The Network of Patent Law Jurisprudence

Since 1982, almost all appeals in patent cases have been heard by the Court of Appeals for the Federal Circuit (Federal Circuit). The Federal Circuit was created by Congress with the express purpose of unifying and stabilizing patent law doctrine. However, a number of academics have argued that such self-reinforcing uniformity comes at the cost of limiting doctrinal experimentation and competition. These policy arguments have largely lacked empirical grounding. In this project, I look to test the concepts of doctrinal stability, doctrinal experimentation, doctrinal competition, and doctrinal sharing in the context of patent law decisions of the Federal Circuit. The empirical approach relies heavily on a newly created database of all Federal Circuit patent decisions, party briefs, and their accompanying internal citations. In the database driven network, citations are categorized according to the type of citation (case, article, etc); source of citation (Federal Circuit, district court, etc.); citation timeline; type of associated issue (procedural versus substantive, e.g.); and associated doctrine (obviousness, claim construction, enablement, etc.). Decisions and briefs are similarly categorized and parsed using both autonomous agents and hand scoring. Comparable networks are also being created for Supreme Court patent decisions; Federal Circuit decisions cases involving federal claims; and copyright decisions from the regional circuits. Network theory and analysis tools will then be used to test levels of doctrinal stability, experimentation, competition, and sharing against the comparable networks as well as over-time.