

The Wharton School, University of Pennsylvania
Internet Law, Privacy, and Cybersecurity (Fall 2023)

Overview

This course examines the complex and often novel legal issues surrounding the development and current state of the Internet, information privacy, and cybersecurity. Topics include federal- and state-level regulation and enforcement of Internet and privacy legal concepts, data breaches, online privacy protections, how to legally manage a borderless Internet, and the liability of intermediaries such as network operators, social media services, and search engines.

Instructor

Ezra Church, Esq.

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Ezra Church is a practicing attorney and partner at Morgan, Lewis & Bockius LLP, the largest law firm in Philadelphia and one of the ten largest in the world. Ezra counsels and defends Fortune 500 companies in privacy, cybersecurity, and other consumer protection matters. He helps clients manage data security and other crisis incidents and represents them in high-profile privacy and other class actions. Ezra is a Certified Information Privacy Professional (CIPP), co-chair of the firm's Class Action Working Group and global leader of the firm's Privacy and Cybersecurity Litigation practice. Ezra is a graduate of Northwestern University and *cum laude* graduate of the University of Texas School of Law.

Teaching Assistant

Michelle Woo, University of Pennsylvania, B.A. *expected* December 2023

Materials

- (1) James Grimmelman, Internet Law: Cases and Materials, 12th Ed. (Semaphore Press 2022)
Available for download as a PDF at <http://internetcasebook.com/>. A printed version can also be obtained from [Amazon.com](https://www.amazon.com) at a higher price.
- (2) Daniel J. Solove & Paul M. Schwartz, Consumer Privacy and Data Protections, 3rd Ed. (Aspen Casebook Series)

Learning Objectives

The goal of the course is to familiarize you with major legal and public policy debates involving the Internet, privacy, and cybersecurity. At the end of the semester, you should have an understanding of:

- The major substantive areas of law that govern the Internet and how they are addressed;
- How the development of the Internet poses novel policy and legal questions for businesses, legislatures and courts;
- An overview and key issues in privacy law, as it develops rapidly in the US and around the world;
- The importance and key issues in cybersecurity, including latest developments in data breaches and ransomware.

The course is based on U.S. law, although we will discuss international comparisons and controversies. You're not in law school, so there is no expectation regarding previous coursework, legal training, or career objectives. However, we will read court cases and other legal documents to understand the current state of the law. I will spend time early in the course going over how to understand these materials.

Teaching Philosophy

This class will include active and collaboration learning. Let's interact, discuss, and make the most of our time in the classroom. Additionally, the subject area of Internet law is an actively changing field: reading assignments may (will!) change to reflect current news. We will also have guest presentations from various lawyers practicing in the area of Internet law over the course of the semester.

Requirements and Grading

Your grade will be based on the following factors:

Quiz (Week 5) (10%)

This will include short answer questions covering topics addressed to that point.

Mid-Term Exam (30%)

The midterm will include short answer and essay questions covering the topics addressed to that point.

Final Paper (40%)—due Dec. 21, 2023

The final paper is described below.

Class Participation (20%)

Your participation score will reflect your overall contribution to the class during the semester.

Late assignments will receive a deduction of 5% for each day. (A new "day" begins 30 minutes after the official deadline.) If you believe you will not be able to submit an assignment on time, please speak with me before the assignment is due. I will consider requests for extension based on the specific circumstances involved.

Class Format and Participation

This is not a lecture course. Most class sessions will be discussion-based. Much of the time, key points of law will be developed through interactive conversation about the cases or materials we cover. Class participation is your responsibility. It counts towards your grade and will help you retain the information, so prepare. Read the required materials before class, take notes, raise your hand, ask questions, and offer comments that show engagement with the course concepts. Students may be cold-called in class, simply to engage as many of you as possible in the discussion.

The Grimmelmann and Solove & Schwartz texts include questions after most sections. If I want you to prepare answers to these, I will call it out in the syllabus. Additionally, both books reference legal cases that we will discuss. It is important to quickly outline or "brief" these cases in advance of class - here is the basic idea:

- (a) Key Facts— (case name, parties, background)
- (b) Issue(s) (what is in dispute)
- (c) Holding (the court's conclusion)
- (d) Rationale (reasons for the holding)

Attendance and Classroom Expectations

I want to get to know you! Please arrive on time and display your name tent each day. Attendance is a key part of this course experience (for learning and for your grade). If you have multiple absences for which you want to be excused, please email me an explanation and, where possible, documentation. You do not need to use the Penn Course Absence Reporting system. I understand that you will sometimes miss class for understandable reasons, like recruiting. There is no way to “make up” a class. However, if you contribute actively during the semester, missing one or two sessions will not negatively affect your participation grade. Remember, this class only meets once per week.

