# John M. Golden

The University of Texas School of Law
727 E. Dean Keeton St., Austin, TX 78705
E-mail: jgolden@law.utexas.edu  Tel.: 512-232-1469

## Experience

The University of Texas at Austin, School of Law
- Edward S. Knight Chair in Law, Entrepreneurialism and Innovation, 2020–.
- Loomer Family Professor in Law, 2010–2020.  Assistant Professor, 2006–2010.
- Faculty Advisor: *Texas Intellectual Property Law Journal*, 2006–; *Texas Law Review*, 2014–.
- Faculty Coordinator or Co-Coordinator: Drawing Board colloquium series, 2014–.
- Courses: Administrative Law; Contracts; Patent Law; seminars relating to innovation or disasters.
- Faculty Director, Andrew Ben White Center in Law, Science and Social Policy, 2011–2022.
- Select Committees: Awards Committee, fall 2023 (chair); 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
- Notre Dame Institute for Advanced Study and Technology Ethics Center, Fellow, 2021–2022.
- 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 the Catholic Church and democratization of Spain.  Palfrey Exhibition Prize, 1992.  Ferguson Prize for history essay, 1990.

## Legal Articles

*The Patent Act and the Artisan Perspective: A Response to Pedraza-Fariña and Whalen's* Ghost, 109 IOWA L. REV. ONLINE (forthcoming).

*Splitting the Atom of False Scientism in Constitutional Law*, 66 ARIZ. L. REV. (forthcoming 2024) (with Sanford V. Levinson).

*Article III, the Bill of Rights, and Administrative Adjudication*, 92 FORDHAM L. REV. (forthcoming 2023) (symposium article with Thomas H. Lee).

*Congressional Power, Public Rights, and Non-Article III Adjudication*, 98 NOTRE DAME L. REV. 1113–1183 (2023) (with Thomas H. Lee).

*Federalism, Private Rights, and Article III Adjudication*, 108 VA. L. REV. 1547–1612 (2022) (with Thomas H. Lee), to be reprinted in INTELLECTUAL PROPERTY LAW REVIEW after being "judged one of the best law review articles related to intellectual property law published within the last year."

*United States*, *in* INJUNCTIONS IN PATENT LAW: TRANS-ATLANTIC DIALOGUES ON FLEXIBILITY AND TAILORING 291–312 (Jorge L. Contreras & Martin Husovec eds., 2022).

*Reasoned Decisionmaking for Legal Ethics Regulation*, 89 FORDHAM L. REV. 1125–1149 (2021) (symposium article with John S. Dzienkowski).

*Recalibrating the Disgorgement Remedy in Intellectual Property Cases*, 100 B.U. L. REV. 1999–2083 (2020) (with Pamela Samuelson & Mark P. Gergen).

*Judicial Policing of Patent Damages Experts*, 98 TEX. L. REV. 1307–1330 (2020) (symposium article).

*Redundancy and Anti-Redundancy in Copyright*, 51 CONN. L. REV. 247–310 (2019) (with Oren Bracha).

*PTO Panel Stacking: Unblessed by the Federal Circuit and Likely Unlawful*, 104 IOWA L. REV. 2447–2477 (2019) (symposium article).

*Empirical Studies Relating to Patents—Remedies*, *in* 2 RESEARCH HANDBOOK ON THE ECONOMICS OF INTELLECTUAL PROPERTY LAW (B. Depoorter, P. Menell & D. Schwartz eds., 2019) (with Thomas F. Cotter).

*Injunctive Relief & Reasonable Royalties*, *in* PATENT REMEDIES AND COMPLEX PRODUCTS: TOWARD A GLOBAL CONSENSUS (C. Bradford Biddle et al. eds., 2019) (chapters, each with multiple coauthors).

*Discretion in Patent Damages*, 37 REV. LITIG. 287–325 (2018).

*Channeling Patent Damages*, 26 TEX. INTELL. PROP. L.J. v–xiv (2018) (symposium foreword).

*"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).

*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), reprinted in INTELLECTUAL PROPERTY LAW REVIEW after being "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), reprinted in LAND USE & ENVIRONMENT LAW REVIEW after being judged "one of the strongest pieces of environmental law scholarship" in 2014–2015.

*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 for 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. & TECH. 47–110 (2010), with abstract published online 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) (symposium article).

*The Federal Circuit and the D.C. Circuit: Comparative Trials of Two Semi-Specialized Courts*, 78 GEO. WASH. L. REV. 553–574 (2010) (symposium article).

*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 PATENT LAW REVIEW after being "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) (symposium commentary), 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).

## Books and Other Writings

PRINCIPLES OF PATENT LAW: CASES AND MATERIALS (7th ed. 2018) (with F. Scott Kieff, Pauline Newman & Henry E. Smith), plus TEACHER'S MANUAL (2022) (with same).

U.S. Supreme Court Briefs for *Amici Curiae* in *SEC v. Jarkesy*, 143 S. Ct. 2688 (2023) (with Thomas H. Lee); *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 138 S. Ct. 1365 (2018) (with Thomas H. Lee); and *Medtronic, Inc. v. Mirowski Family Ventures, LLC*, 571 U.S. 191 (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

Presentations of Draft Matter for "Chasing the Endless Frontier" Book Project on Science and Technology Policy: Law & Society Annual Meeting, June 1, 2023; Works in Progress Intellectual Property Conference, Suffolk University Law School, Boston, Mass., Feb. 4, 2023; Public Law Conference, University College Dublin, Dublin, Ireland, July 7, 2022; University of Texas School of Law, Austin, Tex., Apr. 14, 2022; Notre Dame Institute for Advanced Study, Notre Dame, Ind., Feb. 1, 2022 (online).

Presentation of Draft of "Congressional Power, Public Rights, and Article III Adjudication," Constitutional Colloquy, University of Texas School of Law, Austin, Tex., Sept. 23, 2022.

## Additional Activities

Professional Memberships: American Law Institute, 2013–; Fellows of the American Bar Foundation, 2017–; Chair, Section on Remedies, Association of American Law Schools, 2022.

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*, *Stan. L. Rev.*, and *Yale L.J.*

Judge for Practice Appellate Arguments: e.g., *U.S. ex rel. Polansky v. Exec. Health Res.*, 142 S. Ct. 2834 (2022).

Member, Harvard Graduate School Alumni Association Council, 2021–.