

David A. Simon

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APPOINTMENTS	Northeastern University School of Law Associate Professor of Law	2023 –
	Harvard Law School Petrie-Flom Center for Health Law Policy, Biotechnology, & Bioethics Research Fellow & Lecturer on Law	2021 – 2023
	George Washington University Law School Visiting Associate Professor & Frank H. Marks Intellectual Property Fellow	2020 – 2021
	University of Kansas School of Law Visiting Assistant Professor	2019 – 2020
	Hanken School of Economics Fellow	2019 – 2020
EDUCATION	University of Cambridge, Trinity College Ph.D., Law, Cambridge International Scholar (full merit scholarship & stipend)	2019
	Harvard Law School LL.M.	2011
	Chicago-Kent College of Law J.D., Order of the Coif, High Honors (Top 5%), Dean's Scholarship	2008
	University of Michigan B.A., High Distinction, Political Science & Philosophy (minor)	2005
INTERESTS	Primary Interests Drug & Device Law, Health Law, Innovation, Intellectual Property, Torts Secondary Interests Administrative Law, Law & Philosophy, Legal Theory	
LAW REVIEW PUBLICATIONS	1. <i>IP Pluralism's Puzzle</i> (with Patrick Goold), __ TEXAS LAW REVIEW __ (forthcoming 2025) 2. <i>Copyright's Missing Personality</i> , __ HOUSTON LAW REVIEW __ (forthcoming 2025)	

3. *Preempting Innovation or Innovating Preemption?* (with I. Glenn Cohen & Carmel Shachar)
__ NORTHWESTERN LAW REVIEW ONLINE __ (forthcoming 2024)
4. *Off-Label Preemption*
__ WISCONSIN LAW REVIEW __ (forthcoming 2024)
5. *On Copyright Utilitarianism* (with Patrick Goold)
99 INDIANA LAW JOURNAL __ (forthcoming 2024)
6. *Copyright, Moral Rights, and the Social Self*
34 YALE JOURNAL OF LAW & THE HUMANITIES __ (forthcoming 2024)
7. *Off-Label Speech*
72 EMORY LAW JOURNAL 549 (2023)
8. *Off-Label Innovation*
56 GEORGIA LAW REVIEW 701 (2022)
9. *Trademark Law & Consumer Safety*
72 FLORIDA LAW REVIEW 673 (2020)
↳ covered by Camilla Hrды, WRITTEN DESCRIPTION BLOG, July 30, 2020
10. *Analogies in IP: Moral Rights*
21 YALE JOURNAL OF LAW & TECHNOLOGY 337 (2019)
11. *Taxing the Poor Through Real Estate Transfers*
2020 ILLINOIS LAW REVIEW ONLINE 29 (2020)
12. *A Legal Stimulus*
NORTHWESTERN UNIVERSITY LAW REVIEW OF NOTE (2020)
13. *Legal Realism Now?*
107 KENTUCKY LAW JOURNAL ONLINE 1 (2019) (**invited response**)
14. *The Confusion Trap: Rethinking Parody in Trademark Law*
88 WASHINGTON LAW REVIEW 1021 (2013)
↳ cited in Appellant's Brief in VIP Products LLC, Plaintiff-counter-defendant - Appellant, v. Jack Daniel's Properties, Inc., 2018 WL 5907101 (9th Cir. 2018)
15. *An Empirical Analysis of Fair Use Decisions Under the Uniform Domain-Name Dispute-Resolution Policy*,
53 BOSTON COLLEGE LAW REVIEW 65 (2012)
↳ cited in JAMES GRIMMELMANN, INTERNET LAW: CASES AND PROBLEMS (11th ed. 2021)

↵ covered by MANAGING IP MAGAZINE in two articles (including interview)

