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Exigency has, with little notice, become central to judicial interpretations of both the Fourth Amendment Warrant Clause and the Sixth Amendment Confrontation Clause—particularly with regard to the policing and prosecution of domestic violence. In the Fourth Amendment setting, the Court has exhibited a factually nuanced understanding of the dynamics of abuse—an understanding that informs its analysis of exigency in domestic violence cases. By contrast, the Court’s categorical approach to the Confrontation Clause has yielded a view of exigency that does not accommodate similarly contextualized determinations. The divergence is striking, and raises the question: why should empirical realities be understood differently depending on the particular legal framework applied to them? The answer exposes fundamental flaws in the Court’s interpretation of the right of confrontation.

MAKING SENSE OF NONSENSE: INTELLECTUAL
PROPERTY, ANTITRUST, AND MARKET
POWER *Ariel Katz* 837

While the economic rationale for intellectual property (“IP”) rights rests on the concepts of “monopoly” or “market power,” the Supreme Court, in *Illinois Tool Works v. Independent Ink*, has recently joined a “virtual consensus” among antitrust commentators believing that no presumption of market power should exist in antitrust cases involving IP. This Article critically analyzes this consensus, and clarifies the relationship between IP and market power, shows why IP rights often do confer market power in the antitrust sense, but also explains why acknowledging this should not necessarily lead to oversized application of antitrust law to IP.

CULTURAL CONVERGENCE: INTEREST
CONVERGENCE THEORY MEETS THE
CULTURAL DEFENSE *Cynthia Lee* 911

Defendants who successfully introduce cultural evidence in their defense have one thing in common—the cultural norms underlying their claims are either similar to or complement American cultural norms, including retrograde racist and sexist norms. This Article argues that cultural convergence is one way to understand these results. Cultural convergence is the idea that the cultural defense claims of minority and immigrant defendants are more likely to receive

accommodation when there is convergence between their cultural norms and American cultural norms.

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Recent allegations of widespread steroid use in professional sports has led to the introduction of several congressional bills that would require the four major professional sports leagues in the United States to impose mandatory uniform drug testing on all athletes. This Note argues that such a law would violate the Fourth Amendment’s proscription against unreasonable searches and seizures. This Note also posits that drug testing professional athletes would not lead to decreased steroid use among teenagers—the desired effect of these bills—and suggests alternative measures to achieve these goals.

DEPRESSION DISCRIMINATION: ARE SUICIDAL
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AMERICANS WITH DISABILITIES ACT? *Elizabeth Wolnick* 989

Recently, college students nationwide have faced suspension after seeking treatment for suicidal thoughts. The dual aim of these suspensions is to protect the campus community from harm and the college from liability. However, the practice of removing severely depressed students raises questions about whether suspension for these reasons is a violation of federal disability laws. This Note focuses on the protections and accommodations afforded college students with mental illness, the potentially discriminatory effect of disciplining these students, and the college’s liability for violating or adhering to these regulations.

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