

Foreword

Remembering Professor Dan L. Burk

Austen Parrish*

Professor Dan L. Burk—a member of the founding faculty of the University of California, Irvine School of Law, a Distinguished Professor,¹ and the first Chancellor’s Professor at the Law School—sadly passed away on Sunday, February 4, 2024. He was a wonderful colleague, a brilliant scholar and teacher, a friend and mentor to so many, and his passing was a great loss to our community. The last article he wrote, *Patent Semiotics*, is being published in this issue of the U.C. Irvine Law Review. The article is an end note to a spectacular career with many rich, scholarly contributions that have made a lasting impact on the way we think about intellectual property, law and technology, and law and science.

Some of Dan’s more significant contributions were underscored during a day-long festschrift event honoring Dan that was held at U.C. Irvine on Friday, February 9. Many of his mentees, colleagues, and former students attended, and remembrances poured in from around the country.² During the event, Dan was praised and remembered for his profound contributions to scholarship and leadership in law and technology, patent law, and issues related to intellectual property and gender³ He was lauded as one the leading scholars in the intellectual

* Dean and Chancellor’s Professor of Law, University of California, Irvine School of Law.

1. The Distinguished Professor title is “a campus-level distinction and is reserved for [full-time senate faculty] who have achieved the highest levels of scholarship over the course of their careers. Distinguished Professors will typically have earned national and international level distinctions and honors of the highest level.” *Titles of Distinction: Distinguished Professor*, U.C. IRVINE OFF. ACAD. PERS., <https://ap.uci.edu/titles-of-distinction/distinguished-professor/> [perma.cc/PAH4-AQHD] (last visited Oct. 8, 2025).

2. Some examples include Eric Goldman, *In Memoriam: Prof. Dan Burk*, GOLDMAN’S OBSERVATIONS (Feb. 5, 2024), <https://personal.ericgoldman.org/in-memoriam-prof-dan-burk/> [perma.cc/J3UW-LV AJ]; Lindsay Walker, *In Memoriam: Dan Burk*, ARIZ. ST. SANDRA DAY O’CONNOR COLL. L. (Feb. 8, 2024), <https://law.asu.edu/newsroom/dan-burk> [perma.cc/T9ZL-M4RL]; *In Memoriam Dan L. Burk (1962 – 2024)*, MAX PLANCK INST. FOR INNOVATION AND COMPETITION (Feb. 9, 2024), <https://www.ip.mpg.de/en/the-institute/institute-news/in-memoriam-dan-l-burk-1962-2024.html> [perma.cc/3C68-ZKP3]; *In Memoriam: Remembering Former Vanguard Award Recipient Dan Burk*, CAL. LAW. ASS’N (Feb. 15, 2024), <https://calawyers.org/intellectual-property-law/in-memoriam-remembering-former-vanguard-award-recipient-dan-burk/> [perma.cc/JR65-GF6Z].

3. Speakers at the event spoke on three panels. The first panel, on Internet Law, included speakers (in the order they spoke): Anthony Reese, U.C. Irvine School of Law; Jack Lerner, U.C. Irvine School of Law; Pamela Samuelson, U.C. Berkeley School of Law; Anupam Chander, Georgetown Law;

property field, but also remembered as a caring mentor to many. The festschrift event reflected on dozens of articles Dan had authored. Some of his most important work was on the legal and social impact of new technologies including in medicine, biotech and gene patenting, the arts, digital copyright, and the implications of trademark and patent law for encouraging and supporting innovation. The day was a befitting celebration of Dan's work and life. It was a moving occasion: there was much debate around ideas, deep engagement with Dan's work, and fond remembrances and laughter over the ways Dan had left a lasting mark on all who knew him. The Festschrift was exactly how I imagine Dan would want to be remembered.