16. *Explaining the Supreme Court's Shrinking Docket* (with Ryan J. Owens)
53 WILLIAM & MARY LAW REVIEW 1219 (2012)
 17. *Culture, Creativity, & Copyright*
28 CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL 279 (2011)
 18. *Reasonable Perception and Parody in Copyright Law*
2010 UTAH LAW REVIEW 779 (2010)
 - ↵ cited in AIPLA Amicus Curiae Brief in Supp. of Neither Party on Writ of Cert. to the U.S. Supreme Court, *Andy Warhol Found. for the Visual Arts, Inc., v. Goldsmith*, 2022 WL 2288959 (U.S.)
 19. *In Search of (Maintaining) the Truth: The Use of Copyright Law by Religious Organizations*
16 MICHIGAN TELECOMMUNICATIONS & TECHNOLOGY LAW REVIEW 355 (2010)
 20. *Teaching Without Infringement: A New Model for Educational Fair Use*
20 FORDHAM INTELLECTUAL PROPERTY, MEDIA & ENTERTAINMENT LAW JOURNAL 453 (2010)
 21. *Mo' Money, Mo' Problems: Should Appellate Courts Have Nonparty Jurisdiction Over Lawyers' Appeals From Nonmonetary Sanctions?*
78 UNIVERSITY OF CINCINNATI LAW REVIEW 183 (2009)
 22. *Register Trademarks and Keep the Faith: Trademarks, Religion, and Identity*
49 IDEA 233 (2009)
 - ↵ 1st Place, IDEA Student Writing Competition
 - ↵ cited in *Sovereign Military Hospitaller v. Florida Priory of Knights Hospitallers*, 816 F. Supp. 1290 (S.D. Fla. 2011)
 - ↵ cited in Brief in Support of Petition for Certiorari to the U.S. Supreme Court, *Universal Church, Inc. v. Toellner*, 2019 WL 1556321 (U.S.)
- PEER-REVIEWED PUBLICATIONS
23. *New Drug Development Paradigms? Opportunities and Uncertainties with New Government Drug Repurposing Programmes* (with Johnathan Liddicoat, Timo Minssen, Kathy Liddell, Marco Schito, & Ashleigh Hamidzadeh)
__ SCIENCE TRANSLATIONAL MEDICINE __ (forthcoming 2024)
 24. *Doctors as Device Manufacturers? FDA Regulation of Clinician-Generated Innovation in the ICU* (with Michael Young)
__ CRITICAL CARE MEDICINE __ (forthcoming 2024)
 25. *Using Digital Technologies to Diagnose in the Home: Recommendations From a Delphi Panel* (with Sara Raza, Carmel Shachar, & I. Glenn Cohen)

18 NPJ DIGITAL MEDICINE 1 (2024)

26. *Lucky IP* (with Patrick Goold)
42 OXFORD JOURNAL OF LEGAL STUDIES 843 (2022)
 27. *Skating the Line Between Wellness Products and Regulated Devices: Strategies and Implications* (with I. Glenn Cohen & Carmel Shachar)
9 JOURNAL OF LAW & BIOSCIENCES 1 (2022)
 - ↳ covered in MEDTECH INSIGHT, *JAMA: ‘General Wellness’ Apps Could Pose Patient Safety Quandary*
 28. *Should Alexa Diagnose Alzheimer’s?: Legal and Ethical Issues With At-Home Consumer Devices* (with Barbara Evans, Carmel Shachar, and I. Glenn Cohen)
3 CELL REPORTS MEDICINE 1 (2022)
 - ↳ covered in INVERSE, *Alexa Could Diagnose Alzheimer’s and Other Brain Conditions – Should It?*
 29. *Unsettled Liability Issues for “Pre-diagnostic” Wearables and Health-Related Products* (with I. Glenn Cohen & Carmel Shachar), JAMA (2022)
 30. *At-Home Diagnostics and the Device vs Wellness Line* (with I. Glenn Cohen & Carmel Shachar), 327 JAMA 523 (2022)
 31. *The Hospital-at-Home Presents Novel Liabilities for Physicians, Hospitals, Caregivers, and Patients* (with I. Glenn Cohen, Anaeze Offodile, & Celynne Balatbat)
NATURE MEDICINE (2022)
 32. *Patient Data Ownership: Who Owns Your Health?* (with Kathleen Liddell & Anneke Lucassen)
8 JOURNAL OF LAW & BIOSCIENCES 1 (2021)
 - ↳ received the Hanken Foundation (Stiftelsen Svenska handelshögskolan) Scholarly Award
 33. *Telehealth to Address Health Disparities: Potential, Pitfalls, and Paths Ahead* (with Carmel Shachar)
49 JOURNAL OF LAW, MEDICINE & ETHICS 415 (2021)
- BOOK CHAPTERS
34. *Physician & Manufacturer Liability for Remote Patient Monitoring* (with Aaron S. Kesselheim), in
DIGITAL AT HOME DIAGNOSTICS: ETHICAL, LEGAL, AND REGULATORY ISSUES (Julia Adler-Milstein, I. Glenn Cohen, Daniel Kramer, and Carmel Shachar eds., Cambridge University Press forthcoming 2024)
 35. *Assessing Public and Private Rights of Action to Regulate Health Data*, (with I. Glenn Cohen & Carmel Shachar) in

