

SAURABH VISHNUBHAKAT

Associate Professor of Law
Associate Professor of Engineering
Texas A&M University
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RESEARCH INTERESTS

Intellectual Property, Civil Procedure, Administrative Law, Law & Economics

CURRENT APPOINTMENTS

Texas A&M University

Associate Professor, School of Law (July 2015–Present)
Associate Professor, College of Engineering (July 2016–Present)

Courses Taught

- Patent Law (Fall 2015, Fall 2016, Fall 2017)
- Remedies (Spring 2016, Spring 2017)
- Civil Procedure (Spring 2017, Fall 2018)

Service

- Faculty Senator, Texas A&M University (2017–Present)
- Faculty Advisor, *Journal of Property Law* (2016–Present)
- Publications Committee (2016–Present)
- Career Services & Externship Oversight/Advisory Committee (2016–2017)
- Curriculum Committee (2015–2016)

Duke University

Fellow, Duke Law Center for Innovation Policy (Apr. 2015–Present)

EDUCATION

University of New Hampshire School of Law (formerly Franklin Pierce Law Center)
LL.M. Intellectual Property (2010)

University of New Hampshire School of Law

J.D. (2010)

- *University of New Hampshire Law Review*, Associate Editor
- 2010 Giles Rich Moot Court, Southern Region, Best Advocate

Georgia Institute of Technology, Atlanta, GA

B.S. Chemistry (2004)

EXPERIENCE

Duke University

Faculty Fellow, Duke Law School (Jan. 2014–Mar. 2015)

Postdoctoral Associate, Duke Center for Public Genomics (Jan. 2014–Mar. 2015)

Courses Taught

- Patent Law (Fall 2014) (with Arti Rai)

United States Patent and Trademark Office

Expert Advisor (July 2012–June 2015)

Attorney Advisor (May 2011–July 2012)

United States District Court for the Northern District of Illinois

Judicial Extern, The Honorable Samuel Der-Yeghiayan (Fall 2009)

BOOKS & BOOK CHAPTERS

A Tort Theory of Patent Litigation: History & Reform (Cambridge University Press, in progress)

Survival Analysis in Intellectual Property (w/ Alan Marco), in Methodologies in IP Research (Irene Calboli, ed.) (Cambridge University Press, in progress)

The Patent Trial and Appeal Board (w/ Arti Rai & Jay Kesan), in Research Handbook on the Law & Economics of Intellectual Property, Vol. II: Analytical Methods (Peter Menell & David L. Schwartz, eds.) (Edward Elgar Publishing, forthcoming)

ARTICLES

Serial Petitioning at the PTAB, in progress (with Jay Kesan, Arti Rai & Alan Marco)

Rethinking Patent Law's Validity Power, in progress

The Non-Doctrine of Redundancy, in progress

The Porous Court-Agency Border in Patent Law, 51 Akron L. Rev. (forthcoming)

The Antitrust of Patentability, 48 Seton Hall L. Rev. (forthcoming)

The Field of Invention, 45 Hofstra L. Rev. 899 (2017)

Strategic Decision Making in Dual PTAB and District Court Proceedings, 31 Berkeley Tech. L.J. 45 (2016) (w/ Arti Rai & Jay Kesan)

An Intentional Tort Theory of Patents, 68 Fla. L. Rev. 571 (2016)

When Biopharma Meets Software, 29 Harv. J.L. & Tech. 205 (2015) (w/ Arti Rai)

The USPTO Patent Pro Bono Program, 7 Cybaris: Intell. Prop. L. Rev. 1 (2015) (w/ Jennifer McDowell)

What's It Worth to Keep a Secret?, 13 Duke L. & Tech. Rev. 116 (2015) (w/ Gavin Reid & Nicola Searle)

The Mouse That Trolled, 2 J.L. & Biosci. (2015) (w/ Tania Bubela & Robert Cook-Deegan)

Expired Patents, 64 Cath. U. L. Rev. 419 (2015)

Gender Diversity in the Patent Bar, 14 J. Marshall Rev. Intell. Prop. L. 67 (2014)

Certain Patents, 16 Yale J.L. & Tech. 103 (2013) (w/ Alan Marco)

