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#### CURRENT EMPLOYMENT

Fall 2003–present **DUKE UNIVERSITY SCHOOL OF LAW:**  
William W. Van Alstyne Distinguished Professor (2022–the present)  
Douglas Blount Maggs Distinguished Professor (2009–2021)  
Associate Dean for Research (2005-2018)  
Professor (2003–2008)  
Teaching and Research Areas:  
Internet and Telecommunications Law  
First Amendment  
Administrative Law  
Law and Technology

2013–present **THE CENTER FOR INNOVATION POLICY AT DUKE LAW:** Co-Director  
Co-direct center focused on independent analysis of policies for promoting technological innovation that enhances long-term social welfare

#### PUBLICATIONS

Major Articles [\*Anti-Patents\*](#), 91 *UNIVERSITY OF CHICAGO LAW REVIEW* \_\_\_\_ (2024) (with Roy Baharad and Ehud Guttel)

[\*Twenty-First Century Split: Partisan, Racial, and Gender Differences in Circuit Judges Following Earlier Opinions\*](#), 49 *BYU LAW REVIEW* \_\_\_\_ (2023) (with Kevin Quinn and ByungKoo Kim)

[\*The Paradoxical Impact of Scalia’s Campaign Against Legislative History\*](#), 105 *CORNELL LAW REVIEW* 1023 (2020) (with Kristen Renberg)

[\*Administrative Power in the Era of Patent Stare Decisis\*](#), 65 *DUKE LAW JOURNAL* 1561 (2016) (with Arti Rai)

[\*Judicial Retirements and the Staying Power of U.S. Supreme Court Decisions\*](#), 13 *JOURNAL OF EMPIRICAL LEGAL STUDIES* 5 (2016) (with Georg Vanberg)

[\*Algorithms and Speech\*](#), 161 *UNIVERSITY OF PENNSYLVANIA LAW REVIEW* 1445 (2013)

[\*Standing the Test of Time: The Breadth of Majority Coalitions and the Fate of U.S. Supreme Court Precedents\*](#), 4 *JOURNAL OF LEGAL ANALYSIS* 445 (2012) (with Bruce Desmarais)

[\*Bootstrapping\*](#), 75 *LAW & CONTEMPORARY PROBLEMS* 115 (2012)

[\*Transmitting, Editing, and Communicating: Determining What “The Freedom of Speech” Encompasses\*](#), 60 *DUKE LAW JOURNAL* 1673 (2011)

*Fixing Innovation Policy: A Structural Perspective*, 77 **GEORGE WASHINGTON LAW REVIEW** 1 (2009) (with Arti Rai)

*Tennis with the Net Down: Administrative Federalism Without Congress*, 57 **DUKE LAW JOURNAL** 2111 (2008) (with Ernest Young)

*Who's Afraid of the APA? What the Patent System Can Learn from Administrative Law*, 95 **GEORGETOWN LAW JOURNAL** 269 (2007) (with Arti Rai)

*Evaluating E-Rulemaking: Public Participation and Political Institutions*, 55 **DUKE LAW JOURNAL** 893 (2006)

*Evaluating the FCC's National Television Ownership Cap: What's Bad for Broadcasting Is Good for the Country*, 46 **WILLIAM & MARY LAW REVIEW** 439 (2004)

*Spectrum Abundance and the Choice Between Private and Public Control*, 78 **NEW YORK UNIVERSITY LAW REVIEW** 2007 (2003)

*The Logic of Scarcity: Idle Spectrum as a First Amendment Violation*, 52 **DUKE LAW JOURNAL** 1 (2002) (selected for presentation at the 2002 Stanford/Yale Junior Faculty Forum in the category of Constitutional Law – Theoretical Foundations)

*Proactive Legislation and the First Amendment*, 99 **MICHIGAN LAW REVIEW** 281 (2000)

*Stepping into the Same River Twice: Rapidly Changing Facts and the Appellate Process*, 78 **TEXAS LAW REVIEW** 269 (1999)

