

**SMU Law Review** 

Volume 66 | Issue 3

Article 8

January 2013

**Front Matter** 

Recommended Citation

*Front Matter*, 66 SMU L. REV. (2013) https://scholar.smu.edu/smulr/vol66/iss3/8

This Front Matter is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in SMU Law Review by an authorized administrator of SMU Scholar. For more information, please visit http://digitalrepository.smu.edu.

# SMU Law Review

Volume 66	Summer 2013 Num	BER 3		
©	2013 by Southern Methodist University			
TABLE OF CONTENTS				
Foreword		ix		
Articles				
	pport for Functional tware Patent Claims Andrew Chin	491		
Adjudication: Th	rmity, and Coherent ne Federal Circuit Rochelle C. Dreyfuss	505		
	Power: Who Needs nce?John M. Golden	541		
Dialogue Betwee Circuit and the S The Federal Circ	Supreme Court: cuit's Implementation ex			
A Case Study of F Policy Making	& Rajiv Mohan ederal Circuit W. Keith Robinson			
Fountainhead of Transition to the	s on Extinguishing the Knowledge: A Call to "Innovation Policy" ent Law	609		
	tiformalism in Patent Law Precedent and Policy David O. Taylor	633		

The SMU Law Review (ISSN 1066-1271) is published four times a year, (1) Winter, (2) Spring, (3) Summer, and (4) Fall, by the SMU Law Review Association, Storey Hall, Dallas, Texas 75275. Domestic subscription price, \$42.00 per year. Foreign subscription price, \$49.00 per year. Single copies: Regular issues, \$18.00, Survey issue, \$24.00. Add 8.25% tax on single issue orders within the state of Texas. Tax exempt institutions must include copy of exemption certificate with order. An additional charge will be made for postage and handling of each order of single copies. Prior issues (vols. 1-60) available from William S. Hein & Co., 1285 Main St., Buffalo, New York 14209. Volumes 61-64 are available from SMU Law Review, Southern Methodist University Dedman School of Law, Dallas, Texas 75275.

Editorial and business offices: *SMU Law Review*, Southern Methodist University Dedman School of Law, Dallas, Texas 75275. Telephone: (214) 768-2594. Printed by Joe Christensen, Inc., Lincoln, Nebraska 68521.

Periodicals postage paid at Dallas, Texas, and at additional mailing offices.

Citations conform with *The Bluebook: A Uniform System of Citation* (19th ed. 2010) and the *Texas Rules of Form* (12th ed. 2010).

### SMU Law Review

**Summer 2013** 

NUMBER 3

Member, National Conference of Law Reviews

## SMU Law Review Association 2013-2014 Board of Editors

PRESIDENT HEATHER COGHLAN

SMU LAW REVIEW EDITOR-IN-CHIEF LANCE WYATT JOURNAL OF AIR LAW & COMMERCE EDITOR-IN-CHIEF JACQUI BOGUCKI

SMU LAW REVIEW MANAGING EDITOR PHONG TRAN JOURNAL OF AIR LAW & COMMERCE MANAGING EDITOR LAURA ARBEITER

SMU ASSOCIATE MANAGING EDITORS ASHTON BARRINEAU LINDSEY HOVLAND

Volume 66

LAUREN CHRISTY CHELSEA CLARK RYAN FRYE BLAIR GREEN SARAH HONEYCUTT

LEAD ARTICLES EDITORS NATHAN LEE ROUZHNA NAYERI PHILLIP SANDERS JALC ASSOCIATE MANAGING EDITORS ELIZABETH GRIFFIN MATTHEW MORAN