Of Smart Phone Wars and Software Patents, 27 J. Econ. Persp. 67 (2013) (w/ Stuart Graham)

Pre-Service Removal in the Forum Defendant's Arsenal, 47 Gonz. L. Rev. 147 (2011)

Reconceiving the Patent Rocket Docket, 11 J. Marshall Rev. Intell. Prop. L. 58 (2011)

ESSAYS & COMMENTARIES

Court-Agency Allocations of Power and the Limits of Cuozzo, PatentlyO Blog (May 5, 2017)

The Youngest Patent Validity Proceeding, 24 Tex. Intell. Prop. L.J. 333 (2016)

Precedent and Process in the Patent Trial and Appeal Board, PatentlyO Blog (May 10, 2016)

Ariosa v. Sequenom: In Search of Yes After a Decade of No, Nat'l L. Rev. (Dec. 4, 2015)

Commil v. Cisco and the Tort of Patent Infringement, Written Description Blog (Dec. 9, 2014)

What Patent Attorney Fee Awards Really Look Like, 63 Duke L.J. Online 15 (2014)

The Growing Public Domain in Medicine, 15 Colum. Sci. & Tech. L. Rev. 293 (2014)

Cognitive Economy and the Trespass Fallacy, 65 Fla. L. Rev. F. 38 (2014)

JUDICIAL & GOVERNMENTAL CITATIONS

Fed. Trade Comm'n, *Patent Assertion Entity Activity: An FTC Study* (Oct. 2016)

Shaw Indus. Group v. Automated Creel Sys., 817 F.3d 1293 (Fed. Cir. 2015) (Reyna, J., conc.)

OECD, *Supporting Investment in Knowledge Capital, Growth and Innovation* (2013)

Gov't Accountability Office, *Assessing Factors That Affect Patent Infringement Litigation Could Help Improve Patent Quality*, Report No. 13-465 (2013)

Harvey v. Shelter Ins. Co., 2013 WL 1768658 (E.D. La. 2013)

Campbell v. Hampton Roads Bankshares, Inc., 925 F.Supp.2d 800 (E.D. Va. 2013)

BRIEFS & PUBLIC FILINGS—PRINCIPAL OR CONTRIBUTING AUTHOR

Brief of Amici Curiae Professors of Patent and Administrative Law on En Banc Rehearing in Support of Neither Party, *Wi-Fi One, LLC v. Broadcom Corporation*, Nos. 15–1944, –1945, –1946 (Fed. Cir., Feb. 23, 2017)

Brief of Amici Curiae First Amendment Scholars & First Amendment Lawyers Ass'n in Support of Petitioners, *Expressions Hair Design v. Schneiderman*, No. 15–1391 (Sup. Ct., Nov. 21, 2016)

[Comment to the SEC in Support of the Enhanced Disclosure of Patent and Technology License Information, Concept Release: Business and Financial Disclosure Required by Regulation S-K](#), File No. S7-06-16 (Sec. Exch. Comm'n, July 22, 2016)

[Brief of Amici Curiae First Amendment Scholars in Support of Petition for a Writ of Certiorari, Expressions Hair Design v. Schneiderman](#), No. 15–1391 (Sup. Ct., June 15, 2016)

[Brief of Professor Saurabh Vishnubhakat as Amicus Curiae in Support of Respondent, Commil USA, LLC v. Cisco Systems, Inc.](#), No. 13–896 (Sup. Ct., Feb. 26, 2015)

[Brief of Amicus Curiae Franklin Pierce Law Center on En Banc Rehearing in Support of the USPTO, Hyatt v. Kappos](#), No. 2007–1066 (Fed. Cir., May 24, 2010) (with Pierce Law IP Amicus Brief Clinic)

BRIEFS & PUBLIC FILINGS—COSIGNATORY

[Brief of 44 Law, Economics and Business Professors As Amici Curiae in Support of Respondent, Impression Products, Inc. v. Lexmark International, Inc.](#), No. 15–1189 (Sup. Ct., Feb. 23, 2017)

