



Internet Law (Law 793)
Professor Eric Goldman
Fall 2018

1. SESSIONS. We'll meet Tuesdays and Thursdays 9:00 to 10:20 am, from August 14 to November 20, in Charney 104. We'll not meet on September 11 due to Rosh Hashanah and October 9 due to Fall recess. A guest lecturer will speak on October 25 instead of me. An optional review session will be on November 26, noon to 1:30ish, in Charney 104.

2. BOOK. You can download the casebook PDF from Camino (https://camino.instructure.com/files/2236164/download?download_frd=1). If you prefer a hard copy (as I do), print the PDF or buy it for \$24 + shipping from <https://amzn.to/2uUs1P6>. The guest lecturer may assign additional reading.

3. GRADING.

Attendance. In-class material and discussions are crucial to this course, so I expect you to attend every class session. However, because our lives are unpredictable, you have five “free passes” for unexcused absences. Let me know about an upcoming absence only if you are asking me to excuse it. I excuse absences rarely; and job interviews don't get an excuse (but they are good news!). Your sixth unexcused absence will reduce your final course grade a lot. At my option, I may drop you from the course or give you an F upon a seventh unexcused absence. I award a small “perfect attendance” prize to students who attend every class session.

Each class session, I will circulate a sign-in sheet. Make sure to sign it before I leave the room. **IF YOU COME TO CLASS BUT DON'T SIGN IN, IT WILL COUNT AS AN ABSENCE.**

Optional Midterm Project. There will be an optional midterm project. I hope you do it. I *especially* encourage you to do it if this is your first semester at Santa Clara Law (if you're a new LLM, visitor, transfer, etc.). Past students have occasionally run into serious problems on the final exam that could have been avoided with some prior feedback.

The midterm will be a one-question take-home essay exam with a word count cap. The midterm's procedural rules will resemble the final exam rules discussed below, including the fact that late midterms will not be graded. The midterm will be available October 19 at 10:00 am and, if you want to participate, your answer must be submitted no later than October 22 at noon (all times in this syllabus are Pacific time, and all dates are 2018).

I will route your answer to a peer, and a peer's answer to you. To complete the midterm project, you will write a short evaluation memo of your peer's midterm answer. I'll provide more specific parameters for the evaluation memo closer to the date. I anticipate most evaluation memos will be 500 words or less. The evaluation memo will be due to me by October 28 at 5:00 pm. When I

have finished grading, I will return your midterm to you with my comments and your peer's evaluation memo.

The midterm project is graded on a pass/no pass basis. All completed and timely projects will pass, irrespective of their substantive correctness, unless there are procedural violations (such as violating the Academic Integrity policy/pledge or the midterm's rules) or if I, in my sole discretion, feel you didn't take the project seriously.

If you earn a pass on the midterm project, I will add 1 point to your raw final exam score. That point might boost your final course grade by a half-grade. Also, midterm feedback should help you perform better on the final exam. Except for Academic Integrity policy/pledge violations, skipping or not passing the midterm will not change your final course score.

My apologies, but grading papers during a semester takes me a long time. I will try hard to return the midterms and evaluation memos before Thanksgiving. My written comments may be sparse, but I will also provide a sample answer.

Short Papers.

Paper #1: Download the Harvard Law School case study, "Algorithmic Allegories (v1.0)" from <https://casestudies.law.harvard.edu/algorithmic-allegories-version-1-0/>. To download it, you will need to create an account, but the case study itself is free. It contains six hypothetical cases. Answer ONE of the six hypothetical cases in 500-1,000 words. This paper is due September 4 at 9:00 am. Paper #1 comprises 5% of your final numerical score.

Paper #2: Write a paper applying Internet law from class to a first-hand experience of yours. Here are some possible topics, but don't feel limited to these:

- Critique an online service's contract formation process that you went through.
- Discuss when a website removed your content, you tried to access content that had been removed unexpectedly, or you tried to remove content from a website that you felt violated your rights.
- Discuss when a website engaged in activities you felt violated your privacy.
- Discuss a purchase in an online marketplace (like eBay/Amazon Marketplace, Airbnb or Uber/Lyft) that went wrong.

