

# CYBERLAW SEMINAR FALL 2023 SYLLABUS

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**Meetings**     **Location:** 218  
**Class Times:** T 10:00 AM – 12:00 PM  
**Office Hours:** Signups available on Canvas  
**Academic Calendar:** [Link](#)

**Evaluation**     Your grade in this course is assessed as follows:

- **Topic Selection, Abstract, and Outline: 10%**
- **First Draft: 10%**
- **Final Draft: 60%**
- **Student Panel Oral Presentation: 20%**

**Materials**     **Required Books:** Fajans and Falk's *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers*, 5<sup>th</sup> (West) available at: <https://www.westacademic.com/Scholarly-Writing-for-Law-Students-Seminar-Papers-Law-Review-Notes-Law-Review-Comp-Papers-5>

*The Bluebook: A Uniform System of Citation* (21st Edition) available at: <https://www.legalbluebook.com/buy>

**Scope**     Cyberlaw examines the effect of the internet on the law, and of the law on the internet. It provides a petri dish to examine how technology interacts with and impacts the entire law. In a richer sense, Cyberlaw shows how intermediated network technologies can disrupt existing forms of power—laws, markets, and social norms—in unexpected ways, creating new centers of norms and power. In that sense, Cyberlaw is a study of how technology brings chaos as well as unexpected order. Whether the chaos and order are good will be a central and recurring question. Topics covered will vary depending on current developments in law and technology and one can expect the class to regularly confront ongoing events.

This Seminar has a focus on Artificial Intelligence. All student topics must include a component dealing with the regulation, adoption, use, or misuse of A.I.

**Civility**     Your reputation earned while in school follows you into practice. The [Florida Bar](#) makes clear: "[t]he essential ingredients of professionalism are character, competence, commitment, and civility." I expect the same in class.

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*Disclaimer:* While I am a Florida licensed lawyer, I am not *your* lawyer.

- Policy** There are no “stupid questions” in my class. Do not be afraid to ask questions, express opinions, or challenge my representations, however, please contribute only after reflection and deliberation.
- Plagiarism** Outside assistance from others without proper citation and credit, human or otherwise, will not be tolerated. Any violation of this policy constitutes a violation of the *St. Thomas University College of Law Honor Code*. Artificial intelligence (AI) language models, such as ChatGPT, may be used for any assignment with appropriate citation. You are responsible for fact checking statements composed by AI language models.
- Technology** [The Florida Bar wants technologically competent lawyers.](#) You are free to use technology in whatever manner you deem, in your reasonable judgment, best to advance your professional development in my class, if you do so in a manner that does not distract your classmates. However, your phone should be put away on silent and you are not permitted to record class.
- Absences** There are no excused absences in this class. You are permitted to miss 20% of this course's sessions under both STU College of Law and ABA Policy. If you have a personal, family, or other emergency problem that will cause you to miss 20% or more of class, you need to contact the Assistant Dean for Student Affairs, as soon as possible. It is your responsibility to sign the attendance sheet before you leave the room. I do not retroactively correct the attendance sheet.
- Tardiness** [A professional arrives early](#) and [never makes excuses](#). Late students are not admitted as I lock the door at the start of lecture. Habitual unpreparedness will earn you a zero for your participation and professionalism grade.
- Disability** If you believe that you need or are entitled to receive accommodations due to a disability, please consult with the Assistant Dean for Student Affairs as soon as possible. Further information can be found at: <http://www.stu.edu/law/students/disability-accommodations>.
- Copyright** All class materials constituting my works of authorship are subject to a [Creative Commons CC-BY-NC-ND 4.0 International License](#). These include my study guide and other practice materials. You are not permitted to photograph my PowerPoints during class. Rights in all other materials are retained by their respective publisher and authors.
- Changes** I reserve the right to amend the syllabus as I deem necessary, for any reason, with written notice to you through Canvas or email.

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- Websites** All project requirements will be submitted through the course page on Canvas. My companion website contains an updated list of assignments and topics for the semester. I may adjust the discussion plans based on student interest.
- Schedule** The topics for the semester are listed below but may be adjusted based on student interest. The complete assignments for the first two classes are included. Future reading assignments will be posted with a minimum of a week's notice.
- Discussions** Starting with the second week of Class (Classes 2-5), four students on a student panel will serve as the discussion leaders each session. On your assigned week, you are to post three questions on Canvas under the assignments tab prior to class. You can find your assigned day by checking the Reading Assignments post. You can find your assigned panel there as well.
- For the following four classes (Classes 6-9), your panel will need to submit a law review article at least two weeks prior to your assigned class for the group to read. You should post the citation to the paper in the corresponding discussion for your assigned day. You also need to post three unique discussion questions, as before.
- For the final four classes (Classes 10-13), you will present your paper on your assigned day. In addition to submitting your first draft on Canvas to me, you will need to circulate it to your co-panelists so that they can prepare their questions for your paper in advance of your discussion.