[Brief of 11 Law Professors As Amici Curiae Brief in Support of Appellant, Converse, Inc. v. International Trade Commission](#), No. 15–2497 (Fed. Cir., Feb. 3, 2017)

[Brief of Amici Curiae First Amdt. Scholars and Legal Orgs. in Support of Plaintiff IMDb.com’s Motion for Prelim. Injunction, IMDb.com v. Harris](#), No. 3:16-cv-06535 (N.D. Cal., Jan. 12, 2017)

[Brief of 19 Law Professors as Amici Curiae in Support of Petition for a Writ of Certiorari, Sequenom, Inc. v. Ariosa Diagnostics, Inc.](#), No. 15–1182 (Sup. Ct., Apr. 20, 2016)

[Brief of Amicus Curiae 23 Law Professors in Support of Appellants’ Petition for Rehearing En Banc, Ariosa Diagnostics, Inc. v. Sequenom, Inc.](#), Nos. 2014–1139, 2014–1144 (Fed. Cir., Aug. 27, 2015)

PUBLIC FORUMS & MEDIA

[Patent Mistakes in the Administrative State](#), John Marshall IP Lecture Series (Jan. 31, 2017)

[USPTO-Duke-Santa Clara Roundtable on Patent Quality](#) (Dec. 13, 2016)

The Texas Lawbook, [“TransData Poses Billion-Dollar Issue for Itron, Landis+Gyr”](#) (May 24, 2016)

Law360, [“Most PTAB Petitions Involve Underlying Litigation: Report”](#) (Feb. 12, 2016)

PatentlyO, [“Strategic Decision Making in Dual PTAB and District Court Proceedings”](#) (Feb. 11, 2016)

[Chicago-Kent Supreme Court IP Review](#) (Sept. 25, 2015)

[Duke Law Roundtable on the Patent Trial and Appeal Board](#) (June 3, 2015)

[American University Supreme Court Series](#) (Mar. 31, 2015)

[This Week in Law, Episode No. 295](#) (Mar. 6, 2015)

PatentlyO, [“Scholarship: What Patent Attorney Fee Awards Really Look Like”](#) (Mar. 11, 2014)

PatentlyO, [“Of Smart Phone Wars and Software Patents”](#) (Feb. 13, 2013)

PRESENTATIONS

1. *The Porous Court-Agency Border in Patent Law*, SEALS Conference Panel on IP and the Administrative State (Aug. 5, 2017)
2. *Judicial Deference for Automated Agency Decisions*, SEALS Conference Discussion Group on Digital Pressures in Intellectual Property Law (Aug. 4, 2017)
3. *Patent's Lost Equity*, SEALS Conference Discussion Group on the Law of Equity (Aug. 1, 2017)
4. Moderator: *Copyright, Cybersecurity, and Regulation*, 15th Chinese Internet Research Conference: Divergence and Convergence in China's Internets (June 5–6, 2017)
5. *Patent Literacy and Federative Access to Legal Services*, 9th Conference on Innovation and Communications Law, University of Szeged (May 29–30, 2017)
6. *"The Non-Doctrine of Redundancy" at the PTAB*, Meeting of the Intellectual Property Section of the Dallas Bar Association (April 28, 2017)
7. *The Non-Doctrine of Redundancy*, PatCon 7: The Patent Conference (April 7–8, 2017)
8. Moderator: *Intellectual Property Issues in 3D Printing*, Hunton & Williams–Texas A&M 3D Printing Webinar Series, (April 6, 2017)
9. *A Transnational Look at Expired U.S. Patents*, 2nd IP Scholars Asia Conference at the Singapore Management University School of Law (Feb. 23–24, 2017)
10. Moderator: *Protection of Plant Varieties*, 2nd IP Scholars Asia Conference at the Singapore Management University School of Law (Feb. 23–24, 2017)
11. Moderator: *New Approaches to Calculating Patent Damages*, The PatDam2 Conference on Patent Damages at the University of Texas-Austin (Feb. 17–18, 2017)
12. *Serial Petitioning at the PTAB*, 13th Works-in-Progress IP Colloquium (Feb. 10–11, 2017) (with Jay Kesan & Arti Rai)
13. *The Non-Doctrine of Redundancy*, 13th Works-in-Progress IP Colloquium (Feb. 10–11, 2017)
14. *An Empirical Study of U.S. Copyright Registrations and Renewals, 1870-1977*, 13th Works-in-Progress IP Colloquium (Feb. 10–11, 2017) (with Zvi Rosen)
15. Invited Panelist, USPTO-Duke-Santa Clara Conference on Patent Quality (Dec. 13, 2016)
16. Featured Panelist, *Strategic Decision Making in Dual PTAB and District Court Proceedings*, Biotechnology Innovation Organization IP Counsels Committee Conference (Nov. 16, 2016)
17. *Patent Data Beyond the Water's Edge*, Indiana University School of Law Issues on International and Comparative Intellectual Property Colloquium (Oct. 20, 2016)
18. *The Non-Doctrine of Redundancy*, University of New Hampshire School of Law (Oct. 13, 2016)
19. Federalist Society Colloquium: *Hayek on Law, Legislation & Liberty* (Sept. 23–24, 2016)

