

Fall 2019

HSS 404-H01: Law in the Digital World

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**HSS 404-H01 – Law in the Digital World
Fall 2019**

Professor: Dr. Kyle Riismandel

Time: Tuesday/Thursday 4-520PM

Classroom: CKB 341

Office: Cullimore Hall 326

Office Hours: Monday 12-1PM, Tuesday and Thursday 1-3PM, and by appointment

COURSE DESCRIPTION:

This seminar course examines legal issues concerning digital technologies, both in the past and today. To better understand these technologies and their implications, students will produce original research that analyzes the relationship between law and the digital world at some point over the past two centuries. We will try to understand what it means to live in a digital world and how technology affects how we learn, work, play, socialize, and the way Americans adapt the to new digital technologies and their uses.

We will not cover all aspects of the digital world and the law. We will focus on six areas related to contemporary America:

- Access
- Privacy
- Intellectual Property
- Democracy
- Vice
- Transhumanism

Course Goal	Assessment
Identify and understand key laws and practices related to digital technologies in American history	Reading and Class Participation Outline of Secondary Source Completion of Final Project Reading Quizzes Discussion Leadership
Identify and analyze primary and secondary sources	Reading and Class Participation Outline of Secondary Source Completion of Final Project
Research, write, and verbally present historical arguments using primary source evidence	Reading and Class Participation Outline of Secondary Source Completion of Final Project Discussion Leadership

COURSE TEXTS

All course readings are available via canvas.njit.edu. Please bring all readings to class.

ASSIGNMENTS

The point of the assignments is to practice skills and learn course material so doing the assignments on time is imperative as they will relate directly to class that week. However, if you fail to hand in an assignment when it is due, you may hand it in up to 1 week late for

partial credit with no more than a penalty of 1/3 letter per day late. Further, you must complete all assignments to pass the course. Failure to do so can result an F for the course.

Class participation:

Students are expected to

1. Participate actively in all class discussions and activities
2. Be respectful to the instructor and their fellow classmates
3. Arrive to class on time
4. Stay focused on what is happening in our classroom not on chatting or using digital devices.

Further, participation will be assessed not just on quantity but also on quality. Quality participation demonstrates knowledge of the issues at hand, completion of that week's assignments, and a willingness to engage in critical assessment of course texts and lectures. The participation grade may also include pop quizzes and short writing assignments done in class.

I encourage students to check in with me over the course of the semester regarding their class participation performance. Further, do not wait to contact me if you are falling behind or having trouble understanding course content. Earlier is always better (I'm looking at you Seniors).

Discussion Leaders:

As a discussion leader, you will complete a 300-750 word response paper, upload it to the appropriate Canvas link at least 24 hours before class, and open discussion with a question, statement, or both designed to spur conversation about that week's topic. An assignment sheet with further instructions will be distributed and made available on Canvas.

Final Paper:

The assignments in the class will be the building blocks of a research paper of YOUR choice. This paper will be a chance for you to apply the skills you learn throughout the semester to write a 2500+ word paper analyzing a primary source or set of primary sources related to the law in the digital world in their historical context. Each step in completing the paper, from the paper proposal to the final draft, will be completed in consultation with the instructor as well as your peer cohort. Further instructions will be distributed throughout the semester to guide you in your work.

Final grades will be calculated as follows:

Discussion Leader	– 7.5%
Response Paper	–7.5%
Class Participation	– 20%
Final Paper	– 60%
Paper Proposal	– 5%
Outline and Bibliography	– 8%
Rough Draft	– 12%
Final Draft	– 25%

Course Policies

Attendance:

Students are expected to attend all course meetings on time unless receiving prior authorization. Missing class will not only adversely affect your class participation grade, but there will be screenings in class that will only be offered during that class period so do your best to attend. If you miss class to attend an NJIT sponsored event, to observe a religious holiday, or due to a documented illness, those absences will be excused. For these absences to count as excused, you must receive permission from the instructor in advance or provide a doctor's note (or other relevant note) in the case of sickness.

Classroom Conduct:

In this course, we welcome intellectual inquiry and thoughtful discussion of difficult questions but hate speech and disrespectful comments will not be tolerated. We must come to class with an open mind, a willingness to learn, and fundamental respect for the humanity of each person in the room and the historical actors we discuss.

Office hours/student appointments:

My office hours will be every Monday 12-1PM and Tuesday and Thursday 1-3PM. I am also available to meet by appointment if students are unable to make it to my office during these times. Feel free to send me an email to set up a meeting if you'd like to talk or have any questions about course topics, assignments, or grades.

Academic dishonesty:

Students are expected to obey the NJIT honor code, and I will enforce this code to its fullest extent. The goal of this course is to evaluate your understanding of course materials and ability to express that understanding. Cheating, plagiarizing or otherwise violating the code of academic integrity not only breaks the trust between professor and student but keeps you from learning course content and improving writing and critical thinking skills. I am here to help so if you are having trouble, do not cheat, ask me for help.

