

# ANUJ C. DESAI

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## PROFESSIONAL EXPERIENCE:

**Volkman-Bascom Professor of Law, University of Wisconsin Law School, Madison, WI, 2022-present**

**Interim Associate Dean for Research and Faculty Development, 2021-22**

**William Voss-Bascom Professor of Law, 2016-2022**

**Professor, 2013-15 (John W. Rowe Faculty Fellow, 2014-15)**

**Associate Professor (with tenure), 2008-12**

**Assistant Professor, 2001-08**

Research: Published articles on broad range of subjects, including legislation and regulation, statutory interpretation, judicial process, constitutional law (First and Fourth Amendments), constitutional history, and constitutional theory.

Teaching: Courses taught include Statutory Interpretation and Legislation, Regulatory State (Leg/Reg), First Amendment, Cyberlaw, Constitutional Law, Comparative Constitutional Law, Criminal Law, and Copyright Law.

Service: Service responsibilities have included serving as Interim Associate Dean for Research and Faculty Development, chairing and serving on all major committees at the Law School (such as Tenure, Appointments, Curriculum, Director of Summer Study Abroad (Germany) program, Kastenmeier Lecture (Law School's principal endowed lectureship) and other minor committees), and participating in major committees at the university level (including Dean Search Committee and "Social Studies Divisional Committee," the committee responsible for advising deans and the Provost on tenure applications throughout the social science departments).

**Law Faculty Fellow, Executive Office of the President, Office of Management and Budget Office of the General Counsel, 2022-24**

Served as counsel to Office of Information and Regulatory Affairs (OIRA) in conjunction with regulatory review under Executive Order 12866. Reviewed rules, proposed rules, guidance, and other actions from a variety of agencies across the Executive Branch, including (among others) Environmental Protection Agency (EPA), Bureau of Alcohol, Tobacco and Firearms (ATF), Department of Education, Department of Housing and Urban Development (HUD), Center for Medicare & Medicaid Services (CMS), and Department of Labor.

**Administrative Appellate Judge, United States Department of Labor Administrative Review Board, Washington, DC, 2016-17**

Decided appeals on behalf of Secretary of Labor (as Secretarial appointment) in cases arising under worker-protection provisions of approximately sixty-five different federal statutes.

**Commissioner (part-time), Foreign Claims Settlement Commission, United States Department of Justice, Washington, DC, 2012-18**

Adjudicated terrorism-related claims of United States nationals against Libyan and Iraqi governments as part-time, Senate-confirmed member of the Foreign Claims Settlement Commission, a quasi-judicial, independent agency within the United States Department of Justice.

**Visiting Professor of Law, Hopkins-Nanjing Center, Nanjing, China, 2009-10**

Taught courses in Cyberlaw, Jurisprudence, American Constitutional Law, and a seminar in Foundations of American Legal Thought. Supervised all Master's students with specialization in Law.

**Visiting Associate Professor, National Taiwan University, Taipei, Taiwan, Spring 2006**

Taught courses in Cyberlaw and Comparative Constitutional Law.

**Visiting Associate Professor, National Tsing Hua University, Hsinchu, Taiwan, Fall 2005**

Taught courses in Cyberlaw and the American Legal System.

**Litigation Associate, Davis Wright Tremaine LLP, Seattle, WA 1998-2001**

Represented clients in civil litigation at trial and appellate levels. Worked with a variety of clients, including large companies (e.g., The Interpublic Group of Companies, Amazon.com), small companies (e.g., AMPAC, a designer and manufacturer of doorlites, the glass portion of doors) and, in pro bono cases, individuals (e.g., aliens seeking asylum in the United States).

**Law Clerk, Iran-United States Claims Tribunal, The Hague, 1996-1998**

Advised U.S. judges at an international tribunal that adjudicates civil claims brought by United States nationals against Iran and intergovernmental disputes between the United States and Iran.

