

[Links: Subscribe ~ Unsubscribe | Distribution | Submit ~ Revise Your Papers](#)

Table of Contents

- **International Trade and Internet Freedom**
[Anupam Chander](#), University of California, Davis - School of Law
- **Canine DNA**
[Edward J. Imwinkelreid](#), University of California, Davis - School of Law
- **Ten Guiding Principles for Truly Comprehensive Immigration Reform: A Blueprint**
[Kevin R. Johnson](#), University of California, Davis - School of Law
- **Narrative, Myth and Morality in Corporate Legal Theory**
[Thomas Wuil Joo](#), University of California - Davis Law School
- **Legal Regulation of Pregnancy and Childbirth**
[Courtney G. Joslin](#), University of California, Davis - School of Law
- **Patent Law and the Two Cultures**
[Peter Lee](#), University of California, Davis School of Law
- **How You Gonna' Keep Her Down on the Farm . . .**
[Lisa R. Pruitt](#), University of California, Davis - School of Law

[^top](#)

LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES UC DAVIS SCHOOL OF LAW

- **"International Trade and Internet Freedom"** 
America Society of International Law, Vol. 102, p. 37, 2009
UC Davis Legal Studies Research Paper No. 201

ANUPAM CHANDER, University of California, Davis - School of Law
Email: achander@ucdavis.edu

Can trade liberalization serve the cause of political liberalization in authoritarian states? In this short essay, I suggest that trade law might bolster political freedoms by liberalizing Internet trade. Trade law puts pressure on state repression of information through two principal mechanisms.

First, GATS transparency obligations require what is often absent in authoritarian states – a set of public rules that governs both citizens and governmental authorities. WTO member states must publish regulations governing services and establish inquiry points where foreign service providers can obtain information about such regulations. A publication requirement written for the benefit of foreigners may prove even more useful for local citizens, who will be given the opportunity to understand the rules that bind them – and the opportunity therefore to challenge those rules or their interpretation.

Second, the market access and national treatment commitments provide opportunities for foreign information service providers to disseminate information that local information service providers might eschew. While censorship by itself may not necessarily constitute either a market access or a national treatment violation, it might do so if it is operationalized in ways that effectively discriminate against foreign service providers.

- **"Canine DNA"** 

EDWARD J. IMWINKELREID, University of California, Davis - School of Law
Email: EJIMWINKELRIED@ucdavis.edu

DNA typing has become the new "Gold Standard" in forensic science. In its February 2009 report, the National Academy of Science declared that "nuclear DNA analysis" is the only "forensic science method... rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between evidence and a specific individual or source." While the vast majority of the published opinions involve human DNA, litigants are now offering testimony about non-human DNA analysis with growing frequency. Evidence of canine DNA analysis has been admitted at trials in California, Florida, Illinois, Iowa, Oklahoma, Pennsylvania, and Washington.

Canine DNA analysts use essentially the same scientific techniques and terminology as human DNA analysts. Given the courts' receptivity to human DNA evidence, there is an understandable temptation to treat canine DNA evidence in roughly the same fashion as human DNA testimony. However, on closer scrutiny, there are important differences between the two types of DNA evidence. In particular, there are questions about the stability and reliability of the population frequency data used in the statistical evaluation of the significance of a match in canine DNA analysis.

This article compares and contrasts the use of nuclear DNA (nDNA) and mitochondrial DNA (mtDNA) analysis of canine and human DNA. The article identifies the salient differences between canine and human DNA analysis, notably with respect to the related statistics. In addition, the article critically evaluates some of the leading published opinions on canine DNA. Those opinions indicate that the bench and bar do not yet fully appreciate the differences between human and canine DNA analysis. On the one hand, compared to microscopic analysis of canine hair, the use of canine DNA analysis represents a distinct improvement. On the other hand, rather than facily equating canine and human DNA analysis, the legal community must develop a more sophisticated understanding of the available empirical data on canine DNA.