Policy on Devices in Class

Screens are all around us, and use of laptops, tablets, and smartphones are permitted in class. However, use should be restricted to note taking, review of notes from your reading, review of course materials or other purposes related to class. Please no social media, online gaming, videos, movies or other uses that might distract you or others.

Paper Assignment

There is one required paper in this class, your final assignment, due by the end of finals on Dec. 21. It will be a research paper, requiring you to discuss relevant materials from the class, and find and incorporate outside sources, such as articles and white papers. You will be expected to develop an argument surrounding a thoughtful thesis. The prompt will be distributed during week nine of class.

- Format and Length

The paper should be between eight and ten pages, double-spaced, not counting a cover page or bibliography. You do not need to follow a specific format. However, any source you quote or rely on, whether from the course readings or outside materials, should have a reference. This may take the form of a footnote, or an in-line parenthetical (e.g. Pasquale, 2015) with a bibliography at the end. Every statement based on a source should reference that source.

- Grading

Your paper will be graded based on the following criteria:

- Quality of analysis: The paper demonstrates thorough research and reflection. It makes a convincing argument and addresses potential objections.
- Course support: The paper illustrates its points with concepts or examples covered in the course, and does so accurately.
- Research: The paper cites outside research materials, and uses them effectively to buttress its arguments.
- Creativity: The paper is original, interesting, and presented in an engaging manner.
- Organization and style: The paper has a logical structure. It uses professional grammar, spelling, and punctuation.

Aug. 30	<p>Introduction to Internet Law (Week 1) Topics: Technical Primer, Cyberspace, Jurisdiction, Territoriality ***Complete the Below Prior to Class***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Grimmelman, pp. 27-37 (Technical Primer: The Internet); 57-59; 62-70; 74-82 [Prepare Questions on “Gutnick” and “Digital Borders”] 2. Watch: The Matrix (1999)
Sept. 6	<p>Introduction to Privacy Law (Week 2) ***Complete the Below Prior to Class***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Solove & Schwartz, pp. 142-164 [Prepare Notes & Questions pp. 146-152(top); 160-164] 2. Listen to: “TikTok CEO Testifies On App's China Ties and Security Risks WSJ Tech News Briefing,” https://www.youtube.com/watch?v=JZaknQIoSJA
Sept. 13	<p>Introduction to Cybersecurity (Week 3) ***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Solove & Schwartz, pp. 343-362 [Prepare Notes & Questions pp. 358-362] 2. Watch: “Ransomware Is An Epidemic And It's Getting Worse,” Cryptoland, https://www.youtube.com/watch?v=3TewhGZWryg
Sept. 20	<p>Speech on the Internet (Week 4) Topics: First Amendment, Harmful Speech ***Complete the Below Prior to Class***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Grimmelman, pp. 123-146 [Prepare Questions after <i>Bland</i> (p. 133-134), <i>Violent Speech</i> (p. 145-146)]
Sept. 27	<p>Speech on the Internet Continued (Week 5) Topics: Harassment, Defamation & Invasion of Privacy</p> <p><u>Quiz, start of class</u></p> <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Grimmelman, pp. 146 (starting with <i>U.S. v. Hobgood</i>)-170 [Prepare Questions after <i>Defamation</i> (p. 153), after <i>Sexually Explicit Speech</i> (p. 160-161)] 2. Watch: Making Sense of the Verdict (<i>Depp v. Heard</i>)

	https://www.youtube.com/watch?v=HMeaBvJI5_w
Oct. 4	<p>Speech on Platforms, Content Moderation, and Responsibility (Week 6)</p> <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <p>Assignment</p> <ol style="list-style-type: none"> 1. Watch: "Section 230: The Law at the Center of the Big Tech Debate WSJ," https://www.youtube.com/watch?v=FHTc6s5YTbU 2. Grimmelman, pp. 171-179; 564-569, 577-589, 618-624 [Questions: pp. 568, 589, 622-23] 3. Read: Supreme Court rules Twitter not liable for ISIS content – SCOTUSblog 4. Read: 5th Circuit rules Biden administration violated First Amendment - The Washington Post 5. Guardian News, Alexandria Ocasio-Cortez Questions Facebook CEO, https://www.youtube.com/watch?v=8KFQx-mc2Ao5 6. Forbes Breaking News, Testimony of Emma Jo Morris, https://www.youtube.com/watch?v=M28tXX0cvvI 7. White House Press Secretary on Elon Musk Purchasing Twitter, https://www.youtube.com/watch?v=UwaHyQ_NLbo 8. Watch: BBC Interview of Elon Musk, https://www.youtube.com/watch?v=IfIfP4XwzAI (only to around 27:32)
Oct. 11	<p>Privacy Foundations (Week 7)</p> <p>Topics: What is Privacy?</p> <p>***Complete the Below Prior to Class***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Solove & Schwartz, pp. 41-67 [Prepare Questions pp. 56-57] 2. Watch "TED Talk, Glenn Greenwald: Why privacy matters," https://www.youtube.com/watch?v=pcSlowAhvUk
Oct. 18	EXAM #1 (Week 8)
Oct. 25	<p>Fourth & Fifth Amendments (Week 9)</p> <p>Topics: Americans with Disabilities Act on the Internet; Government Access, Surveillance, Searches & Seizures</p> <ul style="list-style-type: none"> ➤ Guest Speaker on ADA and the Internet: Stephanie Schuster https://www.morganlewis.com/bios/stephanieschuster <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p>