**Law Clerk, Judge David S. Tatel, United States Court of Appeals for the District of Columbia Circuit, Washington, DC, 1995-1996**

**Law Clerk, Judge Louis F. Oberdorfer, United States District Court for the District of Columbia, Washington, DC, 1994-1995**

**Summer Associate, Hogan & Hartson LLP, Washington, DC, Summer 1994**

**Law Clerk, United States Department of State, Office of the Legal Adviser, Washington, DC, Summer 1993**

**Fellow, Legal Resources Centre, Grahamstown, South Africa, Summer 1992**

**Instructor, John F. Kennedy School of Government, Harvard University, Cambridge, MA, Summer 1990**

#### EDUCATION:

**Berkeley Law, University of California at Berkeley, Berkeley, CA, J.D., 1994**  
Editor-in-Chief, *California Law Review*  
American Jurisprudence Award, Federal Courts

**Columbia University, New York, NY, Master in International Affairs, 1990**  
Foreign Language and Area Studies Scholarship (full tuition and stipend)  
Post-graduate fellowships in France and Germany

**Harvard University, Cambridge, MA, A.B. (*cum laude*) in Mathematics, 1987**  
Harvard College Scholarship  
Post-graduate fellowship: Henry Russell Shaw Traveling Fellowship, 1987-1988

#### PUBLICATIONS:

Anuj C. Desai, Loper Bright as *Jurisprudence: Institutional Choice and the Expressive Value of the Law*, 67 ARIZ. L. REV. \_\_\_\_ - \_\_\_\_ (forthcoming 2025)

STEVEN F. HUEFNER & ANUJ C. DESAI, LEARNING LEGISLATION AND REGULATION: AN INTRODUCTION TO LAWMAKING PROCESSES IN THE MODERN AMERICAN LEGAL SYSTEM (West Academic 2024)

Anuj C. Desai, *Modified Textualism: A Case Study*, 2022 WISC. L. REV. 1087-1108 (2022)

Anuj C. Desai, *Regulating Social Media in the Free-Speech Ecosystem*, 73 HASTINGS L.J. 1481-1510 (2022)

Anuj C. Desai, *Is Title VII an “Anti-Discrimination” Statute?*, 93 U. COLO. L. REV. F. 1-11 (2022)

Anuj C. Desai, *Text is Not Enough*, 93 U. COLO. L. REV. 1-49 (2022)

Anuj C. Desai, *The Dilemma of Interstatutory Interpretation*, 77 WASHINGTON & LEE LAW REVIEW 177-267 (2020)

Andrew B. Coan & Anuj C. Desai, *Difficulty of Amendment and Interpretive Choice*, 1 JOURNAL OF INSTITUTIONAL STUDIES 201-267 (2015)

Anuj C. Desai, *What a History of Tax Withholding Tells Us about the Relationship between Statutes and Constitutional Law*, 107 NORTHWESTERN UNIVERSITY LAW REVIEW 859-904 (2014) (cited in *New York v. Mnuchin*, 2019 WL 4805709 (S.D.N.Y. Sept. 30, 2019) (challenge to SALT deduction cap))

Anuj C. Desai, *Heterogeneity, Legislative History and the Costs of Litigation*, 2013 WISCONSIN LAW REVIEW ONLINE No. 3

Anuj C. Desai, *Legal Traditionalism, Creative Destruction, and the Role of Media Law in the Intergenerational Social Contract*, 2011 WISCONSIN LAW REVIEW 167-176

Anuj C. Desai, *Libertarian Paternalism, Externalities and the "Spirit of Liberty": How Thaler and Sunstein Are Nudging Us toward an "Overlapping Consensus,"* 36 LAW & SOCIAL INQUIRY 263-295 (2011)

Kristin R. Eschenfelder, Anuj C. Desai & Greg Downey, *The Pre-Internet Downloading Controversy: The Evolution of Use Rights for Digital Intellectual and Cultural Works*, 27 INFORMATION SOCIETY 69-91 (2011)

Anuj C. Desai, *Can the President Read Your Mail? A Legal Analysis*, 59 CATHOLIC U. L. REV. 315-371 (2010)

Anuj C. Desai, "Conditional Funding," in *Encyclopedia of the Supreme Court of the United States*. Edited by David S. Tanenhaus. Farmington Hills, MI: Macmillan/Gale (2009)

Anuj C. Desai, "Board of Education v. Pico," "John Marshall Harlan II," "Lamont v. Postmaster General," "Mail and the First Amendment," "United States v. American Library Association," "Blount v. Rizzi," and "United States Postal Service v. Greenburg Civil Association," in *Encyclopedia of the First Amendment*. Edited by David Hudson, Jr., et al. Washington, DC: Congressional Quarterly Press (2008)