DATA SHARING IN HEALTH SCIENCES AND LAW (Marcelo Compañucci & Timo Missen, eds., Springer 2023)

36. *Information Capacity, Regulation, & Certification Marks*, in **CAMBRIDGE HANDBOOK ON THE LAW & ECONOMICS OF TRADEMARKS** (Glynn Lunney ed., 2023)

**OTHER
PUBLICATIONS**

37. **DIAGNOSING IN THE HOME: THE ETHICAL, LEGAL, AND REGULATORY CHALLENGES AND OPPORTUNITIES OF DIGITAL HOME HEALTH**
Petrie-Flom Center White Paper (2023)
38. *Regulatory Roadmap for Digital Diagnostics*, **Petrie-Flom Center Policy Paper** (2023)
39. *The Devil is in the Details with Biden's Free COVID Testing Plan*
BILL OF HEALTH, (Dec. 3, 2021)
40. *Pandemic Diagnostics: Present and Future Implications of Self-Testing Reimbursement*
BILL OF HEALTH, (July 14, 2021)
41. *Legal Scholarship Highlight: An Empirical Analysis of the Court's Shrinking Docket* (with Ryan Owens)
SCOTUSBLOG (June 20, 2012)
42. *Application of Deterrence Assessment Methodologies to Commercial Ferry Attack Scenario* (contributor)
CENTER FOR ADVANCED DEFENSE STUDIES (2005)

BOOKS

43. **A PATIENT'S GUIDE TO THORACIC OUTLET SYNDROME** (2018)

**WORKS IN
PROGRESS**

Dosing Drug Approval: Innovation, Evidence, & Reimbursement
Off-Label Inducement
Copyright and Device Innovation
Devices as Billboards
IP's Pluralism Puzzle (with Patrick Goold)
Medical Innovation in the Anthropocene
Developing Drugs for a Developing Climate
Responding to Climate Change Through Drug Development (with I. Glenn Cohen)
Law's Grammar

PRESENTATIONS

Off-Label Inducement	
Regulatory, Innovation, & Biosciences Scholars Workshop	2024
Medical Innovation in the Anthropocene	
Law & Biosciences Workshop	2024
Stanford Law School	
Copyright's Missing Personality	
Intellectual Property Scholars Conference	2024
University of California Berkeley School of Law	
Ninth Copyright Scholarship Roundtable (selected)	2024
University of Pennsylvania School of Law	
IP Speaker Series (invited)	2024
George Washington University Law School	
Junior Scholars Conference	2024
Northeastern University School of Law	
Art Law Roundtable (selected)	2024
New England Law Boston	
Off-Label Preemption	
AALS New Voices in Law, Medicine, & Health Care	2024
AALS New Voices in Litigation	2024
AALS New Voices in Administrative Law	2024
AALS Law Professors with Disabilities and Allies Works-in-Progress	2024
Health Law Roundtable	2023
Center for Health Policy & Law, Northeastern University School of Law	
American Society of Law, Medicine, & Ethics Annual Law Professors Conference	2023
University of Maryland Francis King Carey School of Law	
Law & Biosciences Workshop	2023
Stanford Law School	
Regulatory, Innovation, & Biosciences Scholars Workshop	2023
Law's Grammar	
Junior Scholars Conference	2024
Northeastern University School of Law	
AALS Jurisprudence Junior Scholars Workshop	2023
AI and Medicine in the Post-COVID Era	2023
Harvard Medical School, MGH, Mass General Brigham	
The Medical Innovation Gatekeepers	
American Society of Law, Medicine, & Ethics Annual Law Professors Conference	2022
Arizona State University Sandra Day O'Connor College of Law	
6th Annual Regulation and Innovation in the Biosciences (RIBS) Workshop	2022
University of Iowa College of Law	
Law & Biosciences Workshop	2022
Stanford Law School	

