

ERIK HOVENKAMP

Associate Professor, USC Gould School of Law

JULY 2023

CONTACT INFORMATION

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ACADEMIC POSITIONS

USC Gould School of Law

Associate Professor
Assistant Professor

2022–Present
2019–2022

Harvard Law School

Qualcomm Postdoctoral Fellow in Private Law and Intellectual Property,
Project on the Foundations of Private Law

2017–2019

Yale Law School

Visiting Fellow, Information Society Project

2017–2019

Boston University School of Law

Visiting Lecturer

Spring 2018

EDUCATION

Ph.D., Economics, Northwestern University, 2017

- Kauffman Dissertation Fellow, Ewing Marion Kauffman Foundation, 2016-2017

J.D., Northwestern University Pritzker School of Law, 2016, *Cum Laude*

B.A., Mathematics & Economics, University of Iowa, 2009, *Highest University Distinction*

- Frank Knight Award in economics
- Completed in 3 years

RESEARCH INTERESTS & TEACHING

- **Research Areas:** Antitrust and competition policy; patents and innovation policy; law and economics; industrial organization.
- **Courses:** Antitrust; Torts; Antitrust, Innovation, and Big Tech (seminar).
- **Teaching Awards:** Rutter distinguished teaching award, 2023.

SELECTED WORKS IN PROGRESS

Product Development with Lurking Patentees, revise and resubmit, RAND JOURNAL OF ECONOMICS, (with Jorge Lemus and John Turner).

Nonprice MFNs and Entry Deterrence in Platform Markets, (with Kevin Bryan).

PUBLISHED ARTICLES AND BOOK CHAPTERS

[*Platform Discrimination Against Rivals: An Economic Framework for Antitrust Enforcement*](#), JOURNAL OF CORPORATION LAW (forthcoming, 2023) (invited).

[*Restraints on Platform Differentiation*](#), 25 YALE JOURNAL OF LAW AND TECHNOLOGY 271 (2023).

[*Litigation with Inalienable Judgments*](#), 52 JOURNAL OF LEGAL STUDIES 1 (2023), (with Steven C. Salop).

[*Antitrust and Trademark Settlements*](#), 85 ANTITRUST LAW JOURNAL 67 (2023) (with C. Scott Hemphill).

- Winner: Antitrust Writing Awards, Best Article of 2022-23 on Antitrust & IP

[*Trinko Meets Microsoft: Leverage and Foreclosure in Platform Refusals to Deal*](#), ANTITRUST CHRONICLE (2023).

[*Post-Grant Adjudication of Drug Patents: Agency and/or Court?*](#), 37 BERKELEY TECHNOLOGY LAW JOURNAL 139 (2023) (with Arti Rai, Jorge Lemus, & Saurabh Vishnubhakat).

[*The Antitrust Duty to Deal in the Age of Big Tech*](#), 131 YALE LAW JOURNAL 1483 (2022).

- Winner: American Antitrust Institute's Jerry S. Cohen Memorial Fund Writing Award for the best antitrust article of 2022

[*Antitrust Limits on Patent Settlements: A New Approach*](#), 70 JOURNAL OF INDUSTRIAL ECONOMICS 257 (2022) (with Jorge Lemus) [[Online Appendix](#)].

- Lead article
- Winner: Antitrust Writing Awards, Best Article of 2021-22 on Antitrust & IP
- Winner: Young Economist Award, JEI Conference on Industrial Organization, 2018.

Drug Settlements and Generic Entry: Has the PTAB Made a Difference?, 40 NATURE BIOTECHNOLOGY 1569 (2022), (with Jorge Lemus, Arti Rai, & Saurabh Vishnubhakat).

[*Proposed Antitrust Reforms in Big Tech: What Do They Imply for Competition and Innovation?*](#), ANTITRUST CHRONICLE (2022).

[*Startup Acquisitions, Error Costs, and Antitrust Policy*](#), 87 UNIVERSITY OF CHICAGO LAW REVIEW 331 (2020) (with Kevin Bryan).

[*Antitrust Limits on Startup Acquisitions*](#), 56 REVIEW OF INDUSTRIAL ORGANIZATION 615 (2020) (with Kevin Bryan).