"Ten Guiding Principles for Truly Comprehensive Immigration Reform: A Blueprint"

Wayne Law Review, Forthcoming
UC Davis Legal Studies Research Paper No. 204

KEVIN R. JOHNSON, University of California, Davis - School of Law
Email: krjohnson@ucdavis.edu

This Essay is part of a symposium held at Wayne State University Law School in February 2010 that will be published in a symposium issue of the Wayne Law Review. It articulates ten principles that I contend should guide immigration reform that would be meaningful, comprehensive, and long-lasting. My hope is to offer a roadmap to truly comprehensive immigration reform, rather than the ineffective piecemeal (and often half-baked) efforts at reform that we have seen over the last few decades. This is my basic pitch: to avoid a repeat of the failure of the last major attempt at "comprehensive" immigration reform in the Immigration reform and Control Act of 1986, we need to acknowledge that immigration – undocumented and not – is largely labor-driven; only by addressing that unquestionable truth reasonably and responsibly will we be able to reform the nation's immigration laws so that they are enforceable, effective, efficient, and respected. At the same time, family unification, protection of refugees, and national security and public safety are other goals that, of course, cannot be ignored by the immigration laws. Still, those goals must be appropriately – and expressly – folded into, and carefully balanced in an, overall immigration reform package.

"Narrative, Myth and Morality in Corporate Legal Theory"

Michigan State Law Review, 2009
UC Davis Legal Studies Research Paper No. 208

THOMAS WUIL JOO, University of California - Davis Law School
Email: twjoo@ucdavis.edu

This article, prepared for the Michigan State Law Review's "Business Law and Narrative" symposium, analyzes corporate legal theory's use of myth as a rhetorical device. Corporate legal theories offer competing stories about how and why corporations originate and how they operate. The leading theories do so by maintaining that the abstraction we call a corporation can be decomposed into constituent human individuals, who serve as characters in stories of corporate origins and ongoing corporate action. Narratives that justify the existence of social institutions serve a rhetorical purpose sometimes referred to as "myth". Corporate legal theories serve to justify the existence of corporations and certain approaches to the role of regulation, the role of markets, and the relative roles of managers, directors, shareholders, and other corporate stakeholders.

Theories of the corporation perform this function by reference to fundamental moral preferences about the role of the state, the rights of the individual, and her relationship to society. The dominant corporate legal narratives in American law, then, have significant moral and ideological content. This analysis of legal theory as narrative myth shows that law does not simply impose ideology, but influences ideology through the use of rhetorical conventions.

Law appeals to existing ideology, but also attempts to remake ideology, though it can only do so incrementally, in recursive fashion, by taking advantage of its relationship to existing beliefs.

"Legal Regulation of Pregnancy and Childbirth"

The Child: An Encyclopedic Companion, University of Chicago Press, 2009
UC Davis Legal Studies Research Paper No. 205

COURTNEY G. JOSLIN, University of California, Davis - School of Law
Email: cjoslin@ucdavis.edu

This piece, a short entry in *The Child: An Encyclopedic Companion*, examines the legal regulation of pregnant women. In particular, the article discusses whether and under what circumstances the state can force pregnant women to undergo unwanted medical treatments or physically restrain or punish pregnant women for engaging in otherwise legal conduct when the state believes that these interventions are necessary to protect the fetus from potential harms.

"Patent Law and the Two Cultures"

Yale Law Journal, Vol. 120, Forthcoming
UC Davis Legal Studies Research Paper No. 206

PETER LEE, University of California, Davis School of Law
Email: ptrlee@ucdavis.edu

A half century ago, author and physicist C.P. Snow warned of a "gulf of mutual incomprehension" between the liberal arts and sciences. Snow's "Two Cultures" thesis is particularly relevant to patent law, a realm where law and science intersect. Drawing on Snow's framework, this Article addresses challenges that arise when lay judges must engage, understand, and ultimately pass judgment on complex technologies. It first argues that technological subject matter imposes significant cognitive burdens on generalist judges. It then explores the "cognitive miser" model whereby lay persons adopt heuristics and defer to expertise to limit their engagement with technology. Drawing from this psychological model, this Article then explores the unique role of formalism in patent doctrine. Advancing an information cost theory of Federal Circuit jurisprudence, this Article argues that formalistic patent doctrine mitigates the degree to which judges must engage technological subject matter. Formalism truncates difficult technical inquiries, thus helping to mediate the intersection of law and science.