The publication of Dan's last work in this issue of the U.C. Irvine Law Review is another small way of celebrating Dan and his scholarly contributions. I am grateful for the editors of the Law Review and for Professor Jessica Silbey in ensuring its publication. Dan finished writing the article just a few weeks before his death. His health was deteriorating rapidly and we knew he didn't have long to live. The Law Review accepted the article for publication the same week as his passing. As with his other work, its carefully written, thoughtful, and insightful. Bringing literature around the systematic study of signs to bear on patent law underscores the breadth of his knowledge and the innovative approaches that Dan consistently brought to his scholarship and his entire career. That Dan completed such a piece when he was so ill is simply remarkable. Dan cared so much for this law school that he helped found, and I know he was proud that he knew his final work would be published in these pages.

I end this brief foreword noting one of the last conversations I had with Dan. A few weeks before his passing, I had the honor of interviewing Dan for a U.C. Irvine podcast (UCI Law Talks).⁴ Looking back, I was fortunate to have had that opportunity. In the interview, Dan spoke about his career and the founding of the law school. He also spoke warmly about his fifteen years in Irvine and his wonderful colleagues and students. He ended by urging all legal academics to "take some risks, but never risk quality. You might want to choose a topic that's a little offbeat. You might want to work in an environment that is a little bit different. But always do

Julie Cohen, Georgetown Law; Michael Madison, University of Pittsburgh School of Law; and Betsy Rosenblatt, Case Western Reserve University School of Law. The second panel on Patent Law included: Eric Goldman, Santa Clara University School of Law; Rochelle Dreyfuss, NYU School of Law; Timothy Holbrook, University of Denver Sturm College of Law; Sapna Kumar, University of Minnesota Law School; Mark Lemley, Stanford Law School; and Siva Thambisetty, London School of Economics Law School. The third panel focused on Dan Burk's contributions to Intellectual Property and Gender included speakers: Stacey Dogan, Boston University School of Law; Ann Bartow, University of New Hampshire Franklin Pierce School of Law; Colleen Chien, U.C. Berkeley School of Law; Carys Craig, York University Osgoode Hall Law School; Jordana Goodman, Illinois Tech Chicago-Kent College of Law; and Kara Swanson, Northeastern University School of Law. Recordings of the event can be found on YouTube. See U.C. Irvine Law, *Welcome and Internet Law – Celebration of Dan Burk's Scholarly Contributions*, YOUTUBE (Feb. 21, 2024), https://www.youtube.com/watch?v=x8Efq_OqD2A; U.C. Irvine Law, *Patent Law – Celebration of Dan Burk's Scholarly Contributions*, YOUTUBE (Feb. 21, 2024), <https://www.youtube.com/watch?v=4qGdKexImZc>; U.C. Irvine Law, *IP and Gender – Celebration of Dan Burk's Scholarly Contributions*, YOUTUBE (Feb. 27, 2024), <https://www.youtube.com/watch?v=as6lMNEfd8o>.

4. UCI Law Talks, *In Memoriam: Honoring Professor Dan Burk (1962-2024)*, U.C. IRVINE SCH. L. (Jan. 17, 2024), <https://www.law.uci.edu/podcast/episode46.html> [perma.cc/DVJ5-TUDW].

quality lawyering. You always do quality scholarship and that's not something that I'm willing to take a risk with." Those sentiments—the emphasis on quality, on taking risks, and on going beyond the obvious—seem to describe Dan's last scholarly work perfectly.

Below, the editors of the Law Review have kindly reprinted the law school's announcement⁵ of Professor Burk's passing. It captures in a small way the breadth of his many contributions and underscores how much he will be missed.