For the tenets of the code or for clarification of what constitutes plagiarism or cheating, please consult: <http://www.njit.edu/academics/honorcode.php>.

Generally speaking, it is a violation of the academic integrity code to:

- Use someone else's words or ideas without attribution
- Copy content from someone else's paper, quiz, or exam
- Pay for course assignments to be complete by someone else

Cell phones, Laptops, Tablets, etc.:

Students must turn off and stow their cell phones before class begins. Under no circumstances may students answer their phones, make calls, send text messages, or use their cell phone in any manner during class hours unless approved by me before class begins. Laptops and tablets may only be used for classwork. If I see a student using a cell phone in class or misusing their laptop or tablet, I will ask the student to leave for the remainder of the class. This policy is not because I do not like using cell phones, laptops, or tablets. This policy is because I do not want to interrupt class to ask you to stop texting, etc. It interrupts the flow of discussion, distracts other students, and keeps us all from doing the work of the course.

Students with Disabilities or Special Needs:

Students who have disabilities or special needs should contact NJIT's Student Disability Services to help procure accommodations in completing coursework. The center can be found at <http://www.njit.edu/counseling/services/disabilities.php>. I am happy to help you in any way I can to learn course content so please register so I can properly assist you.

Course Schedule

WEEK 1 – What is the Digital World? How do we study it?

SEPT 3: Intro/Course Expectations/The Digital World (bleep bloop)

Secondary Source

- “Interchange: The Promise of Digital History,” *Journal of American History*, Vol.5, No. 2 (Sept. 2008), 452-491

SEPT 5: Studying Laws and Courts

Secondary Sources

- Roosevelt University, “The Parts of a Court Decision”
- Orin S. Kerr, “How to Read a Judicial Opinion: A Guide for New Law Students”
- Law Librarians’ Society of Washington, D.C., “Quick Links and Sources to Court Opinions”

WEEK 2 – Access

SEPT 10: Net Neutrality

Primary Sources

- Federal Communications Commission, “Restoring Internet Freedom” - <https://www.fcc.gov/restoring-internet-freedom>
- Ajit Pai, “On Restoring Internet Freedom Order Taking Effect” - <https://www.fcc.gov/document/chairman-pai-restoring-internet-freedom-order-taking-effect>
- Mignon Clyburn, “Dissenting Statement” - https://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1214/DOC-348256A1.pdf

Secondary Source

- *Wired*, “Guide to Net Neutrality” - <https://www.wired.com/story/guide-net-neutrality/>
- Choose one of the links following the article and be prepared to discuss it

SEPT 12: Research Questions and Sources

Secondary Source

- *The Craft of Research*, “Chapter 3: From Topics to Questions”

WEEK 3 – Access continued

SEPT 17: Monopoly

Primary Source

- *U.S. v. Microsoft Corporation* (Nov. 2002)

SEPT 19: Monopoly

Secondary Source

- Franklin M. Fisher. "The IBM and Microsoft Cases: What's the Difference?" *The*

American Economic Review, Vol. 90, No. 2, (May, 2000), pgs. 180-183.

WEEK 4 – Privacy

SEPT 24: The Right to be Forgotten

Primary Source

- European Union, *General Data Protections*, “Article 17: Right to Erasure”
<https://iapp.org/resources/article/the-eu-general-data-protection-regulation/#A17>

Secondary Source

- Meg Leta Jones, *Ctrl+Z: The Right to Be Forgotten*, (New York University Press, 2016), Ch. 2, pgs 55-80.

SEPT 26: Surveillance Capitalism

- Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*, Ch. 12

ASSIGNMENT - Proposal Due – Sept. 27th by 5PM

WEEK 5 – Privacy continued

OCT 1: The Social Life of DNA

Primary Sources

- Ancestry.com, “Privacy Statement” - <https://www.ancestry.com/cs/legal/privacystatement>
- AncestryDNATesting, “Privacy Statement” - <https://www.ancestry.com/cs/legal/PrivacyForAncestryDNATesting>
- Ancestry.com, “Setting the Record Straight: Ancestry and Your DNA” - <https://blogs.ancestry.com/ancestry/2017/05/21/setting-the-record-straight-ancestry-and-your-dna/>

Secondary Source

- Christine Guest, “DNA and Law Enforcement: How the Use of Open Source DNA Databases Violates Privacy Rights”