The Article then identifies a countervailing trend in recent Supreme Court patent decisions. It is well-established that the Court has substantively narrowed patent rights. Less appreciated, however, is the Court's systematic preference for contextually-sensitive, holistic standards over inquiry-truncating, formalistic rules. This so-called "holistic turn" promises to increase the degree to which lay judges must engage technologically complex subject matter. To address resulting cognitive burdens, this Article offers prescriptions for blending the economizing virtues of rules with the flexibility and contextual sensitivity of standards. It concludes by exploring the cultural differences of the Federal Circuit and the Supreme Court as well as their implications for patent doctrine.

"How You Gonna' Keep Her Down on the Farm . . ."

University of Missouri-Kansas City Law Review, Forthcoming
UC Davis Legal Studies Research Paper No. 202

LISA R. PRUITT, University of California, Davis - School of Law
Email: lrpruitt@ucdavis.edu

This is a contribution to a collection of autobiographical essays, "One-L Revisited," in which authors reflect on their experiences as first-year law students. The author of this essay recounts her experiences at the University of Arkansas School of Law (1986-87). She frames her recollections primarily in relation to her rural, working-class background and her later-acquired feminist politics.

[^top](#)

Solicitation of Abstracts

The University of California, Davis School of Law Legal Studies journal contains abstracts and papers from this institution focused on this area of scholarly research. To access all the papers in this series, please use the following URL: <http://www.ssrn.com/link/UC-Davis-Legal-Studies.html>

To submit your research to SSRN, log in to the [SSRN User Headquarters](#), and click on the My Papers link on the left menu, and then click on Start New Submission at the top of the page.

Distribution Services

If your organization is interested in increasing readership for its research by starting a Research Paper Series, or

sponsoring a Subject Matter eJournal, please email: RPS@SSRN.com

Distributed by:

Legal Scholarship Network (LSN), a division of Social Science Electronic Publishing (SSEP) and Social Science Research Network (SSRN)

[^top](#)

Links: [Subscribe to Journal](#) | [Unsubscribe from Journal](#) | [Join Site Subscription](#) | [Financial Hardship](#)

Subscription Management

You can change your journal subscriptions by logging into [SSRN User HQ](#). If you have questions or problems with this process, please email UserSupport@SSRN.com or call 877-SSRNHelp (877.777.6435 or 585.442.8170). Outside of the United States, call 00+1+585+4428170.

Site License Membership

Many university departments and other institutions have purchased site licenses covering all of the journals in a particular network. If you want to subscribe to any of the SSRN journals, you may be able to do so without charge by first checking to see if your institution currently has a site license.

To do this please click on any of the following URLs. Instructions for joining the site are included on these pages.

[Accounting Research Network](#)

[NEW Cognitive Science Network](#) **NEW**

[NEW Corporate Governance Network](#) **NEW**

[Economics Research Network](#)

[Entrepreneurship Research & Policy Network](#)

[Financial Economics Network](#)

[Health Economics Network](#)

[Information Systems & eBusiness Network](#)

[Legal Scholarship Network](#)

[Management Research Network](#)

[Political Science Network](#)

[Social Insurance Research Network](#)

[HRN Classics Research Network](#)

[HRN English & American Literature Research Network](#)

[HRN Philosophy Research Network](#)

If your institution or department is not listed as a site, we would be happy to work with you to set one up. Please contact site@ssrn.com for more information.

Individual Membership (for those not covered by a site license)

Join a site license, request a trial subscription, or purchase a subscription within the SSRN User Headquarters: <http://www.ssrn.com/subscribe>

Financial Hardship

SSRN understands there is financial hardship in certain countries (for example the former Soviet Union and Eastern Bloc). If you are undergoing financial hardship and believe you cannot pay for a journal, please send a detailed explanation to Subscribe@SSRN.com

[^top](#)

To ensure delivery of this journal, please add **LSN@publish.ssrn.com (Legal Scholarship Network)** to your email contact list. If you are missing an issue or are having any problems with your subscription, please Email **usersupport@ssrn.com** or call 877-SSRNHELP (877.777.6435 or 585.442.8170).

FORWARDING & REDISTRIBUTION

Subscriptions to the journal are for single users. You may forward a particular eJournal issue, or an excerpt from an issue, to an individual or individuals who might be interested in it. It is a violation of copyright to redistribute this eJournal on a recurring basis to another person or persons, without the permission of Social Science Electronic Publishing, Inc. For information about individual subscriptions and site licenses, please contact us at **Site@SSRN.com**

[^top](#)

Copyright © 2009 Social Science Electronic Publishing, Inc. All Rights Reserved