CLARKE STAVINOHA MARK STEADMAN N NATHAN THOMPSON JERRY TICE

SMU COMMENT EDITORS RENEÉ HUNTER NICOLAS LOW CYNTHIA WEBER SAMUEL PINKSTON BAINE SELLERS ROSS STAINE TEXAS SURVEY EDITOR

JAMES BEDOTTO

KATIE CRISTINA

BRANDON BELLOWS ASSOCIATE TEXAS JALC SURVEY EDITORS E

JALC COMMENT EDITORS BLAKE FEIKEMA MICHELLE NORTHCUTT

CORPORATE COUNSEL SYMPOSIUM EDITORS JESSICA GREENWALD BROOKE PANNO KYLE PARK AIR LAW SYMPOSIUM EDITOR JASON GLENNON

ASSOCIATE SYMPOSIUM EDITOR KIMBERLY FALGOUT

SYMPOSIUM CLE EDITORS JUN LI JOSHUA TYLER SHELTON ADMINISTRATIVE MANAGING EDITORS CHRIS LAMBERT WILLIAM TRAN TECHNOLOGY EDITORS SEAN MCBEATH CHAD STOKER

EXECUTIVE EDITOR CHRISTINA GIGLIOTTI

SMU FACULTY ADVISORS THOMAS WM. MAYO ANTHONY J. COLANGELO JALC FACULTY ADVISOR GREGORY S. CRESPI

SMU ADMINISTRATIVE ASSISTANT DONNAISE BALDWIN JALC ADMINISTRATIVE ASSISTANT LISA BROWNING

THE SMU LAW REVIEW ASSOCIATION PUBLISHES BOTH THE SMU LAW REVIEW AND THE JOURNAL OF AIR LAW AND COMMERCE.

PHILLIP SANDERS ARTICLES EDITORS ZUNNY LOSOYA BRYAN PARRISH VOLUME 66

**Summer 2013** 

NUMBER 3

\_

# THE SMU LAW REVIEW ASSOCIATION 2013-2014 STAFF EDITORS

John Adams	John P. Atkins	Jillian Beythan
Anna Booth	Samuel Bragg	Amanda Brett
Aaron Chibli	Allison Childs	Bryan Clegg
CC COPELAND	Cody Cravens	Ashley Deweese
Nhi Dinh	Erik Fountain	Farsheed Fozouni
Kelli Gavin	Nicole Haget	Eric Hedlund
Seth Jaskoviak	Fahad Juneja	CHRISTOPHER KNIGHT
CLINTON KUYKENDALL	Meagan Lanier	Scott R. Larso
Emily Leezer	Emily Lehmberg	Robert J. Levinski
Neal Lober	James M. Lucas	Huy Ly
JOHN McGregor	HEATHER MCKINNEY	Bryan McKown
Andria Rae Minyard	Joshua Pelfrey	Catherine Peterman
JESSICA PHILLIPS	ALEX POOR	Seth Rasmussen
AMY RAUCH	CHEVENNE ROGERS	MICHAEL SHEETZ
JENNIFER SMILEY	Cassie Suttle	Kelsey Taylor
Peter Thompson	J. BRYAN WHITE	Allyson Yates
Kyle Zunker		

