

MACRO- AND MICRO-LEVEL ACCOUNTS OF BEHAVIOR IN INNOVATION LAW: THE ROLE OF SOCIAL NORMS AND PSYCHOLOGICAL MOTIVATIONS

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ABSTRACT

Intellectual Property (IP) and innovation law scholarship is generally concerned with the question of how to promote socially beneficial innovation. Until recently, the analysis brought to bear on that question in the literature has been dominated by an individual, rational-actor-centered model. Under this model, individual innovators are assumed to respond to innovation incentives in rational ways, unswayed by their social environments or their own psychological biases.

Of course, as innovation scholars are beginning to recognize, the road to innovation is much more winding and complex than the straight path from incentive to innovation the rational actor model implies. Innovators are people, and people cannot be divorced from their own psychology or social influences. If scholars truly want to understand how innovation happens and how best to encourage it, they must also understand how innovators' social context and psychological biases influence both their decisions to innovate or copy, and their choices regarding which innovative projects to pursue.

A rich literature in both the sociological and psychological sciences has remained largely untapped in the legal innovation scholarship. In this Article, we discuss how building bridges between these literatures and the legal innovation literature can help legal scholars better understand many of the social (macro-level) forces that influence potential innovators and the psychological (micro-level) factors that explain why these social norms emerge and persist. Among other things, this type of work adds complexity and richness to traditional legal economic accounts of innovation and helps prevent legal innovation scholars from unnecessarily "re-inventing the wheel" by bringing them into conversation with pre-existing and well-developed accounts of behaviors relevant to innovation. It also generates testable hypotheses, guiding how legal innovation scholars pose questions and paving the way for new avenues of original research. We conclude by exploring some of the questions that might be particularly promising candidates for original research going forward.

* Author's note.