*Equal Protection and the Special Relationship: The Case of Native Hawaiians*, 106 **YALE LAW JOURNAL** 537 (1996)

Books **INTERNET AND TELECOMMUNICATION REGULATION** (2<sup>nd</sup> ed. 2023, 1<sup>st</sup> ed. 2019) (with coauthors)

**TELECOMMUNICATIONS LAW AND POLICY** (4<sup>th</sup> ed. 2015, 3<sup>rd</sup> ed. 2012, 2<sup>nd</sup> ed. 2006, 1<sup>st</sup> ed. 2001, and annual supplements) (with coauthors)

Major Chapters *The First Amendment and Algorithms*, in **THE CAMBRIDGE HANDBOOK ON THE LAW OF ALGORITHMS** (2021)

EDUCATION **YALE LAW SCHOOL, J.D.**, 1991  
Yale Law Journal, Volume 100: Book Review Editor

**YALE COLLEGE, B.A.**, *Summa Cum Laude*, History, 1987  
Phi Beta Kappa  
Alice Derby Lang Prize for the best senior essay in classical studies

PREVIOUS EMPLOYMENT

- 2014-2016      **FEDERAL COMMUNICATIONS COMMISSION:** Special Government Employee  
Worked with the General Counsel on the Net Neutrality order and its defense in the D.C. Circuit
- 2009-2011      **FEDERAL COMMUNICATIONS COMMISSION:** Distinguished Scholar  
Served as the inaugural distinguished scholar, developing long-range initiatives and advising the Chairman
- 2001-2003      **UNIVERSITY OF TEXAS SCHOOL OF LAW:** Rex G. & Edna Baker Professor in Constitutional Law
- 1997-2001      **UNIVERSITY OF SAN DIEGO SCHOOL OF LAW:** Associate Professor
- Spring 2001      **UNIVERSITY OF TEXAS SCHOOL OF LAW:** Visiting Associate Professor
- Fall 2000      **UNIVERSITY OF PENNSYLVANIA LAW SCHOOL:** Visiting Associate Professor
- 1996-1997      **PROFESSOR LAURENCE TRIBE, HARVARD LAW SCHOOL:** Associate  
Drafted appellate briefs and revisions to Constitutional Law treatise
- 1995-1996      **JUSTICE DAVID H. SOUTER, UNITED STATES SUPREME COURT:** Law clerk
- 1992-1995      **UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF LEGAL COUNSEL:**  
Attorney-advisor  
Drafted legal opinions and provided legal advice to the Executive Branch on questions of federal statutory and constitutional law; reviewed proposed legislation for constitutionality; briefed and argued *Applegate v. United States*, 25 F.3d 1579 (Fed. Cir. 1994), a takings case
- Fall 1992      **LEGAL RESOURCES CENTRE, Port Elizabeth, South Africa:** Staff attorney  
Assisted in trial preparations for a major land claim on behalf of the Mfengu of Tsitsikamma, who were removed from their land in 1977
- 1991-1992      **JUDGE WILLIAM C. CANBY, JR., UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, Phoenix, Arizona:** Law clerk
- Summer 1991      **UNITED STATES DEPARTMENT OF JUSTICE, ENVIRONMENT DIVISION, APPELLATE SECTION:** Summer law clerk  
Wrote the United States' brief in *Wyoming ex rel. Sullivan v. Lujan*, 969 F.2d 877 (10th Cir. 1992), a standing case
- 1987-1988      **WUHAN URBAN DESIGN INSTITUTE, Hubei, China:** Instructor  
Taught English to students in a Chinese university and studied Mandarin
- Summer 1986      **BLACK SASH, Johannesburg, South Africa:** Caseworker  
Served as a caseworker advising black South Africans on their rights and remedies in areas including immigration, labor and housing

1984-present

STARMOUNT COMPANY, Greensboro, North Carolina: Chair of the Board  
Direct the operations of a privately held real estate company