Date	Topic
Aug 22	<b>Class 1: Algorithms, Machine Learning and Artificial Intelligence</b>

## Readings

- Harry Surden, *Artificial Intelligence and Law: An Overview*, 35 Georgia State U. L. Rev. 4 (2019) (**read Part I**); <https://ssrn.com/abstract=3411869>
- Choi, et al., *Chat GPT Goes to Law School*, (forthcoming) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4335905](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4335905)
- Frye, et al., *Should Using an AI Text Generator to Produce Academic Writing Be Plagiarism?* (**skim**) 33 Fordham Intellectual Property, Media & Entertainment Law Journal 947 (2023) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4292283](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4292283)

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- Merken, *New York lawyers sanctioned for using fake ChatGPT cases in legal brief*, Reuters, <https://www.reuters.com/legal/new-york-lawyers-sanctioned-using-fake-chatgpt-cases-legal-brief-2023-06-22/>

## Videos

- *What is Artificial Intelligence*, Crash Course Artificial Intelligence # 1, [https://www.youtube.com/watch?v=a0\\_lo\\_GDcFw&t](https://www.youtube.com/watch?v=a0_lo_GDcFw&t)
- *Machine Learning and Artificial Intelligence*, Crash Course Computer Science #34, <https://www.youtube.com/watch?v=z-EtmaFJieY> (11:51)

## 29 Class 2: Copyrights & Authorship

### Readings

- F&F 1-26
- 17 U.S.C. 102
- 17 U.S.C. 106
- U.S. Const. Art. 1 Section 8 Cl. 8
- U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 37 CFR Part 202 (2023) <https://www.federalregister.gov/documents/2023/03/16/2023-05321/copyright-registration-guidance-works-containing-material-generated-by-artificial-intelligence>
- U.S. Copyright Office, *Re: Zarya of the Dawn* (Registration # VAu001480196)(Feb. 21, 2023) <https://www.copyright.gov/docs/zarya-of-the-dawn.pdf>
- Grimmelmann *There's No Such Thing as a Computer-Authored Work – And It's a Good Thing, Too*, 39 Columbia Journal of Law & the Arts 403 (2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2699862](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2699862)

### Videos

- *ChatGPT and Generative AI are Hits! Can Copyright Law Stop Them!* <https://www.youtube.com/watch?v=bRqwTP2eKJY>

### Discussion Panel

- Group 1

## Sept 5 Class 3: Social Media & Content Moderation

### Guest Speaker, Ken "Popehat" White

- <https://brownwhitelaw.com/kenneth-p-white/Links to an external site.>

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- <https://popehat.substack.com/about>Links to an external site.

## Readings

- F&F 27-63
- 47 U.S.C. 230
- *Zeran v. America Online, Inc.*, 129 F.3d 327, (4th Cir. 1997) <https://casetext.com/case/zeran-v-america-online>Links to an external site.
- Mike Masnick, *Hello! You've Been Referred Here Because You're Wrong About Section 230 of the Communications Decency Act*, (June 23, 2020) <https://www.techdirt.com/2020/06/23/hello-youve-been-referred-here-because-youre-wrong-about-section-230-communications-decency-act/>Links to an external site.
- Eric Goldman, *An Overview of the United States' Section 230 Internet Immunity*, Santa Clara Univ. Legal Studies Research (December 1, 2018) <https://ssrn.com/abstract=3306737>Links to an external site. or <http://dx.doi.org/10.2139/ssrn.3306737>Links to an external site.
- Elliot Harmon, *No, Section 230 Does not Require Platforms to be "Neutral"* (April 12, 2018), <https://www.eff.org/deeplinks/2018/04/no-section-230-does-not-require-platforms-be-neutral>Links to an external site.

## Discussion Panel

- Group 2

## 12 Class 4: Patents & Inventorship

### Readings

- F&F 63-73
- 35 U.S.C. 101
- 35 U.S.C. 100(f)
- 1 U.S.C.(a)("individual")
- *Thaler v. Vidal*, No. 2021-2347 (Fed. Cir. 2022)
- Wicklund, Daniel, *The AI Quid Pro Quo Problem: Suggesting a Framework for Patents Involving Artificial Intelligence-Assisted or -Created Inventions*. 14 Wm. & Mary Bus. L. Rev. 729 (2023)(skim), <https://ssrn.com/abstract=4369844>Links to an external site.

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## Discussion Panel

- Group 3

## 12 Topic Proposals Due by 5:00 PM

19 **Class 5:** *Robot Wrongs, Volition, & Personhood*

## Readings

- F&F 75-92
- *Blueprint for an AI Bill of Rights*, the White House, [https://www.whitehouse.gov/ostp/ai-bill-of-rights/Links to an external site.](https://www.whitehouse.gov/ostp/ai-bill-of-rights/Links%20to%20an%20external%20site)
- *A European Approach to AI*, European Commission, [https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligenceLinks to an external site.](https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligenceLinks%20to%20an%20external%20site)
- Solum, Lawrence B., *Legal Personhood for Artificial Intelligences*. *North Carolina Law Review*, Vol. 70, p. 1231, 1992, Illinois Public Law Research Paper No. 09-13, Available at SSRN: [https://ssrn.com/abstract=1108671Links to an external site.](https://ssrn.com/abstract=1108671Links%20to%20an%20external%20site)

## Discussion Panel

- Group 4

26 **Class 6:** *Criminal Due Process, Discrimination & Bias*

## Readings

- F&F 93-118
- Panel Submission TBA

## Discussion Panel

- Group 1

26 **Draft Abstract Thesis & Outline Due by 5:00 PM**

Oct 3 **Class 7:** *Surveillance and Social Credit Scores*

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## **Readings**

- F&F 119-141
- Panel Submission TBA

## **Discussion Panel**

- Group 2

## 10 **Class 8: *Virtual Competition & Antitrust***

### **Readings**

- F&F 143-163
- Panel Submission TBA

### **Discussion Panel**

- Group 3

## 17 **Class 9: *National Security and A.I. Warfare***

### **Readings**

- F&F 165- 185
- Panel Submission TBA

### **Discussion Panel**

- Group 4

## 17 **First Draft Due by 5:00 PM**

24 **Class 10: Student Panel 1**

31 **Class 11: Student Panel 2**

Nov 7 **Class 12: Student Panel 3**

14 **Class 13: Student Panel 4**

7 **Final Draft Due by 5:00 PM**