* * * * *

In Memoriam:

Remembering Dan L. Burk (1962-2024)

February 5, 2024

With great sadness we share news of the passing of Distinguished and Chancellor's Professor of Law Dan L. Burk. Professor Burk, a founding faculty member of UCI Law and the first Chancellor's Professor at the Law School, passed away on Sunday, February 4, leaving behind a profound and worldwide legacy on issues related to high technology, including the areas of patent, copyright, electronic commerce, and biotechnology law. Our hearts go out to his family, his wife, Laurie Burk, his daughter, Rayne Burk, and all those who had the good fortune to know him, including the students he inspired. Burk's extraordinary impact through his prolific scholarship and academic accomplishments, the founding of UCI Law, and his mentorship of UCI Law students and alumni—as well as intellectual property scholars and lawyers across the world—will live on.

Burk became interested in the intersection of science and law in 1987, following the first criminal conviction in the U.S. based on DNA profiling evidence. His passion for the scientific legal field led him to become an internationally recognized authority on issues related to high technology, and his impact extended far beyond the walls of UCI Law. He consistently ranked among the leading intellectual property scholars in the American legal academy and has been a leading figure in debates over gene patenting, digital copyright, and computer trespass.

Burk's prestigious honors, fellowships and awards were abundant. He received two Fulbright Scholarships in 2011 and 2017, conducting groundbreaking research first to study German and European Union biotechnology patenting at the Max Planck Institute for Innovation and Competition in Munich, and then as a Fulbright Cybersecurity Scholar at the Oxford Internet Institute's Digital Ethics Lab in the United Kingdom. In 2015 he was selected for a Leverhulme visitorship to the London School of Economics and Political Science, where he delivered a series of Leverhulme Public Lectures on "Biotechnology and Software Patenting in the Information Society." That same year, he won the IP Vanguard Award by the

5. This announcement is available online at *In Memoriam: Remembering Dan L. Burk (1962-2024)*, U.C. IRVINE SCH. L. (Feb. 5, 2024), <https://news.law.uci.edu/2024/02/05/in-memoriam-remembering-dan-l-burk/> [perma.cc/4ENT-Q67D]. The UC Irvine Law Review Editors have added citations to the referenced works of Professor Burk.

California State Bar Section on Intellectual Property. In 2019 he was a Senior Visiting Scholar at the Weizenbaum Institute for the Networked Society in Berlin.

Throughout his prominent career, Burk's influence reached across borders, as he shared his knowledge and vision with students and scholars worldwide. He taught intellectual property at numerous prestigious institutions such as the University of Toronto, Humboldt University of Berlin, Bocconi University in Milan, Sciences Po in Paris, and the University of Haifa.

Burk also played a significant role advising the nation's leading organizations focused on issues of intellectual property, innovation, and technology. He was a member of the American Law Institute since 2013, on the executive board for the International Association for the Advancement of Teaching and Research in Intellectual Property since 2021, and on the advisory board for the Max Planck Institute for Innovation and Competition since 2013. Among other contributions, he served on the executive board of the Association of American Law Schools Section on Intellectual Property, as chair of the Association of American Law Schools Section on Computer Law, as an advisor to the ACLU's Committee on Patents and Civil Liberties, and on the Cornell Computer Law and Policy Institute's advisory board, among others.

Burk leaves behind a rich and prolific legacy of scholarship. He authored numerous papers on the legal and societal impact of new technologies, including articles on personalized medicine, on the legal aspects of electronic sports, and on the trademark implications of search engine keywords. Burk was the co-author, along with Mark A. Lemley of Stanford University, of "The Patent Crisis and How the Courts Can Solve It," a seminal work published in 2009 by the University of Chicago Press.⁶

The real-world impact of Burk's incisive scholarship on emerging technologies cannot be overstated. His 1996 article on "Federalism in Cyberspace" in the Connecticut Law Review became the basis of several early decisions by U.S. federal courts regarding state regulation of the internet, including *American Library Association v. Pataki*, 969 F. Supp. 160 (S.D.N.Y. 1997), and *American Civil Liberties Union v. Johnson*, 194 F.3d 1149 (10th Cir. 1999), and was important in shaping the character of present internet activity.⁷ Another notable article, "The Trouble with Trespass" in the *Journal of Small and Emerging Business Law* (2000), influenced courts considering legal claims regarding "trespass to computers," while Burk's analysis of the issue was adopted in the California Supreme Court's landmark opinion in *Intel Corp. v. Hamidi*, 30 Cal. 4th 1342 (2003).⁸