20. *The Non-Doctrine of Redundancy*, Texas Legal Scholars Workshop (Aug. 26–27, 2016)
21. *The Non-Doctrine of Redundancy*, 16th IP Scholars Conference (Aug. 11–12, 2016)
22. *The Antitrust of Patentability*, SEALS Conference New Scholars Workshop (Aug. 7, 2016)
23. Moderator: *Intellectual Property Exceptionalism*, SEALS Conference (Aug. 5, 2016)
24. *The Non-Doctrine of Redundancy*, Oklahoma Junior Scholars Workshop (July 28–29, 2016)
25. *Patent Error-Correction and Incentives to Innovate*, Global Innovation Law Summit, University of Washington School of Law (July 22, 2016)
26. Opening Address, *Unpacking the U.S. IP-Intensive Industries Report*, Conference on IP in Economics and Economics in IP, Renmin University of China (July 14–15, 2016)
27. Discussant (with Greg Vetter): Thomas F. Cotter, *Patent Damages Heuristics*, Conference on Patent Damages, University of Texas School of Law (June 9–10, 2016)
28. *Emerging Technologies and Patent Data: Foundations for Policy Development*, 8th Conference on Innovation and Communications Law, University of Eastern Finland (May 25, 2016)
29. *Legal Doctrine and Institutional Detail at the Patent Office*, Guest Lecture: Intellectual Property Survey, University of Washington School of Law (May 11, 2016)
30. *The Antitrust of Patentability*, Vanderbilt Law IP Scholars Roundtable (Apr. 28–29, 2016)
31. *The Field of Invention*, Texas A&M Law Faculty Colloquium (Apr. 27, 2016)
32. *The Non-Doctrine of Redundancy*, Texas A&M Law Symposium: Intellectual Property in All the New Places (Apr. 15–16, 2016)
33. *The Antitrust of Patentability*, PatCon 6: The Patent Conference (Apr. 8–9, 2016)
34. *The Field of Invention*, Notre Dame Law School Junior Patent Roundtable (Apr. 1, 2016)
35. *The Youngest Patent Validity Proceeding*, Texas Intellectual Property Law Journal Symposium on Patent and Trademark Office Proceedings (Mar. 4, 2016)
36. *The Antitrust of Patentability*, Mizzou Law Faculty Colloquium (Mar. 2, 2016)
37. *The Antitrust of Patentability*, 13th Works-in-Progress IP Colloquium (Feb. 19–20, 2016)
38. *Post-Grant Proceedings*, Fourth Annual Naples Patent Experts Conference (Feb. 8–9, 2016)
39. *Recent Ethics/Malpractice Developments for Attorneys Handling Patent Litigation*, 53rd Annual CAIL Conference on Intellectual Property Law (Nov. 16–17, 2015) (with Susan Fortney)
40. Invited Discussant, GMU Research Symposium on Patent Valuation (Oct. 29–30, 2015)
41. *The Field of Invention*, Michigan State Junior Faculty Workshop (Oct. 23, 2015)
42. *The Antitrust of Patentability*, Texas A&M IP Scholars Roundtable (Oct. 9–10, 2015)

