

2020-2021 Assistant Professor Excellence Speaker Series

Artificial Intelligence, Legal Change, and Separation of Powers

Professor Andrew Michaels
The Law Center

Wednesday, September 23, 2020

12:15 p.m. - 1:15 p.m.

Via Microsoft Teams ([click here to attend](#))

A number of prominent contemporary legal scholars have recently argued in favor of replacing at least some human legal decision making with Artificial Intelligence ("AI"), assuming that AI technology improves to a level these scholars deem appropriate. This article disagrees, particularly as regards Article III judges, for two main reasons. First, human judges must strike a delicate balance between stability and change; that is, between respect for precedent on the one hand, and adapting the law to unforeseen circumstances on the other, thus playing an important role in shaping the law that is not adequately considered replace. Second and perhaps more importantly, the loss of human judges would likely lead to a loss or diminishment of the human legal community, such that fewer people would be paying attention to the law. This community of people with strong incentives to pay attention to the law is built around the Article III judiciary, and the diffusion of knowledge throughout this community may be a significant source of the judiciary's power to fulfill its role as a check on the other two branches. The potential benefits of an automated judiciary can be better achieved in other ways, and likely do not justify the risks. At least, these concerns are not adequately addressed by those advocating for AI judges, and should be seriously considered in the context of any effort to automate parts of the judiciary.

SPEAKER BIO: Andrew Michaels teaches in the areas of intellectual property and statutory regulation, and his scholarship has focused in the areas of patent law and jurisprudence. Professor Michaels received his J.D. from New York University School of Law, and subsequently clerked for Judge Pauline Newman at the United States Court of Appeals for the Federal Circuit before practicing as a patent litigator for a number of years. Prior to joining the Law Center, Professor Michaels was a Visiting Professor and the Frank H. Marks Intellectual Property Fellow at the George Washington University Law School. Professor Michaels' work has appeared in the *Brooklyn Law Review*, *Arkansas Law Review*, and *New Mexico Law Review*, and he also publishes shorter practice-oriented pieces in forums such as *Law360* and *IP Watchdog*.

The Assistant Professor Excellence Lecture Series (APeX) is intended to showcase the breadth and depth of groundbreaking research, scholarship, and creative activity being undertaken by UH early career faculty across disciplines, as well as to offer opportunities for cross-disciplinary networking.



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