Please don't reveal anything that I would need to report on a State Bar Character & Fitness questionnaire or where you broke the law if it's within the applicable statute of limitations. If you absolutely can't think of any personal experiences to write about, then apply Internet law to a recent news event that catches your eye.

Your paper should be between 500-1,000 words. Feel free to include screenshots. This paper is due no later than December 14 at noon. However, if you submit it before 5 pm on November 19, I will return it with my comments before the exam period. Paper #2 comprises 5% of your final numerical score.

Paper #3: Answer the following question and explain why: “The thing that surprised me most about Internet Law is...?” This paper has a word count cap of 750 words. Paper #3 is due no later than December 14 at noon. Paper #3 comprises 10% of your final numerical score.

Paper Grading. I will grade papers #1 and #2 on a 0-2 scale. I will grade paper #3 on a 0-3 point scale. Almost all papers will get a 2 (roughly, “met expectations”). Historically, I’ve given 3s to about 5% of paper #3s. 1s are for papers that didn’t meet my expectations because I feel (in my sole judgment) that the paper was executed rotely or perfunctorily. 0s are for process violations. I normally don’t write a lot of comments on each paper.

Midterm/Short Paper Submission Procedures. Please submit each paper to the designated submission page in Camino. I very much prefer PDFs over Word files. Include your name and a word count on each paper. At each deadline, Camino will automatically shut down the paper submission functionality. If your paper is late (even by one minute per Camino’s clock), you will get a zero on that paper. **NO EXCUSES.**

Final Exam. The final exam will count 80% towards your final numerical score. The final exam will be a take-home exam with 1 or 2 essay questions and a maximum word count. You will checkout and return your exam electronically through Examssoft. The earliest checkout time will be November 28 at 10:00 am and the latest check-in time will be December 14 at noon. The Examssoft timestamps are irrebuttable evidence of your checkout and return times. Make sure you get confirmation that your answer successfully uploaded to Examssoft.

You will have 73 hours to return your answer, starting from the time you download the exam. Writing your answer will require much less time than that. I expect additional work after the sixth or seventh hour of work will not materially improve your exam grade (or may counterproductively reduce it).

I do not accept late exams, period. **YOU WILL FAIL THE COURSE IF YOUR EXAM IS NOT RETURNED ON TIME—EVEN IF YOU ARE LATE BY LESS THAN A MINUTE.** **NO EXCUSES.** For example, you will fail the course if the deadline is imminent and, as you try to upload your wise and insightful answer, your computer spontaneously shuts down, your neighbors are watching porn videos on a shared Internet connection, or you experience any other seemingly unexpected technological snafu that represents Murphy’s Law in action. As a result, only risk-seeking or foolish students will upload their answer close to their deadline.

I strongly encourage you to review my past exams to understand my exam style. You can find past exams and sample answers at my website (note the law may have changed in the interim).

I cannot answer substantive questions after the exam period opens on November 28. Please plan your exam prep accordingly.

4. RECORDINGS. I plan to make and post audio and video recordings of all course sessions (except the guest lecture). If you have any concerns about this, please let me know ASAP.

5. OFFICE HOURS. I am typically in my office 9-6 M-F. Drop by at your convenience. I keep my office door closed to reduce the noise I impose on students studying in the library, so just knock! Or, email me a few convenient times to meet and we'll schedule an appointment.

6. READINGS. For week #1, read pages 1-31 of the casebook and start working on paper #1. I'll announce subsequent weeks' readings at the end of each Thursday's session. Note: the book's table of contents links to various statutes and rules. I expect you to be familiar with that material for the exam.