OCT 3: Case Study – The Golden State Killer

Secondary Sources

- Nila Bala, “Criminal Suspects Deserve Genetic Privacy, Too,” Slate.com, March 18, 2019 - <https://slate.com/technology/2019/03/genetic-genealogy-law-enforcement-suspects-dna-privacy-gedmatch.html>
- Jocelyn Kaiser, “We Will Find You: DNA Search Used to Nab Golden State Killer Can Home in on About 60% of White Americans” - <https://www.sciencemag.org/news/2018/10/we-will-find-you-dna-search-used-nab-golden-state-killer-can-home-about-60-white>
- Andrea Marks, “DNA Search Method that Caught Golden State Killer No Longer Available,” *Rolling Stone*, May 23, 2019 - <https://www.rollingstone.com/culture/culture-news/dna-search-method-that-caught-the-golden-state-killer-no-longer-available-839315/>

WEEK 6 – Intellectual Property

OCT 8: Copyright

Secondary Source

- Cory Doctorow, *Information Doesn't Want to Be Free: Laws for the Internet Age*, (San Francisco, McSweeney's, 2014), pgs 118-154.

OCT 10: Copyright and Algorithmic Regulation

Secondary Source

- Dan L. Burk, “Algorithmic Fair Use,” *The University of Chicago Law Review*, Vol. 86, No. 2, Symposium: Personalized Law (March 2019), pp. 283-308

ASSIGNMENT – OUTLINE DUE – Oct. 11 by 5PM

WEEK 7 – No Class – Outline Meetings

OCT 15: Outline Meetings

OCT 17: Outline Meetings

WEEK 8 – Vice

OCT 22: Crime Online

Primary Source

- NATO Cooperative Cyber Defence Centre of Excellent, “Technical and Legal Overview of the TOR Anonymity Network” (2015)

Secondary Source

- Judith Aldridge and David Cecary-Hetu, “Not an ‘eBay for Drugs’: The Cypotomarket ‘Silk Road’ as a Paradigm Shifting Criminal Innovation”

OCT 24: NO CLASS – WORK ON DRAFTS

WEEK 9 – Drafting, Editing, and Feedback

OCT 29: Drafting, Editing and Feedback

Secondary Source

- Anne Lamott, *Bird by Bird: Some Instructions on Writing and Life*, “Shitty First Drafts”

OCT 31: Workshop – Please bring what you have so far

WEEK 10 – Democracy

NOV 5: Election “Interference”

Primary Source

- The Mueller Report, Executive Summaries I and II

Secondary Source

- David E. Sanger and Catie Edmondson, “Russia Targeted Election Systems in all 50 States, Report Finds,” July 25, 2019 -

<https://www.nytimes.com/2019/07/25/us/politics/russian-hacking-elections.html>

NOV 7: Gerrymandering

Primary Source

- *Ruchov v. Common Cause* (2019)

Secondary Source

- FiveThirtyEight.com, “Gerrymandering 101: Parts 1 and 2”

<https://fivethirtyeight.com/tag/the-gerrymandering-project/#main>

WEEK 11 – NO CLASS – WORK ON DRAFTS

NOV 12: Open Office Hours

NOV 14: Open Office Hours

ASSIGNMENT – ROUGH DRAFT DUE – Nov. 15 by 5PM

WEEK 12 – Rough Draft Meetings

NOV 19: Rough Draft Meetings

NOV 21: Rough Draft Meetings

Rough Draft Meetings

WEEK 13 -- Transhumanism

NOV 26: Bio-hacking

Primary Source

- California State Legislature, “SB-180 Gene Therapy Kits: Advisory Notice and Labels” (2019-2020) - https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB180

Secondary Sources

- John Conley, “A Lawyer’s Guide to CRISPR Gene Editing” - <https://theprivacyreport.com/2019/03/28/a-lawyers-guide-to-crispr-gene-editing/>
- Mary Todd Bergman, “Perspectives on Gene Editing,” January 11, 2019 - <https://today.law.harvard.edu/perspectives-on-gene-editing/>
- Michael A. Stramiello, “CRISPR: The New Frontier of Biotechnology Innovation” https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2017-18/january-february/crispr-new-frontier-biotechnology-innovation-digital-feature/

WEEK 14 – Transhumanism continued

DEC 3: Artificial Intelligence

Secondary Sources

- Sabine Gless, Emily Silverman, Thomas Weigend, "If Robots Cause Harm, Who Is to Blame? Self-Driving Cars and Criminal Liability," *New Criminal Law Review*, Vol. 19 No. 3, Summer 2016, pgs. 1-22.
- H: Matthew U. Scherer, "Regulating Artificial Intelligence Systems: Risks, Challenges, Competencies, and Strategies," *Harvard Journal of Law & Technology*, V. 29, No. 2, Spring 2016, pgs. 353-400.

DEC 5: AI continued/Paper Questions

DEC 10: Wrap-up/Big Takeaways

ASSIGNMENT: FINAL DRAFT DUE: DEC 20th by 5PM - NO PAPERS WILL BE ACCEPTED AFTER THIS DEADLINE!