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INNOVATOR, SCHOLAR, FRIEND: REMEMBERING DMITRY KARSHTEDT

Laura Pedraza-Fariña & David L. Schwartz
INNOVATOR, SCHOLAR, FRIEND: REMEMBERING
DMITRY KARSHTEDT

Laura Pedraza-Fariña* & David L. Schwartz†

It is with profound sadness that we commemorate the sudden passing of Dmitry Karsh Tedt on October 30, 2022. Born in Russia and emigrating to the United States at the young age of twelve, Dmitry embarked on an amazing academic and professional journey that saw him reaching the pinnacle of every field he touched. From his undergraduate days at Harvard to his PhD in chemistry from the University of California at Berkeley, and later, as he ventured into the realm of law with a degree from Stanford, Dmitry shined wherever he went. His early career as a chemist, where he was a co-inventor on twelve patents, transitioned into a distinguished legal academic career, including a clerkship for the Honorable Kimberly Moore and a fellowship at Stanford’s Center for Law and the Biosciences, before finally ending with his role as a beloved faculty member at the George Washington Law School.

Dmitry was much more than his academic and professional milestones. His essence was a truly special individual whose warmth, intellect, and spirit drew everyone in. We, the co-authors of this introduction, encountered Dmitry at different stages in our lives, never sharing the privilege of his company together. Yet, each of us forged a unique and lasting bond with him, a testament to his remarkable ability to connect with people on a profound level.

Dave’s friendship with Dmitry began at the inaugural Patent Conference (“PatCon”) in 2011 at the University of Kansas Law School, where Dmitry, still a law student, distinguished himself as the only student presenter. It seemed quite impressive to Dave at the time, but Dave would soon learn that this was who Dmitry was. This initial interaction blossomed into a friendship filled with long-distance exchanges, mutual admiration, and shared intellectual pursuits. Dave felt a bond with Dmitry, and would make a point of talking to Dmitry whenever they found themselves together at a conference. At one point, Dave unsuccessfully attempted to recruit Dmitry to become a Fellow at the Chicago-Kent College of Law, where

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Dave was then teaching. Dave also remembers one time when Dmitry was engaged in a heated debate about patent law on the IPProfs listserv. The debate was between Dmitry and another professor, with no other professors joining in. Dave privately assured Dmitry that he was correct and that the silent majority of listserv members likely agreed. This is but one example of the personal relationship that Dave felt with Dmitry. Through these private conversations and shared public moments at patent and IP conferences, Dave came to realize the special place Dmitry held in the hearts of many.

Laura’s friendship with Dmitry began through mutual friends, before Dmitry entered academia. In fact, her first conversation with Dmitry was about navigating the academic job market and writing law review articles. Since that first conversation, now more than ten years ago, Laura and Dmitry exchanged many law review article drafts, shared many meals and drinks at conferences and conference airports, and danced at their friends’ wedding. Laura and Dmitry’s personal histories had a lot in common: they were both immigrants to the United States and held PhDs in science, but what Laura admired the most about Dmitry—and what transformed him into a dear friend—was his love of ideas and his incisive dry wit. Dmitry read and commented on most of Laura’s papers, and many IP scholars have similarly benefited from Dmitry’s largesse. But saying that he “commented” on papers doesn’t come close to capturing his attention to detail and depth of engagement with scholarship. For example, for a paper that Laura co-wrote with Stephanie Plamondon Bair, Laura and Stephanie had five rounds of back-and-forth email exchanges with Dmitry in addition to a carefully annotated manuscript. Dmitry was also great fun. Laura wishes she could remember a specific joke or comment, delivered in Dmitry’s special deadpan way. She will miss him dearly.