#### SOUTHERN METHODIST UNIVERSITY DEDMAN **SCHOOL OF LAW**

OFFICERS OF THE UNIVERSITY

R. Gerald Turner, President Paul W. Ludden, Provost and Vice President for Academic Affairs Thomas E. Barry, Vice President for Executive Affairs Brad E. Cheves, Vice President for Development and External Affairs Chris Regis, Vice President for Business and Finance Paul J. Ward, Vice President for Legal Affairs and Government Relations, General Counsel, and Secretary Lori S. White, Vice President for Student Affairs Michael A. Condon, University Treasurer DEDMAN SCHOOL OF LAW FACULTY AND ADMINISTRATIVE STAFF Julia P. Forrestor, B.S.E.E., J.D., Dean ad interim and Professor of Law John S. Lowe, B.A., LL.B., Senior Associate Dean for Academic Affairs and George W. Hutchison Chair in Energy Law Nathan Cortez, B.A., J.D., Associate Dean for Research and Associate Professor Law Gail M. Daly, B.A., M.A., J.D., Associate Dean for Library and Technology and Associate Professor of Law Ruth A. Cross, B.A., J.D., Associate Dean for Administration, Director of Legal Research, Writing and Advocacy Program and Senior Lecturer in Law Lynn Switzer Bozalis, B.A., J.D., Associate Dean for Development and Alumni Affairs Martin L. Camp, B.A., J.D., Assistant Dean for Student Affairs Karen C. Sargent, B.B.A., J.D., Assistant Dean and Executive Director for Career Services Jill Nikirk, B.A., J.D., Assistant Dean for Admissions Rebecca Garza Greenan, B.S., B.A., M.Ed., J.D., Director of Public Service Program and Director of Academic Skills Assistance Program Roland C. Webb, B.S., M.B.A., Director of Financial Services Lynn McVicker Dempsey, B.B.A., Director of External Relations Kristy Offenburger, Director, Communications and Marketing Linda A. Hale, B.A., J.D., Director of Career Services Stephen B. Yeager, B.B.A., J.D., Director of Career Services J. Mark McWatters, B.B.A., M.B.A., J.D., LL.M., LL.M., Director of Graduate Programs Becca Lickteig, B.A., J.D., Director of Admissions Laura Amberson, B.S., Registrar FACULTY John B. Attanasio, B.A., J.D., LL.M., Dipl. in Law, Judge William Hawley Atwell Chair of Constitutional Law, Professor of Law and Former Dean Roy R. Anderson, B.A., J.D., LL.M., Vinson & Elkins Distinguished Teaching Fellow and Professor of Law Maureen N. Armour, B.A., M.S.W., J.D., Co-Director of Civil Clinic and Associate Professor of Law Lackland H. Bloom, Jr., B.A., J.D., Professor of Law William J. Bridge, B.S.F.S., J.D., Associate Professor of Law Alan R. Bromberg, B.A., J.D., University Distinguished Professor of Law Cheryl Nelson Butler, B.A., J.D., Assistant Professor of Law Regis W. Campfield, B.B.A., LL.B., Professor Emeritus of Law and Marilyn Jeanne Johnson Distinguished Law Faculty Fellow Emeritus Beverly M. Carl, B.S.L., J.D., LL.M., Professor Emerita of Law Michaela E. Cashen, B.A., J.D., Senior Lecturer in Law

Eric Cedillo, B.S., J.D., Coordinator, Consumer Advocacy Project Anthony J. Colangelo, B.A., J.D., LL.M., J.S.D., Associate Professor of Law

Nathan Cortez, B.A., J.D., Associate Dean for Research and Associate Professor of Law

Gregory S. Crespi, B.S., M.S., Ph.D., J.D., Professor of Law

Ruth A. Cross, B.A., J.D., Associate Dean for Administration; Director of Legal Research, Writing, and Advocacy Program; and Senior Lecturer in Law

