

Thomas Reichert

Assistant Professor of Law

J.D., MBA, M.Eng.

(309) 299-2431 • Carbondale, IL • tomreich@siu.edu • ssrn.com/author=8082404

RESEARCH AND TEACHING INTERESTS

Intellectual property law • Law and technology • Empirical legal studies • Computational law and legal analytics • Trademark law • Multifactor legal tests • Contracts • Commercial law • Business law • Property law

ACADEMIC APPOINTMENTS

Southern Illinois University Simmons Law School

Aug 2025 - Present

Assistant Professor of Law

Carbondale, IL

- Business Organizations (Fall 2025, Fall 2026 (scheduled))
- Contracts I and II (Fall 2025, Spring 2026)
- Property I and II (Fall 2026 (scheduled), Spring 2027 (scheduled))
- Intellectual Property (Spring 2027 (scheduled))
- Faculty Advisor, Intellectual Property Law Society
- Hiring Committee (Fall 2025, three faculty positions filled; reappointed for 2026-2027)

Southern Illinois University College of Business and Analytics

Jan 2024 - Aug 2025

Assistant Professor of Practice / Online MBA Program

Carbondale, IL

- Business Law (Spring 2024, Fall 2024, Spring 2025)
- Legal and Ethical Environment of Business (Spring 2024, Fall 2024, Summer 2025)

Southern Illinois University College of Business and Analytics

Aug 2024 - Aug 2025

Assistant Professor of Practice / Department of Management, Marketing, and Analytics

Carbondale, IL

- Legal and Ethical Environment of Business (Fall 2024, Spring 2025, Summer 2025)

RESEARCH STATEMENT

My research program investigates a fundamental question in legal doctrine: when courts apply complex, multi-element legal tests, do all the prescribed factors actually matter? Using large-scale empirical analysis powered by computational methods, I study what I call the "multifactor collapse hypothesis," the theory that elaborate balancing tests routinely reduce to a small number of operative factors in practice, even as courts insist on holistic consideration of all elements. If this hypothesis holds across doctrinal areas, it carries significant implications for judicial economy, practitioner strategy, legal education, and legislative design.

My inaugural study tested this hypothesis in trademark law, analyzing approximately 4,000 Trademark Trial and Appeal Board decisions applying the thirteen-factor DuPont likelihood-of-confusion test. The results were striking: only two of thirteen factors predict outcomes with 99.55% accuracy. This finding, published in the *Fordham Intellectual Property, Media & Entertainment Law Journal*, challenges fifty years of established doctrine and has attracted attention from practitioners, trade press, and the Supreme Court bar. I am now extending this analysis to federal circuit court confusion decisions to determine whether the same collapse pattern holds across the appellate judiciary.

More broadly, my methodology, which leverages large language models to code legal decisions at a scale previously impractical for individual researchers, is designed to be portable across doctrinal areas. Multifactor tests pervade American law, from the fair use analysis in copyright to the reasonableness inquiry in Fourth Amendment search-and-seizure to the balancing frameworks in dormant Commerce Clause and due process jurisprudence. My long-term research agenda aims to map the gap between doctrine-as-written and doctrine-as-applied across these domains, contributing to a richer empirical understanding of how legal rules actually function in practice. This work sits at the intersection of intellectual property, empirical legal studies, computational law, and legal theory.

PUBLICATIONS

Thomas Reichert, *Doctrine, Data, and the Death of DuPont: An Empirical Analysis of Trademark Confusion at the TTAB*, 36 *Fordham Intellectual Property, Media & Entertainment Law Journal* 678 (2026), available at <https://papers.ssrn.com/abstract=5843642>

SSRN Top Downloads, Intellectual Property: Empirical Studies eJournal

Cited in Petition for Writ of Certiorari, World Champ Tech, LLC v. Peloton Interactive, Inc., No. 25-736 (U.S. 2026)

Thomas Reichert, *What the DuPont Factors Actually Do: A Large-Scale Empirical Study of Trademark Confusion at the TTAB*, *Journal of Empirical Legal Studies* (forthcoming 2027) (peer reviewed), available at <https://ssrn.com/abstract=6222839>

Thomas Reichert, *Factors and Fictions: The Empirical Collapse of the Likelihood-of-Confusion Test Across the Federal Courts* (2026), available at <https://papers.ssrn.com/abstract=6329638>

Thomas Reichert, *The Anatomy of Confusion: A Statistical Dissection of the Multifactor Test* (2026), available at <https://ssrn.com/abstract=7043741>

Thomas Reichert, *On Confusion: A Restatement of Trademark's Likelihood-of-Confusion Test* (2026), available at <https://ssrn.com/abstract=7045119>

Thomas Reichert, *The Missing Jury: Fact, Law, and Who Actually Decides Trademark Confusion* (2026), available at <https://ssrn.com/abstract=7045278> (responding to grant of certiorari in *RiseandShine Corp. v. PepsiCo, Inc.*, No. 24-1016 (U.S. June 29, 2026))

AMICUS BRIEFS

Brief of Amicus Curiae Thomas A. Reichert in Support of Neither Party, *RiseandShine Corp. v. PepsiCo, Inc.*, No. 24-1016 (U.S. filed July 20, 2026) (sole author; Sheila J. Simon, counsel of record)

WORKS IN PROGRESS

Thomas Reichert, *Multifactor Mythology: The Fiction of Holistic Adjudication*

Argues that multifactor balancing tests across nine doctrinal domains have collapsed to one or two operative factors, and evaluates the gap between stated and applied doctrine as a legal fiction that must now justify its cost.