- Winner: Best Junior Publication of 2020, Industrial Organization Society.

[*Tying and Exclusion in FRAND Licensing: Evaluating Qualcomm*](#), 19 ANTITRUST SOURCE 1 (2020) (with Timothy Simcoe).

[*Platform Antitrust*](#), 44 JOURNAL OF CORPORATION LAW 713 (2019).

[*Antitrust Law and Patent Settlement Design*](#), 32 HARVARD JOURNAL OF LAW & TECHNOLOGY 417 (2019).

► Winner: American Antitrust Institute's Jerry S. Cohen Award for the best article of 2019 on antitrust and intellectual property.

[*Demystifying Patent Holdup*](#), 76 WASHINGTON & LEE LAW REVIEW 1501 (2019) (with Tom Cotter & Norman Siebrasse).

[*Vertical Mergers and the MFN Thicket in Television*](#), 2 ANTITRUST CHRONICLE 21 (2018) (with Neel Sukhatme).

[*Delayed Entry Settlements at the Patent Office*](#), 54 INTERNATIONAL REVIEW OF LAW AND ECONOMICS 30 (2018) (with Jorge Lemus).

[*Competition, Inalienability, and the Economic Analysis of Patent Law*](#), 21 STANFORD TECHNOLOGY LAW REVIEW 33 (2018).

[*Tying, Exclusivity, and Standard-Essential Patents*](#), 19 COLUMBIA SCIENCE AND TECHNOLOGY LAW REVIEW 79 (2018).

[*Buying Monopoly: Antitrust Limits on Damages for Externally Acquired Patents*](#), 25 TEXAS INTELLECTUAL PROPERTY LAW JOURNAL 39 (2018) (with Herbert Hovenkamp) (invited).

[*How Patent Damages Skew Licensing Markets*](#), 36 REVIEW OF LITIGATION 379 (2017) (with Jonathan Masur) (invited).

[*Patent Pooling and Related Technology Sharing*](#), in CAMBRIDGE HANDBOOK ON ANTITRUST AND INTELLECTUAL PROPERTY (Daniel Sokol & Roger Blair, eds.) (2017) (with Herbert Hovenkamp).

[*Challenge Restraints and the Scope of the Patent*](#), 1 ANTITRUST CHRONICLE 48 (2016).

[*Anticompetitive Patent Injunctions*](#), 100 MINNESOTA LAW REVIEW 871 (2016) (with Tom Cotter).

[*Tying Arrangements*](#), in OXFORD HANDBOOK OF INTERNATIONAL COMPETITION POLICY, (Daniel Sokol & Roger Blair, eds.) (2014) (with Herbert Hovenkamp).

[*The Viability of Antitrust Price Squeeze Claims*](#), 51 ARIZONA LAW REVIEW 273 (2009) (with Herbert Hovenkamp).

[*Tying Arrangements and Antitrust Harm*](#), 52 ARIZONA LAW REVIEW 925 (2010) (with Herbert Hovenkamp).

[*Complex Bundled Discounts and Antitrust Policy*](#), 57 BUFFALO LAW REVIEW 1227 (2009) (with Herbert Hovenkamp).

[*Exclusionary Bundled Discounts and the Antitrust Modernization Commission*](#), 53 ANTITRUST BULLETIN 517 (2008) (with Herbert Hovenkamp).

PUBLICATIONS IN POPULAR MEDIA

[*Big Tech ‘Self-Preferencing’ Bills May Hurt—Not Help—Antitrust Reform*](#), PROMARKET (June 8, 2022).

[*Antitrust Needs Reform, But These Two Proposed Bills Miss the Mark*](#), THE HILL (March 21, 2022) (with D. Daniel Sokol)

[*Tech Platforms and the Antitrust Duty to Deal*](#), PROMARKET (Oct. 28, 2021).

[*FTC v. Qualcomm: New Frontiers in the Antitrust-IP Interface*](#), REGULATORY REVIEW (June 11, 2019).

GRANTS

- “Monopoly Pricing and the Patent Trial and Appeals Board,” Arnold Foundation, Principal Investigator on Subcontract (\$47,209).