Works-in-Progress Intellectual Property (WIPIP) Colloquium University of St. Louis School of Law	2022
Northeastern University School of Law Faculty Colloquium (invited)	2021
On Copyright Utilitarianism	
Eighth Copyright Scholarship Roundtable University of Pennsylvania Carey Law School (selected)	2023
Works-in-Progress Intellectual Property (WIPIP) Colloquium Suffolk University Law School	2023
Intellectual Property Scholars Conference Stanford Law School	2022
Society for Empirical Research in Copyright Annual Congress University of Colorado Law School	2022
Who Owns the Content of Generative AI?	
Weill Cornell Medicine-Qatar	2023
Drug Reimbursement by Public Payors in the U.S.	
C-Path Institute CURE Drug Repurposing Collaboratory (invited)	2023
Should Alexa Diagnose Alzheimer's?	
Virtual Advanced Healthcare at Home Summit (invited)	2023
Digital Medicine Society (invited)	2022
Devices as Billboards	
Regulation and Innovation in the Biosciences (RIBS) Workshop (invited) University of Iowa College of Law	2022
The Legal and Policy Landscape of Drug Repurposing	
C-Path Institute CURE Drug Repurposing Collaboratory (invited)	2022
Informational Capacity, Regulation, and Certification Marks	
Trademark and Unfair Competition Scholarship Roundtable (selected) Harvard Law School, U. Pennsylvania Law School, NYU School of Law	2022
International Trademark Association Scholarship Symposium	2022
The Law & Economics of Trademarks Conference (invited) Texas A&M U. School of Law	2021
Emerging Trends in In-Home Digital Diagnostics	
Loyola University Chicago School of Law Seminar (invited)	2021
Lucky IP	
Intellectual Property Roundtable University of New Hampshire School of Law (selected)	2021
Off-Label Speech	

Wiet Life Science Law Scholars Workshop (selected) Loyola University Chicago School of Law	2021
ASLME 44th Annual Health Law Professors Conference Northeastern University School of Law	2021
Fifth Annual Health Law Works-in-Progress Retreat (selected) Seton Hall Law School	2021
Off-Label Innovation	
University of Cambridge, Faculty of Law (invited)	2021
18th Annual Works-in-Progress Intellectual Property Colloquium American University Washington College of Law, University of Utah S.J. Quinney College of Law, & Texas A&M U. School of Law	2021
New Voices in IP, American Association of Law Schools Junior Scholars Workshop	2020
Intellectual Property Scholars Conference Stanford Law School	2020
Drug Reimbursement: On- and Off-Label	2020
Critical Path Institute's CURE Drug Repurposing Collaboratory (invited)	
Provider-Based Solutions to Problems with Off-Label Prescriptions	2021
Third Annual IP & Innovation Researchers of Asia Conference	
Innovation, Off-Label Prescribing, and Intellectual Property Regimes	2020
Hanken School of Economics (invited)	
The Syntactic Structure of Legal Rights	
Political Philosophy Workshop University of Cambridge	2020
H.L.A. Hart Seminar University of Surrey Faculty of Law	2021
Copyright's Memory-Based Rights	
The Sixth Annual Intellectual Property Mosaic Conference Marquette University Law School	2019
Colloquium on Philosophical Approaches to Intellectual Property (invited) George Mason Law School	2019
A Structural Analysis of Intellectual Property Law	
Seminar on Intellectual Property Theory University of Kentucky College of Law (invited)	2019
Problems in Theory: Intellectual Property	
17th Annual Works-in-Progress IP Colloquium Santa Clara University School of Law	2020

Hanken School of Economics, Helsinki, Finland (invited)	2019
The Fourth Annual Intellectual Property Mosaic Conference	2019
University of New Hampshire School of Law	
Distributing IP	2019
Lecture on Intellectual Property (invited)	
Hanken School of Economics	
Trademark Law & Consumer Safety	2019
Intellectual Property Scholars Conference	
DePaul College of Law	
	2018
Rx Marks (invited)	
DePaul College of Law	
	2012
Early Moral Rights Theorists in Copyright Law	
University of Cambridge, Faculty of Law	
	2012
Aspects of Intellectual Property Law and Licensing in the U.S. and Europe	
European School of Economics (invited)	
	2011
The Confusion Trap: Rethinking a Defense for Parody in Trademark Law	
Oxford Intellectual Property Discussion Group	
Oxford University	
An Empirical Analysis of Fair Use Decisions Under the Uniform Domain-Name Dispute-Resolution Policy	2011
Intellectual Property Scholars Conference	
DePaul College of Law	
Empirical Analysis of Law Seminar	
Harvard Law School	
	2010
Culture, Creativity, & Copyright	
8th Annual Works in Progress Intellectual Property Colloquium	
Boston University School of Law	
	2009
Reasonable Perception and Parody in Copyright Law	
Intellectual Property Scholars Roundtable	
Drake University Law School	
	2009
Teaching Without Infringement: A New Model for Educational Fair Use	
7th Annual Works in Progress Intellectual Property Conference	
Seton Hall Law School	
	2009
In Search of (Maintaining) the Truth: The Use of Copyright Law by Religious Organizations	2009
Intellectual Property Scholars Conference	

