO IP Counsels Committee Conference; Hon. Lee Yeakel Intellectual Property American Inn of Court; Workshops at Georgetown University Law Center and University of Michigan Law School; Works-in-Progress Intellectual Property Conference; Drawing Board, University of Texas School of Law.

Presentations on Legal Design Principles for Intellectual Property and New Technologies in 2016: Public Lecture at Center for International Intellectual Property Studies, Université de Strasbourg; Tilburg Institute for Law, Technology & Society Seminar.

Presentations Relating to Patent System Institutions in 2014–2016: University of Antwerp Seminar; UT CLE Advanced Patent Law Institute in Austin, Tex.; Evil Twin Debate with Timothy R. Holbrook on “IP at the Supreme Court: Guidance or Garbage?”, University of Richmond School of Law.

Guest Lectures Relating to Intellectual Property in 2015–2017 as Part of “Energy & IT Law” Module of University of St. Gallen Executive M.B.L.-HSG Program at University of Texas School of Law; Courses at Université de Strasbourg and University of Leuven in Brussels; Graduate Course in “Pharmaceutical Biotechnology,” College of Pharmacy, University of Texas at Austin.

## **Additional Professional Activities**

Member, American Law Institute, 2013–; Fellows of the American Bar Foundation, 2017–.

Contributor, New Private Law Blog, <http://blogs.law.harvard.edu/nplblog/tag/john-golden/>, 2015–.

Member, Executive Committee, Section on Remedies, Association of American Law Schools, 2018–.

Organizer of Patent Damages Conferences in June 2016 & Feb. 2017 at University of Texas School of Law.

Co-Organizer of Private Law & Intellectual Property Conferences in Oct. 2015, Mar. 2016, Mar. 2017 & Mar. 2018 at Harvard Law School or George Washington University Law School.

Master, Austin Intellectual Property American Inn of Court, Austin, Tex., 2010–2011, 2012–2015.  
Member of Executive Committee, 2010–2011. Member of Organizing Committee, 2009–2010.

Moot Court Judge for Preparatory Arguments in Appellate Cases, including *Batterton v. Dutra Group*, No. 15-56775 (9th Cir.); *Universal Health Servs., Inc. v. U.S. ex rel. Escobar*, 136 S. Ct. 1989 (2016).

Court-Appointed Expert on Damages in *BRK Brands, Inc. v. Nest Labs, Inc.*, No. 1:13-cv-07900 (N.D. Ill.) (Posner, J.), 2014; *Apple Inc. v. Motorola, Inc.*, No. 1:11-cv-08540 (N.D. Ill.) (Posner, J.), 2012.

Student, Summer Statistics Institute, University of Texas at Austin: Eleven Four-Day Courses, Including “Advanced Regression” and “Bayesian Statistics for Social Sciences,” 2010–2011, 2013–2015, 2017.

Referee for Conferences and Journals, including Am. L. & Econ. Ass’n Annual Meeting, Conf. on Empirical Legal Stud., *Harv. L. Rev.*, *J. Empirical Legal Stud.*, *Science*, and *Stan. L. Rev.*