

John M. Golden

The University of Texas School of Law
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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; innovation-related seminars; seminar on disaster and emergency law.

Faculty Director, Andrew Ben White Center in Law, Science and Social Policy, 2011–2022.

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

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.

Legal Articles

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

Federalism, Private Rights, and Article III Adjudication, 108 VA. L. REV. (forthcoming 2022) (with Thomas H. Lee).

United States, in INJUNCTIONS IN PATENT LAW: TRANSATLANTIC DIALOGUES ON FLEXIBILITY AND TAILORING (Jorge L. Contreras & Martin Husovec eds., forthcoming 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).

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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).

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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).

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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).

U.S. Supreme Court Brief for *Amici Curiae* Professors of Administrative Law, Federal Courts, and Intellectual Property Law in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 138 S. Ct. 1365 (2018) (with Thomas H. Lee).

U.S. Supreme Court Brief for *Amici Curiae* Legal Scholars in *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

Presentation on “Chasing the Endless Frontier: Legal Design for an Innovators’ Republic,” Notre Dame Institute for Advanced Study, Notre Dame, Ind., Sept. 28, 2021.

Co-Presentation with Pamela Samuelson of Draft Paper (also coauthored with Mark P. Gergen) on the Disgorgement Remedy in Intellectual Property, Conference via Zoom on “Intellectual Property and Technology Markets,” Technology & Policy Research Initiative, Boston University, Boston, Mass., July 28, 2020

Speaker on Injunctions for U.S. Patent Infringement, European Law Institute Annual Conference, Vienna, Austria, Sept. 6, 2019.

Additional Professional Activities

Professional Memberships: American Law Institute, 2013–; Fellows of the American Bar Foundation, 2017–; Executive Committee, Section on Remedies, Association of American Law Schools, member, 2018–; chair-elect, 2021.

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.*

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

Faculty Organizer for 2020 *Texas Law Review* Symposium on “Remedies in Complex Litigation,” and for 2016, 2017, and 2020 Patent Damages Conferences at the University of Texas School of Law.

Moot Court Judge for Preparatory Arguments in Appellate Cases, Including *Parker Drilling Mgmt. Servs., Ltd. v. Newton*, 139 S. Ct. 1881 (2019); *Dutra Group v. Batterton*, 139 S. Ct. 2275 (2019).