Anuj C. Desai, *Wiretapping Before the Wires: The Post Office and the Birth of Communications Privacy*, 60 STAN. L. REV. 553-594 (2007)

Anuj C. Desai, *The Transformation of Statutes into Constitutional Law: How Early Post Office Policy Shaped Modern First Amendment Doctrine*, 58 HASTINGS L.J. 671-727 (2007)

Anuj C. Desai, "The Legal Issues of Copyright," and "Copyright and Photography," in *Encyclopedia of American Journalism*. Edited by Stephen L. Vaughn. New York: Routledge (2007)

Kristin R. Eschenfelder, Robert G. Howard, and Anuj C. Desai, *The Ethics of DeCSS Posting: Towards Assessing the Morality of Internet Posting of DVD Circumvention Software*, 11(4) INFORMATION RESEARCH Paper No. 273 (July 2006)

Kristin R. Eschenfelder, Robert G. Howard, and Anuj C. Desai, *Who Posts DeCSS and Why? A Content Analysis of DeCSS Posting Websites*, 56 JOURNAL OF THE AMERICAN SOCIETY FOR INFORMATION SCIENCE AND TECHNOLOGY (JASIST) 1405-1419 (2005)

Kristin R. Eschenfelder, Anuj C. Desai et al., *The Limits of DeCSS Posting: A Comparison of Internet Posting of DVD Circumvention Devices in the European Union and China*, 31 JOURNAL OF INFORMATION SCIENCE 317-331 (2005)

Kristin R. Eschenfelder, Anuj C. Desai et al., *Global Copyright Protest? A Comparison of DeCSS Posting in the People's Republic of China, Hong Kong, and the European Union*, PROCEEDINGS OF THE 38TH HAWAII INTERNATIONAL CONFERENCE ON SYSTEM SCIENCES, IEEE COMPUTER SCIENCE PRESS (2005)

Anuj C. Desai, *Filters and Federalism: Public Library Internet Access, Local Control, and the Federal Spending Power*, 7 JOURNAL OF CONSTITUTIONAL LAW 1-127 (September 2004)

Kristin R. Eschenfelder & Anuj C. Desai, *Software as Protest: The Unexpected Resiliency of US-Based DeCSS Posting and Linking*, 20 THE INFORMATION SOCIETY 101-116 (Apr.-Jun. 2004)

Anuj C. Desai, *Attacking Brandenburg with History: Does the Long-Term Harm of Biased Speech Justify a Criminal Statute Suppressing it?*, 55 FEDERAL COMMUNICATIONS LAW JOURNAL 353-394 (March 2003)

Anuj C. Desai, Case No. A27: *The Iran-United States Claims Tribunal's First Award of Damages for a Breach of the Algiers Declarations*, 10 AMERICAN REVIEW OF INTERNATIONAL ARBITRATION 229-246 (2000)

Anuj C. Desai, *Anonymity and the First Amendment: New Wrinkles in the Tension between Anonymity and Accountability*, FIRST AMENDMENT LAW LETTER, Summer 2000, at 1

Alexandra Nicholson, Anuj C. Desai and Jeffrey H. Blum, *ICANN Uniform Domain-Name Dispute-Resolution Policy*, FIRST AMENDMENT LAW LETTER, Summer 2000, at 8

Anuj C. Desai, *The European Data Directive and Its Impact on the Export of Personal Data from Europe to the United States: The Safe Harbor Privacy Principles*, INTERNET LAW ALERT, Summer 2000, at 1

Bruce E.H. Johnson and Anuj C. Desai, *Government Foxes and Privacy Henhouses: "Consumer" Legislation with Troubling Implications for Free Expression*, LDRC LIBELLETTER, April 2000, at 31

*The Iran-United States Claims Tribunal: Survey of Awards, Decisions and Orders*, 23 YEARBOOK – COMMERCIAL ARBITRATION 452 (Albert Jan v.d. Berg ed. 1998) (unattributed)

## PRESENTATIONS:

*Modified Textualism—A Case Study*, Interpretation in the States Conference hosted by the State Democracy Research Initiative at the University of Wisconsin, May 19, 2022

*Regulating Social Media in the Free-Speech Ecosystem*, The Internet and the Law: Legal Challenges in the New Digital Age, Pound Civil Justice Institute 2021 Academic Symposium, UC Hastings College of Law, November 7, 2021