Thomas Reichert, *Confusion by Default: Mass Enforcement and the Multifactor Ritual*

Documents the rise of default-judgment trademark enforcement and shows that multifactor confusion analysis in defaulted cases operates as ritual rather than adjudication, proposing a candid standard for uncontested records.

Thomas Reichert, *One Standard, Two Tribunals: Testing B&B Hardware's Equivalence Premise*

Tests B&B Hardware's premise that TTAB and federal-court confusion analyses are materially the same, drawing on more than 13,000 coded factor applications to show that the standard transports across forums but the evidence does not.

Thomas Reichert, *After Confusion: What Winning a Trademark Case Gets You*

Follows trademark litigation past liability into remedies, showing that headline post-eBay remedy trends are largely artifacts of docket composition and that a growing share of prevailing plaintiffs obtain no remedy at all.

PATENTS

U.S. Provisional Patent Application No. 63/878,098, *Federal Circuit Evaluation Tool* (filed Sept. 8, 2025)

MEDIA COVERAGE

Julie Zerbo, "Is Trademark Law Keeping Pace With Modern Brands?", *The Fashion Law* (May 13, 2026) (discussing Reichert's TTAB research)

Nick Robertson, "Only 2 of 13 DuPont Factors Decide Nearly All US TTAB Cases, Research Suggests", *MLex* (Jan. 9, 2026)

Tim Lince, "Study finds DuPont test 'collapses' to two core factors, raising questions for USPTO practice", *World Trademark Review* (Dec. 11, 2025)

Rebecca Tushnet, "Doctrine, Data, and the Death of DuPont", *Rebecca Tushnet's 43(B)log* (Dec. 15, 2025)

"SIU Simmons Law School increases first-time bar exam passage rates", *SIU News* (Oct. 14, 2025) (featured photo)

"SIU Simmons Law School sees 25% increase in first-year students this fall", *SIU News* (Sept. 18, 2025) (featured photo)

PRESENTATIONS

Invited Panelist, 2026 Midwest IP Institute, Minneapolis, MN (Sept. 25, 2026) (forthcoming)

"Factors and Fictions: The Empirical Collapse of the Likelihood-of-Confusion Test Across the Federal Courts," Intellectual Property Scholars Conference, Stanford Law School, Stanford, CA (Aug. 6-7, 2026) (forthcoming)

"Factors and Fictions: The Empirical Collapse of the Likelihood-of-Confusion Test Across the Federal Courts," New Scholars Program, Southeastern Association of Law Schools Annual Conference, Amelia Island, FL (July 27, 2026) (forthcoming)

"Factors and Fictions: The Empirical Collapse of the Likelihood-of-Confusion Test Across the Federal Courts," Chicagoland Summer IP Workshop, Northwestern Pritzker School of Law, Chicago, IL (June 24, 2026)

"Multifactor Mythology: What If Most Factors in Balancing Tests Don't Matter?," Virtual CLE, Southern Illinois University Simmons Law School (April 27, 2026)

"Doctrine, Data, and the Death of DuPont," 2026 Kansas City IP Symposium, Lawyers Association of Kansas City, Kansas City, MO (April 23, 2026)

"Multifactor Mythology: What If Most Factors in Balancing Tests Don't Matter?," CLE Presentation, Jackson County Bar Association, Carbondale, IL (April 16, 2026)

"Cryptocurrency and the Law," Invited Speaker, Blockchain and Economics Club, Southern Illinois University, Carbondale, IL (April 2, 2026)

"Doctrine, Data, and the Death of DuPont," Chicagoland Junior Scholars Conference, Loyola University School of Law, Chicago, IL (Sept. 26-27, 2025)

"Ethical Use of Artificial Intelligence Services as Medical Students: Responsibility in the Age of Automated Medicine," Invited Speaker, MEDPREP, Southern Illinois University, Carbondale, IL (July 10, 2025)

"Branding Blunders: Hard and Humorous Lessons from Campaigns Gone Wrong," Invited Speaker, American Marketing Association Kansas City Chapter, Virtual Seminar (July 28, 2020)

