Technology and Internet Law Reading Group

The study of technology law involves close examination of how many prominent areas of U.S. law interact. These areas range from intellectual property to First Amendment rights to Constitutional protections for privacy. The study of the interaction between the law and the Internet is made even more interesting by the fact that the pace of technological innovation constantly raises new challenges to existing doctrines and norms. Most importantly, through the lens of technology, we can examine how legal doctrines and social norms respond to fast change that affects large populations.

This intersection of the law and technology deserves study and deliberation. This reading group aims to bring together students from varied backgrounds to discuss these issues and develop their understandings. In so doing, we develop frameworks for how law might respond to future, unforeseen innovations in the 21st century.

Each reading group discussion will be held for 90 minutes each week over the course of twelve weeks. Under YLS guidelines, participants must attend at least eight discussion sessions (i.e. 700 minutes or more) to receive credit for this reading group. There may also be a thirteenth reading group session if participants would like to cover an additional topic or to meet. The syllabus includes required readings for every week, as well as supplementary items for many of the weeks. It is separated into four sections: Access to the Internet, Expression on the Internet, Privacy, FutureTech.

PART I: ACCESS TO THE INTERNET

Week 1
Introduction: Who runs the web?
Week 1 Folder

Main
1. Lawrence Lessing, Code 2.0: Chapter 1 and Chapter 16 (20 pages)
2. James Grimmelmann, Internet Law: Cases & Problems (ILCP), pages 8-51

Supplemental
1. Video: Lawrence Lessig, "Internet for Everyone"
2. Joe Nocera, "Will Digital Networks Ruin Us?", in *New York Times* (3 pages)

Week 2
Net neutrality: Do network managers need managers?
Week 2 Folder

Main
1. Susan Crawford, "Why Net Neutrality Matters to You" (3 pages)
2. Sascha Meintrath and Victor Pickard, "Transcending Net Neutrality" (10 pages)

3. Barbara van Schewick, "The Case for Rebooting the Network-Neutrality Debate", in *The Atlantic* (6 pages)
4. Video: Last Week Tonight with Jon Oliver, <u>"Net Neutrality"</u>

Supplemental
1. Robinson Meyer, "The Conservative Case for Net Neutrality", in *The Atlantic* (3 pages)

Week 3
Right to Access the Internet: Why is the Internet so slow and expensive, and what is the law's role in fixing it?
<u>Week 3 Folder</u>
Main
1. Andrew Picot and Christian Wernick, "The Role of Government in Broadband Access" in *Telecommunications Policy* (13 pages)
2. George S. Ford and Thomas M. Koutsky, "Broadband and Economic Development: A Municipal Case Study from Florida" in *Applied Economic Studies* (16 pages)
3. Sam Gustin, "Is Broadband Internet Access a Public Utility?" in *TIME* (3 pages)
4. Edward Wyatt, "Communities Fight State Laws That Can Divide Broadband Access" in *New York Times* (5 pages)
Supplemental
1. Hannibal Travis, "Wi-Fi Everywhere: Universal Broadband Access as Antitrust and Telecommunications Policy" in *American University Law Review* (104 pages; *skim* this)
2. Jon Brodkin, "In Detroit and other cities, nearly 40 percent go without Internet" in *Ars Technica* (2 pages)
3. Lennard G. Kruger and Angele A. Gilroy, "Broadband Internet Access and the Digital Divide: Federal Assistance Programs in *CRS Report to Congress* (25 pages)

PART II: EXPRESSION ON THE INTERNET

Week 4
Speech on the Internet: How have social interactions changed with the advent of technology and the Internet?
<u>Week 4 Folder</u>

Main
1. Christopher Yoo, "Free Speech and the Myth of the Internet as an Unintermediated Experience" in *George Washington Law Review* (read introduction, skim rest)

2. Jack M. Balkin, *Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society*, 79 N.Y.U. L. REV. 1 (2004) (50 pages)
3. First Amendment Center, "Internet & First Amendment overview" (4 pages)
4. Wikipedia, Section 230 of the Communications Decency Act
5. Emily Bazelon, "How to Stop the Bullies" in *The Atlantic* (11 pages)
6. Mike Radford, "Horizon: the defenders of anonymity on the internet" in *BBC News* (2 pages)