*The Significance of Audience in Judicial Interpretation of Statutes in the United States*, Universität Konstanz, Fachbereich Rechtswissenschaft, Konstanzer Seminar zur Rechtsentwicklung, Konstanz, Germany, July 17, 2019

*The Contours of Statutory Subject Matter*, Temple University Beasley School of Law Faculty Colloquium, April 24, 2018

*The Contours of Statutory Subject Matter*, University of Arizona-James E. Rogers School of Law Faculty Workshop Series, April 19, 2018

*Wiretapping Before the Wires: The Post Office and the Birth of Communication Privacy*, American Constitution Society (UW Chapter), April 23, 2015

*Difficulty of Amendment and Interpretive Choice*, University of Wisconsin Faculty Workshop Series, October 1, 2014.

*Riley v. California*, University of Wisconsin Law School Supreme Court Series, August 21, 2014.

*What a History of Tax Withholding Tells Us About the Relationship Between Statutes and Constitutional Law*, Symposium entitled “100 Years Under the Income Tax,” sponsored by *Northwestern University Law Review* and the Tax Program at Northwestern, April 5, 2013.

*Regulating Commercial Speech*, 2012 Spring Conference on Constitutional Law, sponsored by University of Wisconsin Center for the Study of Liberal Democracy and Center for the Study of the American Constitution, March 10, 2012.

*Moderator* at “Citizens Divided: Should Congress Limit Money on Political Messages?,” organized by Wisconsin Chapter of the Federalist Society, University of Wisconsin Law School, February 8, 2012.

*Comments on Freedom of Speech Panel*, Conference entitled “The Constitutionalization of Labor Law and Employment Law?,” University of Wisconsin Law School, October 29, 2011.

*Roundtable on Horwitz’s “First Amendment Institutions”*, Notre Dame Law School, September 29, 2011.

*Civil Cases of the Seventh Circuit*, Workshop for Judges of the DC and Seventh Circuits, Cambridge, MD, June 27, 2011.

*Legislative History in the Context of Statutory Interpretation Theory and Practice*, CLE Presentation at The Legislative Process: Discerning Intent, Resources for Lawyers, and Topics in Administrative Rulemaking, organized by Wisconsin Department of Justice (Office of the Attorney General), Division of Legal Services, Madison, WI, June 15, 2011.

*Comments on “Enjoining Selective Forced Exposure of Figures of Contemporary Society”*, Discussant at William H. Hastie Fellowship Reunion at University of Wisconsin Law School, April 15, 2011.

*Legal Traditionalism, Creative Destruction, and the Role of Media Law in the Intergenerational Social Contract*, Symposium on Intergenerational Equity and Intellectual Property, University of Wisconsin Law School, November 12, 2010.

*The United States Constitution and Communications Technology*, Renmin University of China Law School, Beijing, China (PRC), May 3, 2010.

*The United States Constitution and Communications Technology*, KoGuan Law School of Shanghai Jiao Tong University, Shanghai, China (PRC), April 7, 2010.

*Exporting Creative Goods, Exporting Constitutional Values*, 2009 ILST Conference on Innovation, Competition and Regulation, National Tsing Hua University, Hsinchu, Taiwan, December 3, 2009.

*Media, Institutions, and the First Amendment*, University of Illinois College of Law Faculty Speakers Series, August 27, 2008.

*United States v. Williams*, University of Wisconsin Law School Supreme Court Series, August 13, 2008.

*Media, Institutions, and the First Amendment*, Washington University in St. Louis Law School, March 31, 2008.

*The Impact of American Freedom of Expression Jurisprudence on Taiwan*, Conference on Law & Democratization in South Korea and Taiwan, University of Wisconsin Law School, October 19, 2007.

*Media, Institutions, and the First Amendment*, William & Mary Law School, October 5, 2007.

*The Impact of American Freedom of Expression Jurisprudence on Taiwan*, Taiwan Foundation for Democracy, Taipei, Taiwan, August 16, 2007.

*Media, Institutions, and the First Amendment*, Cardozo IP Speakers’ Series, Benjamin N. Cardozo School of Law, Yeshiva University, September 25, 2006.

*The Birth of Communications Privacy*, University of Wisconsin Law School “Big Ideas” Conference, August 30, 2006.