Burk's dedication to interdisciplinary collaboration led to innovative insights from literary theory, critical perspectives, and the sociology of science, enriching the field of intellectual property law. His 2000 article "Patenting Speech" published in the *Texas Law Review* examined patent law and the First Amendment.⁹ In a widely discussed 2011 article asking, "Do Patents Have Gender?" in the *American*

6. DAN L. BURK & MARK A. LEMLEY, *THE PATENT CRISIS AND HOW THE COURTS CAN SOLVE IT* (UNIV. CHICAGO PRESS 2009).

7. Dan L. Burk, *Federalism in Cyberspace*, 28 U. CONN. L. REV. 1095 (1996).

8. Dan L. Burk, *The Trouble with Trespass*, 4 J. SMALL AND EMERGING BUS. L. 27 (2000).

9. Dan L. Burk, *Patenting Speech*, 79 TEX. L. REV. 99 (2000).

University Journal of Gender, Social Policy and the Law, he examined the “gender gap” in the patent system.¹⁰ His 2003 article in the Virginia Law Review, “Policy Levers in Patent Law,” co-written with Lemley, is ranked among the most cited law articles of all time.¹¹

Burk’s legacy, however, is not just with his leading research and scholarly work. As a founding member of the Law School, he was instrumental in the school’s formation and unprecedented success. Often, in the early years, faculty would meet daily as the school prepared to welcome our first students in 2009. The dedication, hard work, and commitment to ensuring the Law School’s success was extraordinary and required long hours. He was part of a small cadre of founding visionaries, who left their positions from the nation’s top law schools to come to Irvine to build and fashion something new and different: a bold, innovative, and exceptional program of legal education. Viewed as a leader among his peers, Burk was also an integral part in helping cultivate the unique culture, camaraderie, and commitments that continue to today and distinguish UCI Law as one of the nation’s best public law schools.

Burk also will be remembered for his caring mentorship of students, alumni, and colleagues, and his brilliance as an instructor. For many students he was a “favorite in the classroom” who, through his deep knowledge and expertise, helped them navigate dense and complicated material. He was someone who “love[d] taking student questions and ensuring that the students understood” the material before moving on. For how he taught recent Artificial Intelligence and the Law courses, students praised him as “truly a master of the subject matter” who “provided amazing insights” and whose approach “stimulate[d] thought and curiosity.” As another summed up well, after taking Burk’s Patent Law course in Fall 2023: “Professor Burk is one of the most excellent professors I have ever had. Not only does he show complete mastery of patent law, but [he] also cares deeply for his students. He ensures that he is accessible to students outside of class. His kindness and humor make this class even more enjoyable.”

Burk received a B.S. in Microbiology from Brigham Young University (1985), an M.S. in Molecular Biology and Biochemistry from Northwestern University (1987), a J.D. from Arizona State University (1990), and a J.S.M. from Stanford University (1994). Prior to joining UCI Law, Burk taught at the University of Minnesota Law School (2000–2008) and Seton Hall University School of Law (1997–1999).

The UCI community mourns the loss of Professor Dan L. Burk, a visionary scholar, inspiring teacher, and dedicated mentor. His intellectual curiosity, passion for the law, and commitment to advancing knowledge will forever be remembered and cherished by those fortunate enough to have crossed paths with him.

10. Dan L. Burk, *Do Patents Have Gender?*, 19 J. GENDER, SOC. POL’Y & L. (2011).

11. Dan L. Burk & Mark A. Lemley, *Policy Levers in Patent Law*, 89 VA. L. REV. 1575 (2003).