Supplemental
1. Center for Democracy & Technology, "Intermediary Liability: Protecting Internet Platforms for Expression and Innovation" (15 pages)

Week 5
Copyright and IP: Where did copyright go wrong?
Week 5 Folder
Main
1. U.S. Constitution, Art 1, Sec 8, Clause 8
2. Wikipedia, Copyright Clause
3. James Boyle, The Public Domain, Preface and Chapter 1 (21 pages)
4. Lawrence Lessig, Remix, Chapter 1
5. Gordon Silverstein, "Patent Absurdity" in *Washington Monthly* (5 pages)

Supplemental
1. Louis Menand, "Crooner in Rights Spat" in The New Yorker (15 pages)
2. TechDirt, "Lawsuit Filed To Prove Happy Birthday Is In The Public Domain; Demands Warner Pay Back Millions Of License Fees"

Week 6
Internet as a Tool for Activists and Dictators: Is technology a cage or a key?
Week 6 Folder

Main
1. Ronald Deibert, John Palfrey, Rafal Rohozinski, and Jonathan Zittrain, "Access Controlled" (Read introduction; 9 pages)
2. Video: The Economist, How Protestors Escape Social Protest
3. Balkin, Old School New School Speech Regulation
4. WSJ Book Review, Consent of the Networked

Choose one of these groups of readings:
Arab Spring
1. Lee Siegel, "Twitter Can't Save You" in *New York Times* (3 pages)
2. Evgeny Morozov, "Smart Dictators Don't Quash the Internet" in *Wall Street Journal* (5 pages)
ISIS

1. Jane Wakefield, "GHCQ, terrorists, and the internet: What are the issues?" in BBC News (3 pages)
2. Reuters, "Iraq widens Internet blocks to disrupt ISIL insurgent communications" in Tech2
3. Dave Lee, "Downing Street presses ISPs over 'jihad reporting' button" in *BBC News*

China
1. "China's Internet: A giant cage" in *The Economist* (5 pages)
2. "Online censorship: HK backspace, backspace" in *The Economist* (2 pages)

Russia
1. Andrei Soldatov and Irina Borogan, "The Kremlin's New Internet Surveillance Plan Goes Live Today," in Wired (4 pages)
2. "Russia enacts 'draconian' law for bloggers and online media" in *BBC News*

Week 7
Cyberwar and Hacking: Does technology threaten state security?
Week 7 Folder
Main
1. E. Gabriella Coleman, "Phreaks, Hackers, Trolls: The Politics of Transgression and Spectacle," in the Social Media Reader.
2. Charles J. Dunlap, "Perspectives for Cyber Strategists on Law for Cyberwar," in Strategic Studies Quarterly (14 pages)
3. Mark Landler and David E. Sanger, "U.S. Demands China Block Cyberattacks and Agree to Rules" in *New York Times* (3 pages)
4. John Avlon and Sam Schlinkert, "This is how China Hacks America: Inside the Mandiant Report" in *The Daily Beast*
5. Brandon Valeriano and Ryan Maness, "The Fog of Cyberwar" in *Foreign Affairs* (4 pages)

PRIVACY

Week 8
Data Regulation: What is Big Data and how is it regulated?
Week 8 Folder

Main
1. SAS, "Big Data" (2 pages)
2. Jane Bambauer, "Is Data Speech?" in *Stanford Law Review* (Focus on introduction: pages 58-69; can skim the rest)
3. Kenneth Neil Cukier, and Viktor Mayer-Schoenberger, "The Rise of Big Data" in *Foreign Affairs* (8 pages)
4. Tim Harford, "Big data: are we making a big mistake?" in *Financial Times Magazine* (5 pages)

5. Jonathan Zittrain, The Future of the Internet, Chapter 9: Privacy (35 pages)

Supplemental
1. Sasha Romanosky and Alessandro Acquisti, "Privacy Costs and Personal Data Protection: Economic and Legal Perspectives" in *Berkeley Technology Law Journal* (41 pages)
2. Video: Kenneth Cukier, "Big Data is Better Data" in a TEDTalk

