

# *Law, Innovation, and Disability*

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When scholars contemplate the legal tools available to policymakers for encouraging innovation, they primarily think about patents. If they are keeping up with the most recent literature, they may also consider prizes, grants, and taxes as means to increase the supply of innovation. But the innovation policy toolkit is substantially deeper than that. To demonstrate its depth, this Article explores the evolution of designs that help people with disabilities access the world around them. From artificial limbs to the modern wheelchair and the reshaping of the built environment, a variety of legal doctrines have influenced, for better and for worse, the pace and direction of innovation for accessible design. This Article argues that two of the most important drivers of innovation for accessible design have been social welfare laws and antidiscrimination laws. Both were responsible, in part, for the revolution in accessibility that occurred in the second half of the twentieth century. Unlike standard innovation incentives, however, these laws operate on the “demand side.” Social welfare laws and antidiscrimination laws increase the ability and willingness of parties to pay for accessible technology, ultimately leading to greater supply. But in doing so, these laws generate a different distribution of the costs and benefits of innovation. They also produce their own sets of innovation distortions by allowing nondisabled third parties to make decisions about the designs that people with disabilities have to use. The law can promote innovation, and it can hinder it. The law’s relationship to the wheelchair, the most important accessibility innovation of the twentieth century, produced both results. Policymakers have choices about which legal incentives doctrines they can use and how they can use them. This Article evaluates those tools, and it provides guidelines for their use to encourage accessible technology in particular and innovation generally.