Cardozo Law School

MEDIA

The Supreme Court: The most powerful, least busy people in Washington, VOX, May 2024
What Prenuvo Scans Won't Tell You, BUSTLE, February 2024
The Bruce Willis Deepfake Is Everyone's Problem, WIRED, October 2022
More At-Home Tests Are Heading Your Way, NEO.LIFE, September 2022
Alexa Could Diagnose Alzheimer's and Other Brain Conditions – Should It?, INVERSE, July 2022
FTC resurrects a decade-old rule as a guardrail on the health app explosion, THE VERGE, Sept. 22, 2021
Your Property Taxes Are Likely Still Due, But Your Lender Might Have You Covered, FORBES, April 15, 2020
The messy legal scrap to bring celebrities back from the dead, WIRED, Nov. 17, 2019

COURSES TAUGHT

Northeastern University School of Law
Tort Law (Fall 2021, 2023, 2024)
Drug and Device Innovation (Fall 2024)
Administrative Law (Spring 2025)

Harvard Law School
Drug and Device Innovation (Spring 2023)

George Washington University Law School
Trademark Law (Spring 2021)

University of Kansas School of Law
Tort Law (Fall 2019)
Patent Law (Spring 2020)
Criminal Law (Spring 2020)

LEGAL EXPERIENCE

Simon Law Group LLC Attorney and Managing Member	2016 –
Harvard Law School Visiting Researcher	2012 – 2013
University of Navarra Law School Visiting Professor of Intellectual Property Law	Spring 2012
Harvard College, Department of Government Teaching Fellow	2011 – 2012
Harvard Law School	2011

Summer Academic Fellow

Hon. Martin Ashman, U.S. District Court, Northern District of Illinois
Judicial Law Clerk 2008-2009
(18 mo.)

Dahl & Bonadies 2008
Associate Attorney

Brinks, Hofer, Gilson & Liono 2007
Summer Associate

AWARDS

Northeastern University School of Law 2023 – 2024

Centers of Excellence Faculty Fellowship Award, Center for Health Policy & Law

George Mason University Scalia Law School 2023 – 2024

Edison Fellow

Loyola University Chicago School of Law 2022

Wiet Life Sciences Law Scholar

University of Cambridge

Cambridge International Scholar

Harvard Law School

Summer Academic Fellow

SERVICE

Peer Reviewer

Food & Drug Law Journal

JAMA

Journal of Intellectual Property Law & Practice

Journal of Law & the Biosciences

Journal of Law, Medicine & Ethics

Jurimetrics

Mentorship

Faculty Advisor/Coach, 2024 Health Law Regulatory & Compliance Competition

Faculty Advisor, 2024 USPTO Patent Drafting Competition

Preceptor, Capstone of Joint JD-MPH Students at Northeastern University School of Law

Student Mentor, Petrie-Flom Center, Harvard Law School (2021 – 2024)

Coach, Saul Lefkowitz Trademark Moot Court Competition

Organizer

The Politics of IP Symposium (University of Texas School of Law)

Junior Scholars Conference (Northeastern University School of Law)

Junior Scholars Workshop

Regulation, Innovation, & the Biosciences Workshop

Member

CURE Drug Repurposing Collaboratory (CDRC) (2021 – present)
Direct-to-Consumer Microbiome-Based Tests Multidisciplinary Working Group (2022)

Other Service Positions

Commentator, 6th Annual Health Law Works-in-Progress Retreat (2022)
Editorial Board, Food & Drug Law Journal (2022 – present)
Pro Bono Attorney, Lawyers for the Creative Arts (2016-2020)

BAR ADMISSIONS

Illinois
Massachusetts
District of Columbia (retired/inactive)