7. SOME UPCOMING RELEVANT EVENTS.

- 9/24 at noon: DJ Patil, first U.S. Chief Data Scientist, speaking about engineering ethics
- 11/8-11/9: California Lawyers Association's IP Institute in San Jose. See <https://calawyers.org/Sections/Intellectual-Property-Law/Education/IP-Institute>.
- 11/12 at noon: Sue Helper, former Chief Economist of the U.S. Commerce Department, speaking about automation, AI, and the future

8. LEARNING OBJECTIVES. My objectives for students taking this course:

- Learn the basic nomenclature and concepts of Internet technology.
- Understand Internet exceptionalism and some arguments for and against it.
- Learn the basic nomenclature and doctrinal principles of Internet law.
- Practice brainstorming business options and evaluating the pros/cons of those options.
- Practice writing about Internet law topics in different formats.
- Consider the theoretical and practical dilemmas that arise when applying laws to rapidly developing technologies, and develop practical ways to cope with these dilemmas.

9. CONTACT INFORMATION.

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You can keep up with Internet law developments at my blog [<http://blog.ericgoldman.org>] and on Twitter [<https://twitter.com/ericgoldman>]. More course-related materials are available at [<http://www.ericgoldman.org/cyberlaw.html>].

Additional Disclosures

Academic Integrity

Honesty and integrity are qualities that are essential to the legal profession. Students preparing to enter this profession must conduct themselves in accordance with these qualities in all of their professional activities, including with respect to the School of Law. Accordingly, law students shall act with honesty and candor, and shall fulfill obligations of good faith and fair dealing in their relations with their peers, University faculty and staff, and the professional legal community at large. The Academic Integrity Policy

[<http://law.scu.edu/bulletin/academic-integrity-policy/>] spells out the School of Law's expectations for law students in this regard.

Further, the University's Academic Integrity pledge is an expression of the University's commitment to fostering an understanding of – and commitment to – a culture of integrity at Santa Clara University. The Academic Integrity pledge, which applies to all students, states:

I am committed to being a person of integrity. I pledge, as a member of the Santa Clara University community, to abide by and uphold the standards of academic integrity contained in the Student Conduct Code.

Students are expected to uphold the principles of the Law School Academic Integrity Policy and the SCU Academic Integrity pledge for all work in this class.

Disabilities Resources

If you have a disability for which accommodations may be required in this class, please contact Disabilities Resources [<http://www.scu.edu/disabilities>], Benson 216, as soon as possible to discuss your needs and register for accommodations with the University. All accommodations are provided through the Office of Disabilities Resources.

Disabilities Resources must be contacted in advance to schedule proctored examinations or to arrange other accommodations. For more information you may contact Disabilities Resources at (408) 554-4109.

Accommodations for Pregnancy and Parenting

In alignment with Title IX of the Education Amendments of 1972, and with the California Education Code, Section 66281.7, Santa Clara University provides reasonable accommodations to students who are pregnant, have recently experienced childbirth, and/or have medical needs related to childbirth. Pregnant and parenting students can often arrange accommodations by working directly with the Law Student Services Office. Alternatively, a pregnant or parenting student experiencing related medical conditions may request accommodations through Disability Resources.

Discrimination and Sexual Misconduct (Title IX)

Santa Clara University upholds a zero-tolerance policy for discrimination, harassment and sexual misconduct. If you (or someone you know) have experienced discrimination or harassment, including sexual assault, domestic/dating violence, or stalking, I encourage you to tell someone promptly. For more information, please consult the University's Gender-Based Discrimination and Sexual Misconduct Policy [<https://www.scu.edu/media/offices/student-life/policies/GenderBasedDiscriminationandSexualMisconductPolicyPublication.pdf>] or contact the University's EEO and Title IX Coordinator, Belinda Guthrie, at (408) 554-3043, bguthrie@scu.edu. Reports may be submitted online through [<https://www.scu.edu/osl/report/>] or anonymously through Ethicspoint [<https://www.scu.edu/hr/quick-links/ethicspoint/>].