ACADEMIC FELLOWSHIPS

Yale School of Management, Thurman Arnold Project	
Fellow	2019–Present

Yale Law School, Information Society Project	
Affiliated Fellow	2019–Present

Innovators Network Foundation	
Antitrust Fellow	2022–2023

Ewing Marion Kauffman Foundation	
Kauffman Dissertation Fellow	2016-2017

JOURNAL SERVICE

• **Referee:** American Economic Review; Journal of Political Economy; RAND Journal of Economics; American Economic Review: Insights; American Economic Journal: Microeconomics; Journal of Law, Economics, and Organization; Management Science; Journal of Industrial Economics; American Law and Economics Review; International Journal of Industrial Organization; Economics Letters; Journal of Economic Behavior & Organization; Journal of Antitrust Enforcement; Journal of Competition Law and Economics.

OTHER ACADEMIC SERVICE

AALS Section on Antitrust and Economic Regulation	
Executive Committee Member	2023–Present

American Law and Economics Association Annual Conference	
Area Organizer, Antitrust & Competition Policy	2023

USC Gould School of Law

Admissions Committee Member

2019, 2022

RESEARCH PRESENTATIONS AND PUBLIC SPEAKING

- Junior Innovation Economics Conference, Harvard Business School, May 2023, *Nonprice MFNs in Platform Markets*.
- Webinar on Frontiers of Antitrust Policy, Northwestern Center on Law, Business, and Economics, May 2023 (roundtable moderator).
- Faculty Workshop, Cornell Law School, April 2023, *Restraints on Platform Differentiation*.
- The New Age of Antitrust (online symposium), NYU Law school, November 2022, *Platform Discrimination Against Rivals: An Economic Framework for Antitrust Enforcement*.
- Antitrust Roundtable, UC Irvine, October 2022, *Platform Discrimination Against Rivals: An Economic Framework for Antitrust Enforcement*.
- Law, Economics, and Organization Workshop, Yale Law School, September 2022, *Platform Discrimination Against Rivals: An Economic Framework for Antitrust Enforcement*.
- Roundtable on Digital Platforms and Regulation, London School of Economics, May 2022.
- Antitrust West Coast conference, Keeping Up with Enforcement in the Tech Space, May 2022 (panelist).
- Fair Standards Alliance, webinar on Promoting Competition: A Talk on the Draft Policy Statement on SEPs, April 2022 (panelist).
- Federalist Society, panel on Securing Innovation: How Patent Law Shapes U.S. National and Economic Security, April 2022 (panelist).
- Faculty Workshop, University of Minnesota Law School, March 2022, *Antitrust and Trademark Settlements*.
- IP seminar, Cardozo School of Law, February 2022, *Antitrust and Trademark Settlements*.
- Workshop on Pharma and IP, HEC Lausanne, Columbia University, and HEC Paris, February 2022, *Drug Settlements and Generic Entry: Has the PTAB Made a Difference?*
- Next Generation of Antitrust, Data Privacy, and Data Protection Scholars Conference, NYU Law School, January 2022, *Antitrust and Trademark Settlements*.
- Faculty workshop, Northwestern University Pritzker School of Law, January 2022, *The Antitrust Duty to Deal in the Age of Big Tech*.
- Public Law Seminar, University of Chicago Law School, November 2021, *The Antitrust Duty to Deal in the Age of Big Tech*.
- Antitrust roundtable Speaker Series, UC Irvine, October 2021, *The Antitrust Duty to Deal in the Age of Big Tech*.
- U.S. Department of Justice, Antitrust Division, Competition Law and Policy Speaker Series, September 2021, *The Antitrust Duty to Deal in the Age of Big Tech*.
- Global Competition Review, virtual conference on Antitrust in the Digital Economy, June 2021, Panel: Antitrust & Platform Competition (panelist).
- Boston University, Technology & Declining Economic Dynamism Virtual Conference, September 2020, *Antitrust Limits on Startup Acquisitions*.
- University of Florida Antitrust Law Online Workshop, June 2020, *Asymmetric Stakes in Antitrust Litigation*.
- Organization for Economic Coordination and Development, Conference on Startups, Killer Acquisitions, and Merger Control, June 2020, speaker and panelist.
- Center for Law and Social Science (CLASS) Seminar, USC Gould School of Law, November 2019, *Startup Acquisitions, Error Costs and Antitrust Policy*.
- Antitrust Roundtable, UC Irvine Law School, November 2019, *Startup Acquisitions, Error Costs, and Antitrust Policy*.