EDUCATION

Southern Illinois University School of Law <i>Juris Doctor, cum laude, GPA 3.68/4.0</i> Carbondale, IL	May 2018
Southern Illinois University College of Business and Analytics <i>Master of Business Administration, cum laude, GPA 3.89/4.0</i> Carbondale, IL	May 2018
Southern Illinois University College of Engineering <i>Master of Engineering, Civil and Environmental Engineering, GPA 3.3/4.0</i> Carbondale, IL	Dec 2013
Southern Illinois University College of Engineering <i>Bachelor of Science, Civil and Environmental Engineering</i> Carbondale, IL	May 2012

LEGAL EXPERIENCE

Bookoff McAndrews PLLC

Jan 2023 - Nov 2024

Patent Attorney

Washington, D.C. (Remote)

- Prosecuted patent applications as outside counsel for Caterpillar, resulting in allowances
- Managed and prosecuted international patent portfolios in diverse technology fields incorporating machine learning, artificial intelligence, medical systems, and mechanical arts
- Engaged with engineers, inventors, and client counsel to assess patentable subject matter, providing counsel on patent viability, risk assessment, and innovation harvesting
- Spearheaded all aspects of patent prosecution, including IDS submission, responding to office actions, conducting interviews with examiners, filing appeals, and collaborating with foreign counsel

Kutak Rock, LLP

Dec 2018 - Nov 2022

Intellectual Property Attorney

Kansas City, MO

- Drafted and prosecuted patent applications related to mechanical arts, industrial equipment, software, AI, machine learning, medical devices, design patents, and consumer electronics
- Provided strategic global trademark counsel to a diverse client base, ranging from startups to large multinational corporations, on registration, enforcement, brand management, and dispute resolution
- Drafted and negotiated commercial contracts, including intellectual property licensing agreements, development agreements, and other IP-related matters
- Managed a robust trademark docket, handling both U.S. and foreign trademark prosecution and maintenance, including domain name registrations and conflict matters
- Implemented proactive online monitoring and enforcement strategies, protecting revenues and brand integrity of clients with significant market influence

TEACHING ASSISTANT EXPERIENCE

Southern Illinois University School of Law <i>Teaching Assistant, Legal Research and Writing</i> Carbondale, IL	Aug 2016 - May 2018
• Mentored and tutored 1L students in legal research, writing, and analysis • Facilitated supplemental instruction sessions and provided individualized feedback	
Southern Illinois University College of Business and Analytics <i>Graduate Assistant, Management Department</i> Carbondale, IL	Aug 2016 - May 2018
• Assisted with course materials and instruction for undergraduate business law courses	
Southern Illinois University College of Engineering <i>Graduate Teaching Assistant, Civil and Environmental Engineering</i> Carbondale, IL	Aug 2012 - Dec 2013
• Taught lab sections and graded coursework for undergraduate engineering courses	

SELECTED AWARDS AND HONORS

Summer Research Stipend

Southern Illinois University Simmons Law School
Summer 2026

CALI Excellence for the Future Award

Southern Illinois University School of Law
Trademarks and Unfair Competition (Fall 2017) • Patent Law (Spring 2017)

Top of Class (4.0)

Southern Illinois University School of Law
Trusts and Estates (Spring 2018) • Civil Procedure I (Spring 2016) • Contracts I (Fall 2015)

SIU Law Full Tuition Scholarship

Southern Illinois University School of Law
Aug 2015 - May 2018

Consumer Protection Scholarship

Southern Illinois University School of Law
April 2018

Ronald E. Osman Endowed Scholarship

Southern Illinois University School of Law
Spring 2016

Dean's List

Law: Spring 2018, Spring 2017, Fall 2016, Spring 2016, Fall 2015 • Business: Spring 2018, Fall 2016, Spring 2017 • Engineering: Spring 2012, Spring 2009, Fall 2008

SERVICE AND OUTREACH

Intellectual Property Law Society

Aug 2025 - Present

Faculty Advisor, Southern Illinois University Simmons Law School

Guest Judge, Moot Court (Mardi Gras Competition Team)

April 15, 2026

Southern Illinois University Simmons Law School

Peer Referee, *Jurimetrics*

April 2026

Manuscript review, empirical trademark-strength study

Illinois Junior Academy of Science Region 8 Fair, Judge

Feb. 2023, 2024, 2025, 2026

Illinois Junior Academy of Science State Fair, Judge

April 2023

SIU Law Intellectual Property Society Panel, Presenter

Oct. 2024

BAR ADMISSIONS AND AFFILIATIONS

United States Patent and Trademark Office

Patent Practitioner, Reg. No. 77,326 • Since 2018

Illinois State Bar

Attorney, Reg. No. 6343575 • Since 2023

The Missouri Bar

Attorney, Reg. No. 71135 • Since 2018

Kansas City Metropolitan Bar Association

Member • Jan. 2018 - Dec. 2022

American Intellectual Property Lawyers Association

Member • 2015 - 2019

Accellerent KC

Member • 2019 - Dec. 2022

Intellectual Property Society, Southern Illinois University School of Law

Treasurer, 2015 • Aug 2015 - May 2018