Dmitry wrote widely about patent law. He is perhaps best known for writing about the biotech and the pharmaceutical industry. He wrote three influential articles on that topic: The More Things Change: Improvement Patents, Drug Modifications, and the FDA,¹ The Death of the Genus Claim (with Mark Lemley & Sean Seymour),² and Limits on Hard-to-Reproduce Inventions: Process Elements and Biotechnology’s Compliance with the Enablement Requirement.³ But his patent law interests were not limited to

³ Dmitry Karshtedt, Limits on Hard-to-Reproduce Inventions: Process Elements and Biotechnology’s Compliance with the Enablement Requirement, 3 HASTINGS SCI. & TECH. L.J. 109 (2011). Dmitry wrote this article during the time he was a student.
the life sciences. He wrote important articles about old caselaw such as *Did Learned Hand Get It Wrong?: The Questionable Patent Forfeiture Rule of Metallizing Engineering*. He wrote about the doctrine of obviousness and about damages and indirect patent infringement, among other topics. Wherever he thought the doctrine or prevailing theory was inconsistent or incorrect, Dmitry offered his critique.

Dmitry authored or co-authored twelve full-length law review articles, chapters for an open-source patent law casebook, an amicus brief for a petition for certiorari before the U.S. Supreme Court, as well as several shorter pieces. Google scholar pegs his citations at 391 and his h-index at 11, impressive marks considering he only wrote 12 articles. He won the Samsung-Stanford Patent Prize, and also a scholarship grant from the University of Houston Law Center Institute for Intellectual Property and Information Law for judicial clerks.

We felt it was our duty to celebrate his memory by arranging for this special issue of the Northwestern Journal of Technology and Intellectual Property. We invited the participants at PatCon, and received five contributions from seven authors which appear in the present issue. In this issue, our contributors have skillfully linked the broad spectrum between Dmitry Karshtedt’s profound scholarly impact and the deeply personal void his passing has left within the academic community. Chris Cotropia delves into the nuanced debates around nonobviousness that he and Dmitry explored together, shedding light on the complex interplay between technological advancements and legal protections. This exploration not only continues Dmitry’s intellectual legacy but also highlights the critical questions he believed the patent system should confront to encourage genuine innovation.

Andrew Torrance’s piece serves as a narrative of Dmitry’s educational and professional evolution, tracing his steps from a curious student to a preeminent scholar whose work prompted scholars to reconsider certain aspects of patent law. This narrative underscores the importance of Dmitry’s diverse experiences and his ability to synthesize knowledge across disciplines, enriching our understanding of his scholarly pursuits and the person behind them. Liza Vertinsky and Norman Siebrasse further this

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discourse by engaging with Dmitry’s seminal work on pharmaceutical patents and genus claims, respectively. Vertinsky’s essay calls attention to Dmitry’s careful approach to bridging policy divides, while Siebrasse offers a comparative law perspective that enriches our appreciation for Dmitry’s contributions to the global legal landscape.

Jonas Anderson, Sean Seymore, and Timothy Holbrook provide a touching tribute that combines Dmitry’s intellectual achievements with the personal memories they cherished. Their reflections not only celebrate Dmitry’s scholarly contributions but also commemorate the warmth, humor, and generosity that made him a beloved friend and mentor. Through their eyes, we are reminded that Dmitry’s legacy extends far beyond his written work, living on in the hearts and minds of those he touched.

Together, this collection of articles covers a broad spectrum of topics and illuminates the wide-ranging interests and significant impact of Dmitry. As we present this Dmitry Karshtedt Memorial Issue, we do so with the hope that it serves not only as a testament to his professional excellence but as a celebration of the profound human connections he nurtured throughout his life. We extend our heartfelt thanks to all the contributors for their thoughtful reflections. We also thank the editors of Northwestern Journal of Technology and Intellectual Property for offering us the possibility to publish this special issue and for their help in editing.

11 J. Jonas Anderson, Sean B. Seymore & Timothy R. Holbrook, Remembering Dr. Dmitry Karshtedt as a Scholar and Friend, 21 NW. J.L. & TECH. 319 (2024).