*FAIR v. Rumsfeld and the Problem of First Amendment Salience*, University of Wisconsin Law School Supreme Court Series, August 29, 2006.

*Media, Institutions, and the First Amendment*, Stanford-Yale Junior Faculty Forum, Yale Law School, June 2, 2006.

*Racist Speech in American Free Speech Jurisprudence*, Conference on Interdisciplinary Approaches in Constitutional Law Scholarship, College of Law, National Taiwan University, Taipei, Taiwan, May 20, 2006.

*Copyright and Peer-to-Peer File Sharing*, College of Law, National Taiwan University, Taipei, Taiwan, December 12, 2005.

*Copyright and Peer-to-Peer File Sharing*, Science and Technology Law Center, Institute for Information Industry, Taipei, Taiwan, November 25, 2005.

*Copyright and Peer-to-Peer File Sharing*, Graduate Institute of Financial and Economic Law, Feng Chia University, Taichung, Taiwan, November 10, 2005.

*Supreme Court Nominations in American Society*, Institute of European and American Studies, Academia Sinica, Taipei, Taiwan, October 18, 2005.

*Comments on “The Validity of the “Copyleft” Model from the Perspective of the Common Law”*, Discussant at Conference entitled “Public Domain and the Acquisition of Information in the Information Age,” Institutum Iurisprudentiae, Academia Sinica, Taipei Taiwan, October 14, 2005.

*The History of U.S. Copyright Law*, organized workshop sponsored by the Berkeley Center for Law and Technology and the University of Wisconsin’s Institute for Legal Studies, May 19-21, 2005.

*Comments on “From the Privilege to Print to Ownership of Works: The Transformation of Copyright 1790-1900” and “The Post-War Paradigm in American Intellectual Property Law”*, Panelist at Conference entitled “Owning Knowledge: The History of Modern U.S. Intellectual Property Law”, Wisconsin Symposium on Legal History, November 13, 2004.

*Filters and Federalism*, University of Maryland School of Law Colloquium Series, October 21, 2004

*Copyright, Globalization, and Digital Networks*, Lecture given at National Taiwan University, Taipei, Taiwan, June 1, 2004

*Copyright, Globalization, and Digital Networks*, Lecture given at National Tsing Hua University, Hsinchu, Taiwan, May 28, 2004



*Copyright, Globalization, and Digital Networks*, Lecture given at the University of Hong Kong, Hong Kong SAR, China (PRC), May 25, 2004

*Copyright, Globalization, and Digital Networks*, Lecture given at Zhejiang University, Hangzhou, China (PRC), May 23, 2004

*When is a Link Speech? A Study of Political Speech on Web Sites Posting DeCSS*, Colloquium on Politics of Information at University of Wisconsin Communication Arts Dep't, Feb. 19, 2004

*Software as Protest: The Unexpected Resiliency of US-Based DeCSS Posting and Linking*, Conference of the Association of Internet Researchers, Toronto, Ont., Canada, Oct. 17, 2003

*Filters and Federalism*, Presentation in University of Wisconsin School of Library and Information Studies Colloquium Series, November 20, 2002

*Copyright, Globalization, and Digital Networks*, Presentation to Law Librarians Association of Wisconsin, October 2, 2002

*The Patriot Act and Cyberspace*, Colloquium on Information in Post 9/11 America at University of Wisconsin School of Library and Information Studies, September 11, 2002

## MEMBERSHIPS AND OTHER ACTIVITIES:

American Law Institute, Elected Member, 2016-present  
Adviser to Restatement, Torts: Defamation and Privacy  
Member of Member Consultative Group for Project on Data Economy Principles

American Association of Law Schools, Section on Administrative Law, Chair, 2025-26;  
Executive Committee, 2020-present

American Association of Law Schools, Section on Mass Communication Law, Chair, 2012-13; Chair-Elect, 2011-12; Treasurer, 2010-11; Executive Committee, 2007-2013

American Bar Association, 1999-present

Fellow of the American Bar Foundation, 2016-present

National Academies of Science, Engineering, and Medicine, Committee on Dual Use Research of Concern, 2016-17

State Bar of Wisconsin, Active Member (Member No. 1074115), 2009-present

Washington State Bar Association, Active Member (Bar No. 29167), 1999-2009; Inactive Member 2009-2022 (voluntary resignation)