43. *The Field of Invention*, Texas Legal Scholars Workshop (Aug. 28–29, 2015)
44. *The Field of Invention*, 15th IP Scholars Conference (Aug. 6–7, 2015)
45. *The Field of Invention*, University of Oklahoma Junior Scholars Conference (July 23–24, 2015)
46. Invited Panelist, Duke Law Roundtable on PTAB Post-Grant Review Proceedings (June 3, 2015)
 - *Strategic Decisions by Parties in PTAB Proceedings* (with Jay Kesan & Arti Rai)
 - *What Ex Post Review Has Revealed About Patents* (with Alan Marco & David Schwartz)
47. Moderator: *Is Intellectual Property Being Allowed to Work in the Pharm. and Biotech Industries?*, GMU Roundtable on Patented Innovation in the Biotech and Pharm. Industries (May 28–29, 2015)
48. Invited Junior Commentator, University of Houston Administrative Law Workshop (Apr. 18, 2015)
49. *The Rise of Bioinformatics Examination at the Patent Office*, 12th Works-in-Progress IP Colloquium (Feb. 6–7, 2015) (with Arti Rai)
50. Panelist, University of San Diego School of Law Patent Conference (Jan. 17, 2015)
 - *Patent Propagation* (workshop presentation of project proposal)
 - *Estimating the Effectiveness of Ex Post Patent Review* (with Alan Marco & David Schwartz)
51. *Gender Diversity in the Patent Bar*, Opening Address at the Duke Law School Panel on Women in Patent Law (Nov. 17, 2014)
52. *An Intentional Tort Theory of Patents*, 4th UNH IP Scholars Roundtable (Nov. 21–22, 2014)
53. *Ex Post Patent Review: An Empirical Assessment*, Chicago-Kent-USPTO Roundtable on Empirical Methods in Intellectual Property (Sept. 19–20, 2014) (with David Schwartz)
54. *A Relevant Intent Theory of Patents*, 14th IP Scholars Conference (Aug. 7–8, 2014)
55. *How to Lose Friends and Troll Patents*, CLE Talk at Myers Bigel Sibley & Sajovec (July 29, 2014)
56. Moderator: *SEP Remedies and Their Impact on Private Ordering in Standard Setting*, GMU Roundtable on Software Patents (May 8–9, 2014)
57. Panelist, Searle/Northwestern Software and Business Method Patents Roundtable (Apr. 24–25, 2014)
 - *How Has the Covered Business Method Program Worked?* (with David Schwartz)
 - *Federally Funded Software Patents* (with Arti Rai)
 - *Of Smart Phone Wars and Software Patents* (with Stuart Graham)
58. *Informatic Patents from Software to Genes*, Annual IP Student Association Lecture at the Wake Forest University School of Law (Apr. 10, 2014)
59. *Ex Post Assessment, Human Rights, and the Public Domain*, PatCon 4 Conference (Apr. 4–5, 2014)
60. *Cognitive Economy and the Trespass Fallacy*, Drake IP Scholars Roundtable (Mar. 28–29, 2014)
61. *The Patent Bar Gender Data File*, 11th Works-in-Progress IP Colloquium (Feb. 7–8, 2014)
62. Panelist, GMU-Fenwick & West Roundtable on Patent-Eligible Subject Matter (Jan. 31, 2014)