	<ol style="list-style-type: none"> 1. Grimmelman, pp. 195-243 [Prepare Questions pp. 210, 216, 224] 2. Watch <i>Citizenfour</i> Documentary (2014) https://www.youtube.com/watch?v=NRzDsxUOm4M 3. Watch “NYT, How China’s Surveillance Is Growing More Invasive,” https://www.youtube.com/watch?v=Oo_FM3mjBCY
Nov. 1	<p>Privacy (Week 10) Key Issues in Privacy—Injury, Privacy Torts, Privacy Policies, and FTC Enforcement</p> <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Solove & Schwartz, pp. 164-174, 184-188, 200-216 [Prepare Notes & Questions pp. 169-170, 187-188, 206-210]. 2. ChatGPT Privacy Policy, https://openai.com/policies/privacy-policy 3. Listen to Oral Argument, Spokeo v. Robbins, https://www.supremecourt.gov/oral_arguments/audio/2015/13-1339
Nov. 8	<p>Privacy (Week 11) Key Issues in Privacy—VPPA, COPPA, TCPA, CAN-SPAM, CCPA, GDPR</p> <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Solove & Schwartz, pp. 239-242, 258-265, 292-305 [Prepare Notes & Questions pp. 241-242, 262-265, 293-294, 304-305] 2. Grimmelman, pp. 311-320 3. Watch: Attorney General Bonta Announces First Public Enforcement Action Under CCPA, https://www.youtube.com/watch?v=mT8jT8LW8XE 4. Interview with Dr Andrea Jelinek (European Data Protection Board) - EDPD 2019, https://www.youtube.com/watch?v=U7Q8fUk_7bl&t=165s 5. Apple backs federal privacy laws in the US, says Tim Cook Street Signs Europe, https://www.youtube.com/watch?v=q9H-UMaag0o
Nov. 15	<p>Hot Topics in Privacy (Week 12) Topics: Biometric Data; Artificial Intelligence</p> <ul style="list-style-type: none"> ➤ Guest Speaker on Biometric Privacy: Elizabeth Herrington https://www.morganlewis.com/bios/bethherrington <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p>

	<ol style="list-style-type: none"> 1. Illinois General Assembly, Biometric Information Privacy Act” http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3004&ChapterID=57 2. Solove & Schwartz, pp. 306-309 3. Watch: ABC News, OpenAI CEO, CTO on risks and how AI will reshape society, https://www.youtube.com/watch?v=540vzMlf-54 4. I, Robot Movie Clips, https://www.youtube.com/watch?v=zdb-WyRwaGU
Nov. 29	<p>Trademark, Copyright & Patent...on the Internet (Week 13)</p> <p>➤ Guest Speaker on Intellectual Property and the Internet: Julie Goldenberg https://www.morganlewis.com/bios/jgoldenberg</p> <p>***Complete the Below Prior to Class ***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Trademark Team: Grimmelman, pp. 367-383 [Questions p. 382-383] 2. Copyright Team A (Copyright Basics and Copyright Act): Grimmelman, pp. 401-432 [Questions pp. 410, 416-17] 3. Copyright Team B (Licenses and Fair Use): Grimmelman, pp. 436-462 [438, 447, 457, 462] 4. Patent Team: Grimmelman, pp. 531-546 [Questions p. 537, 541, 545]
Dec. 6	<p>Wrongful Access to the Internet (Week 14)</p> <p>Topics: Contracts on the Internet, Trespass to Chattels, Computer Misuse (CFAA), Hacking</p> <p>***Complete the Below Prior to Class***</p> <p><u>Assignment</u></p> <ol style="list-style-type: none"> 1. Grimmelman, pp. 332-352 [Prepare Questions pp. 339, 352]