- Searle Center Conference on Antitrust Economics, Northwestern University, September 2019, *Antitrust Limits on Startup Acquisitions*.
- IP Day, Boston University School of Law, July 2019, Panel on *FTC v. Qualcomm* antitrust litigation.
- Symposium: Reassessing the Chicago School of Antitrust, University of Chicago, May 2019, *Startup Acquisitions, Error Costs, and Antitrust Policy*.
- NBER Productivity Seminar, March 2019, *Antitrust Limits on Startup Acquisitions*.
- Symposium: The Antitrust-IP Interface, University of Florida, Department of Economics, March 2019, *Antitrust Limits on Startup Acquisitions*.
- Law and Economics Workshop, Boston University School of Law, September 2018, *Platform Antitrust*.
- Intellectual Property Scholars Conference (IPSC), UC Berkeley School of Law, August 2018, *Antitrust Law and Patent Settlement Design*.
- The Administrative-Private Law Interface in IP, Harvard Law School, March 2018, Panel on Antitrust and Intellectual Property (panel moderator).
- TILEC Conference on Competition, Standards, and Innovation, Tilburg University, Netherlands, December 2017, *Tying, Exclusivity, and Standard-Essential Patents*.
- Law and Economics Workshop, Georgetown University Law Center, November 2017, *Proportional Restraints and the Patent System*.
- Harvard Law and Economics Seminar, Harvard Law School, October 2017, *Tying, Exclusivity, and Standard-Essential Patents*.
- Searle Conference on Antitrust Economics and Competition Policy, Northwestern University Pritzker School of Law, September 2017, *Proportional Restraints and the Patent System*.
- Industrial Organization Lunch Seminar, The Wharton School, University of Pennsylvania, August 2017, *Proportional Restraints and the Patent System*.
- IP Day, Boston University School of Law, July 2017, *How Patent Damages Skew Licensing Markets*.
- American Law and Economics Association Annual Conference, Yale Law School, May 2017, *Competition, Inalienability, and the Economic Analysis of Patent Law*.
- Edward D. Manzo Seminar in Patent Law, DePaul University College of Law, April 2017, *Competition, Inalienability, and the Economic Analysis of Patent Law*.
- IP Colloquium, Boston University School of Law, March 2017, *Challenge Restraints and the Scope of the Patent*.
- Symposium on Reverse Settlement Post-*Actavis*, Notre Dame Law School, October 2016, *Reverse Settlement and Holdup at the Patent Office*.
- Intellectual Property Scholars Conference, Stanford University, August 2016, *Pay for Go-Away: Reverse Payment Settlements and Holdup Under PTAB*.
- Law Faculty Seminar, Northwestern University Pritzker School of Law, August 2016, *Competition, Inalienability, and the Economic Analysis of Patent Law*.
- Texas Conference on Patent Damages, University of Texas Law School, June 2016, *Reliable Problems from Unreliable Patent Damages*.
- Texas Conference on Patent Damages, University of Texas Law School, June 2016, *Buying Monopoly: Antitrust Limits on Damages for Externally Acquired Patents*.
- American Law and Economics Association Annual Conference, Harvard Law School, May 2016, *Patent Licensing and Antitrust Inference*.
- Kauffman Emerging Scholars Conference, Ewing Marion Kauffman Foundation, February 2016, *On the Law and Economics of Prospective Patent Remedies*.
- Intellectual Property Scholars Conference (IPSC), DePaul University, August 2015, *Anticompetitive Patent Injunctions*.

- Intellectual Property Scholars Conference (IPSC), University of California at Berkeley, August 2014, *Predatory Patent Litigation: How Patent Assertion Entities Use Reputation to Monetize Bad Patents*.
- Max Plank Institute Conference on Intellectual Property and Competition, August 2013, *Predatory Patent Litigation*.