- Gail M. Daly, B.A., M.A., J.D., Associate Dean for Library and Technology, Director of the Underwood Law Library, and Associate Professor of Law
- David E. DePianto, B.A, J.D., Ph.D., Assistant Professor of Law
- William V. Dorsaneo III, B.A., J.D., Chief Justice John and Lena Hickman Distinguished Faculty Fellow and Professor of Law Beverly C. Duréus, B.A., J.D., Th.M., Senior Lecturer in Law
- Linda S. Eads, B.A., J.D., Associate Provost and Associate Professor of Law
- Julia P. Forrester, B.S.E.E., J.D., Dean ad interim and Professor of Law
- Jeffrey M. Gaba, B.A., J.D., M.P.H., Professor of Law
- Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), Altshuler University Distinguished Teaching Professor and Professor of Law
- Patricia S. Heard, B.A., J.D., Senior Lecturer in Law
- JoAnn A. Hubbard, B.S., J.D., Senior Lecturer in Law
- Christopher M. Jenks, B.S., J.D., LL.M., LL.M. (with distinction), Director of the Criminal Justice Clinic and Assistant Professor of Law
- Larry Jones, B.B.A., J.D., LL.M., Director of Federal Tax Clinic and Small Business Clinic
- Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., Associate Professor of Law
- Ndiva Kofele-Kale, B.A., M.A., Ph.D., J.D., University Distinguished Professor and Professor of Law
- Henry J. Lischer Jr., B.B.A., J.D., LL.M. (in Taxation), Professor Emeritus of Law
- John S. Lowe, B.A., LL.B., Senior Associate Dean for Academic Affairs and George W. Hutchison Professor of Energy Law
- George A. Martinez, B.A., M.A., J.D., Professor of Law
- Thomas Wm. Mayo, B.A., J.D., Altshuler University Distinguished Teaching Professor and Associate Professor of LawOrly Sulami Mazur, B.B.A., M.P.A. (summa cum laude), J.D. (Order of the Coif), LL.M., Assistant Professor of Law
- Joseph W. McKnight, B.A., B.A., B.C.L., M.A., LL.M., Larry and Jane Harlan Faculty Fellow and Professor of Law
- Charles J. Morris, B.A., LL.B., Professor Emeritus of Law
- Frederick C. Moss, A.B., J.D., LL.M., Professor Emeritus of Law
- John J. Mylan, B.S., J.D., LL.M. (in Taxation), Professor Emeritus of Law
- Xuan-Thao Nguyen, B.A., J.D., Professor of Law
- Joseph Jude Norton, A.B., LL.B., LL.M, S.J.D., D.Phil., Distinguished Faculty Fellow in Financial Institutions, Professor of Law and James L. Walsh Distinguished Faculty Fellow
- Victoria Palacios, J.D., Associate Professor of Law
- Kenneth L. Penegar, A.B., J.D., LL.M., Professor Emeritus of Law
- Roark M. Reed, B.S., B.A., J.D., Professor Emeritus of Law
- W. Keith Robinson, B.S., J.D., Assistant Professor of Law C. Paul Rogers III, B.A., J.D., LL.M., Professor of Law and former Dean
- Meghan Ryan, A.B., J.D., Assistant Professor of Law
- Eliot Shavin, B.A., J.D., Supervising Attorney, Civil Clinic
- Ellen K. Solender, A.B., J.D., Professor Emerita of Law
- Mary B. Spector, B.A., J.D., Co-Director of Civil Clinic, Director of Consumer Law Project, and Associate Professor of Law
- Walter W. Steele Jr., LL.B., Professor Emeritus of Law Marc I. Steinberg, A.B., J.D., LL.M., Rupert and Lillian Radford Chair in Law
- Heather Stobaugh, B.A., M.A., J.D., Lecturer in Law Joshua C. Tate, B.A., M.A., M.Phil. J.D., Ph.D., Associate Professor of Law David O. Taylor, B.S., J.D., Assistant Professor of Law
- Elizabeth G. Thornburg, B.A., J.D., Professor of Law
- Sarah Tran, B.S., J.D., Assistant Professor of Law
- Jenia Iontcheva Turner, B.A., J.D., Professor of Law
- Jonni Walls, B.A., J.D., Lecturer in Law
- Jessica Dixon Weaver, B.A., J.D., Assistant Professor of Law
- Harvey Wingo, B.A., M.A., J.D., Vinson & Elkins Distinguished Teaching Fellow Emeritus and Professor Emeritus of Law
- Peter Winship, B.A., LL.B., LL.M., James Cleo Thompson Sr. Professor of Law

### **ADVISORY BOARD**

Harvie Branscomb, Jr. Branscomb P.C. Corpus Christi, Texas

Alan R. Bromberg Professor of Law Southern Methodist University Dedman School of Law Deborah G. Hankinson Hankinson Levinger LLP Dallas, Texas

The Honorable Nathan L. Hecht Supreme Court of Texas Austin, Texas

Gregory S. Crespi Professor of Law Southern Methodist University Dedman School of Law

> Craig T. Enoch Winstead P.C. Austin, Texas

Ernest E. Figari, Jr. Figari & Davenport Dallas, Texas Fifth Judicial Circuit

The Honorable Patrick E. Higginbotham

United States Court of Appeals

Thomas Wm. Mayo Associate Professor of Law Southern Methodist University Dedman School of Law

R. Gerald Turner President Southern Methodist University