63. *The Growing Public Domain in Medicine*, Whittier Global Medicine Symposium (Nov. 8, 2013)
64. Discussant: Valentine Millot, *Are Trademarks and Patents Complementary or Substitute Protections for Innovation?*, USPTO Workshop on Empirical Trademark Studies (Sept. 26–27, 2013)
65. *Expired Patents*, 13th IP Scholars Conference (Aug. 8–9, 2013)
66. *Intellectual Property and the Economics of Innovation*, Address to a Delegation from China’s Jiangsu Province to the U.S. Patent & Trademark Office (June 26, 2013)
67. *Intellectual Property and the Economics of Innovation*, Address to the U.S. Chamber of Commerce Dialogue on China (May 1, 2013)
68. *Valuing Certainty in Patent Rights*, 10th Works-in-Progress IP Conference (Feb. 22–23, 2013)
69. *Reconceiving the Patent Rocket Docket*, 12th IP Scholars Conference (Aug. 9–10, 2012)
70. *Strategic Management of IP Assets: Policy Lessons*, Address to the IPEX Conference on Monetizing and Managing IP Assets for Business Excellence, Hyderabad, India (July 27–28, 2012)
71. *Intellectual Property and Economics*, Address to a Delegation from the Korean Intellectual Property Office to the U.S. Patent & Trademark Office (June 25, 2012)
72. *Reconceiving the Patent Rocket Docket*, PatCon 2: The Patent Conference (May 11–12, 2012)
73. Discussant: Barak D. Richman, *The Provider-Monopoly Problem in Health Care*, DOJ-FTC-PTO Seminar Series (Apr. 26, 2012)
74. *Health Issues and the USPTO Office of Chief Economist*, Lecture at the American University Washington College of Law Right to Health and Access to Medicines Practicum (Feb. 24, 2012)
75. *Rocket Dockets in Patent Litigation*, Lecture at the William & Mary Law School (Feb. 9, 2012)
76. *Fostering Innovation*, Address to a Delegation from the Iraqi Inter-Ministerial Committee on Innovation, Research, and Development to the U.S. Patent and Trademark Office (Oct. 11, 2011)
77. *Economics of Intellectual Property*, Lecture at the WIPO Summer School (Aug. 4, 2011)
78. *Understanding Myriad*, Lecture at the WIPO Summer School (Aug. 4, 2011)
79. *Principles of U.S. Trademark Law*, Address to a Delegation from the Korean Intellectual Property Office to the U.S. Patent and Trademark Office (July 11, 2011)
80. *IPR Protection and Enforcement: An Economic Perspective*, Lecture at the U.S. Patent and Trademark Office Global Intellectual Property Academy (June 15, 2011)
81. *Economic Research at the USPTO and Federal IP Policymaking*, Lecture at the University of New Hampshire School of Law (Mar. 24, 2011)
82. *IP Protection and Enforcement: Principles of U.S. Trademark Law*, Address to a Delegation of Korean Scientists and Researchers to the U.S. Patent and Trademark Office (Feb. 14, 2011)

83. *The USPTO Economics Research Agenda*, Address to the TechAmerica Intellectual Property Counsel Committee (Nov. 9, 2010) (with Galen Hancock)
84. *Commercial Speech and the First Amendment*, Guest Lecture at Vermont Law School (Mar. 9, 2010)
85. *Predicting Tailored Substrate Specificity for a Natural Product Analog: A Test Case in Computational Enzyme Design*, 57TH SE / 61ST SW REG'L MTG. AM. CHEM. SOC'Y (2005)
86. *Controlled Macromolecule Release from Poly-N-Isopropylacrylamide-co-Acrylic Acid (p-NIPAm-co-AAc) Microgels in Solution*, 1ST SE CONF. UNDERGRAD. RES. EMORY (2003)
87. *A Look at Chromosome 14 Ring-Inherited Tonic-Clonic Seizure Disorder*, Case Study Presentation to Neurology Rotation Class, Emory School of Medicine (2003)
88. *A Look at Chronic Inflammatory Demyelinating Polyradiculoneuropathy*, Case Study Presentation to Neurology Rotation Class, Emory School of Medicine (2003)

PROFESSIONAL SERVICE

[IP & IT Conferences Website](#)

Owner and Operator, inherited from Prof. Michael Madison (2016–Present)

Patent Litigation Data Working Group

Advisory Board Member (2015–Present)

12th Works-in-Progress Intellectual Property Colloquium

Co-Lead Organizer with the GW Law School and the Kauffman Foundation (2013–2015)

United States Economic Development Administration

Interagency Review Panelist, i6 Green Challenge Initiative (2011)

Supreme Court of New Hampshire

IT Consultant to the Attorney Discipline Office (2008–2010)

BAR ADMISSIONS

Texas, pending; Illinois, 2010

United States Court of Appeals for the Federal Circuit, 2015

Supreme Court of the United States, 2015