Week 9
Right to Be Forgotten: Who owns your data?
Week 9 Folder

Main
1. Natasha Singer, "A Data Broker Offers a Peek Behind the Curtain" in *New York Times* (4 pages)
2. Andrew Tutt, "The Revisability Principle" in *Hastings Law Journal* (50 pages)
3. Jeffrey Rosen, "The Right to Be Forgotten" in *Stanford Law Review Online* (5 pages)
4. Frank Pasquale, "The Dark Market for Personal Data" in *New York Times* (3 pages)
5. Frank Pasquale, "The Right to be Forgotten: Not an Easy Question"

Supplemental
1. Charles Arthur, "Explaining the 'right to be forgotten' – the newest cultural shibboleth" in *The Guardian* (9 pages)
2. *Google v. AEPD* (22 pages)

Week 10
Data Usage, Privacy, and Surveillance: How are people using your data?
Week 10 Folder
Businesses
1. McKinsey, "Big data: The next frontier for innovation, competition, and productivity" (Read executive summary, 15 pages)
2. Shvetank Shah, Andrew Horne, and Jaime Capellá, "Good Data Won't Guarantee Good Decisions" in *Harvard Business Review* (2 pages)
3. Kashmir Hill, "How Target Figured Out A Teen Girl Was Pregnant Before Her Father Did" in *Forbes* (3 pages)

Campaigns
1. Michael Scherer, "Inside the Secret World of the Data Crunchers Who Helped Obama Win" in *TIME* (4 pages)

Government
1. White House, "Obama Administration Unveils 'Big Data' Initiative" (4 pages)

2. Robert Chesney and Benjamin Wittes, "A Tale of Two NSA Leaks" in *New Republic* (8 pages)

THE FUTURE

Week 11
Cryptocurrency
Week 11 Folder

Main – KEEP TO BITCOIN/CRYPTOCURRENCY
1. Peter Twomey, "Halting a Shift in the Paradigm: The Need for Bitcoin Regulation" in *Trinity College Law Review* (23 pages)
2. Adrian Goldberg, "The dark web: Guns and drugs for sale on the internet's secret black market" in *BBC News*
3. FBI Report, "Bitcoin Virtual Currency: Unique Features Present Distinct Challenges for Deterring Illicit Activity" (14 pages)

Supplemental:
1. Invisible or Deep Web: What it is, How to find it, and Its inherent ambiguity, *UC Berkeley Library*
2. Peter Biddle, Paul England, Marcus Peinado, and Bryan Willman, "The Darknet and the Future of Content Distribution" from Microsoft Corporation (15 pages)
3. Timothy B. Lee, "How 4 Microsoft engineers proved that the "darknet" would defeat DRM" in *Ars Technica* (3 pages)
4. Presentation: "Tor: 'The king of high-secure, low-latency anonymity" from *The Guardian*

Week 12
FutureTech: How will innovation challenge the law?
Week 12 Folder

Conceptual overview on disruptive innovation
1. Christensen on Disruptive Innovation
2. Jill Lepore, *New Yorker* response to Christensen

3D Printing
1. Lisa Harouni, "A Primer on 3D Printing" in a TEDTalk
2. James Grimmelman, "Indistinguishable from Magic: A Wizard's Guide to Copyright and 3D Printing" in *Washington & Lee Law Review* (15 pages)
3. Peter Jensen-Haxel, "3D Printers, Obsolete Firearm Supply Controls, and the Right to Build Self-Defense Weapons Under *Heller*" in *Golden Gate University Law Review* (50 pages)

Driverless Cars
1. "What is a Driverless Car?" in *WiseGeek* (1 page)

2. Frank Douma and Sarah Aue Palodichuk, "Criminal Liability Issues Created by Autonomous Vehicles" in *Santa Clara Law Review* (14 pages)
3. Mark Herrmann, "Why Driverless Cars Will Wreck Your Legal Practice" in *Above the Law* (2 pages)