SI 519 Intellectual Property and Information Law
School of Information
Fall Term 2020

Melissa Levine, Instructor
Director, University of Michigan Library Copyright Office
http://www.lib.umich.edu/users/mslevine
lib.umich.edu/copyright

Meet on Thursdays from 8:30 to 11:30 am
Remote / Online Classroom (Note: we are assigned North Quad 2185 should face to face meetings become feasible.)
Office Hours - Standing time on Mondays from 12:00 noon to 1:00 pm or by appointment.

Videoconferencing etiquette
Getting Started with Zoom

Key Dates 2020
Thursday, September 3 - first session for this class via Zoom
Thanksgiving Break
Monday, November 30 to December 8 - Remote classes
December 10-18 - Finals Period (There is no final exam for this class.)

Syllabus
This syllabus is a guide. This syllabus will evolve in response to current events and topics of particular interest of the class. I’ll give you as much notice as possible if we’re going to change something. I encourage you to bring up areas of interest and current events throughout the term. Most readings are freely online or electronically through your access to University of Michigan Library collections. There may be times when you prefer to purchase particular items, but I design the course around openly available materials -- for this course, there are abundant, relevant and important resources freely available or from the library.

Course Description
This course explores interrelated and sometimes competing legal and policy frameworks for the development and dissemination of ideas and expression in the very broad context of information and the internet. We will examine the ways in which principles of free speech and expression relate to intellectual property rights – and how these legal concepts are related to the advancement of knowledge and innovation. We will focus on these areas of law and their interrelation to the Internet and evolving technologies. We will consider the impact of other legal considerations and values on the development and dissemination of ideas and information (such as security, privacy, local control versus national and international considerations, competition, and the protection of minors). The course will draw on examples from the worlds of education, memory institutions (libraries, archives, museums), business, and government, with a special emphasis on the changing nature, roles and responsibilities of educational institutions.

Course Learning Objectives
My overarching goal is for you to develop a framework for your future as an informed citizen and information professional. To this end, we will examine, analyze, and discuss the law and policy foundations of intellectual property and information law. We will consider essential concepts like freedom of speech, copyright law, and more to explore essential notions of fairness in:
The fundamentals of copyright, trademark, patent, privacy and speech. (Our focus will be primarily on US law, though we will delve into international law.)
The ways in which legal and policy frameworks shape the creation and dissemination of ideas and expression;
How new and rapidly evolving technologies challenge past assumptions and affect current law and policy; and
How law, values, and ethics affect the development and dissemination of ideas and information such as security, privacy, government regulation, international considerations, competition, and the protection of minors.

I want you to finish this course with a firm grasp of key policy and legal frameworks. With that in mind, we will include relevant current events into our classroom discussions in light of the dynamic nature of current and ongoing public discourse. By the end of this course, you will:

- Have a conceptual framework for understanding and applying information property and intellectual property concepts accurately.
- Be familiar with the language and concepts used by lawyers to discuss these issues and problems so that you can participate in a convincing and professional manner in policy discussions.
- Demonstrate an essential understanding of how intellectual property regimes are similar and different.
- Experience examining the legislative process and how these legal regimes affect commerce, freedom of speech, inquiry.

Course Format
Your readings may include legal cases, articles, actual and proposed legislation, book chapters, and some videos. We will discuss these readings through class discussion and augment them through role-playing, student presentations, an occasional guest-speaker, and analysis of current events. The discussions will be held via our weekly Zoom meeting on Thursdays -- and in the Discussion tool in Canvas.

Special note: I've taught SI 519 for several years as a face-to-face course. We are moving to an entirely remote semester in light of concerns regarding covid-19. I consider our classroom to be a jointly created learning environment whether in person or online. I ask for your cooperation and participation as we experience this semester together.

Attendance
The School of Information, its accrediting agency requires that you attend class sessions in order to receive credit for this course. Your in-class participation is essential for this course, and you will miss the opportunity to learn from and teach your colleagues if you do not attend. Should circumstances force you to miss a class, please inform me as early as possible prior to that class session.

Attendance this term will be via our time on Thursdays, 8:30 to 11:30 via our Zoom classroom and using Canvas. I anticipate doing lectures on video that you will view either pre-class or together during class time with class discussions relevant to the week’s subject. Please reserve this time for class and class work. Some time will be dedicated to synchronous discussion. We may also do break out conversations or small group meetings with me, for instance.
Evaluation

I will base your final grade on your active participation in class and the assignments. All Assignments will be made via Canvas.

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<thead>
<tr>
<th>Assignment and Weight</th>
<th>Due Dates &amp; How to Submit</th>
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<tbody>
<tr>
<td>Participation - 15%</td>
<td>Throughout course - I evaluate this incrementally and at the end of the term considering your overall contributions to Discussion threads in Canvas and in Zoom classes over the term. Some weeks will be better than others - you aren’t penalized for having a mediocre week if you are otherwise engaged. (Note: this means in Canvas it may look like your grade is lower than it actually is - don’t worry about it.)</td>
</tr>
<tr>
<td>Monitor chat in Zoom for a day - 10%</td>
<td>Sign up for a date (3 or so students per class); confirm in a Canvas quiz after you’ve served as a chat monitor. (Why? It helps me focus on teaching while working with you to facilitate our discussion. It helps you and classmates internalize the material.)</td>
</tr>
<tr>
<td>Take notes in shared Google Doc for a day - 10%</td>
<td>Sign up for a date; confirm in a Canvas quiz after you’ve served as a notetaker. Here, we’ll keep a document for and by the class in a shared Google Doc, taking turns as notetakers. (Why? It helps with listening. As an expected way to participate in professional situations today, it is a skill worth honing. It also creates a pretty interesting set of notes. This may NOT be the same day that you Monitor chat in Zoom! You’ll go bonkers.)</td>
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| Short Papers (2) – 15% each | Short Paper #1  
**September 17** - Topic Released in Canvas  
**September 25 (midnight)** - Due in Canvas  
500 words  
Single spaced  

Short Paper #2  
**October 1** - Topic Released in Canvas  
**October 9** - Due in Canvas  
500 words  
Single spaced  

Submit papers in Canvas for grading. You will share your first draft with a few students in breakout groups during class to proof and comment on each others’ work. I will read your final version and provide comments to you. Confirm in a Canvas quiz that you have submitted your paper. |
| Abstract for Final Paper - 5% | **October 2** – **Submit your topic and abstract** consisting of a draft title, thesis statement, and a short paragraph about the topic (abstract). |

Citations are in addition so a 500 word essay might include 750 words with the citations.
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<th>Final Papers - 20%</th>
<th>You will list your topic on the Canvas website to be shared with all students in the course.</th>
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| You will explore a course-related topic of particular interest. This will be on a topic of your choice. It will be shared with the class for discussion in the final weeks of our class as a capstone for each of you. Ideas may also be found in the LOOK readings in this syllabus, and you are free to suggest other topics. | December 1 (midnight) – Final Papers Due  
(Due early enough for everyone to read before the last two classes.)  
1500 to 2000 words, about 5 pages, single-spaced. This excludes the title, any footnotes and references. Submit in Canvas to share with classmates and for grading. Submit a copy in this folder in Google Docs to share with the class: Optional - Class time for sharing drafts for proofing and comments from other students in a breakout group before handing in. |

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<th>Presentations on Final Paper - 10%</th>
<th>We’ll set up a single, shared Google Slides template. Each of you will plug in the slides for your talk. Talks are typically 8 minutes or so depending on the number of presentations.</th>
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</table>
| Final papers will be shared with the class. You will give a short talk to the class and lead an informal discussion. (Why? This gives you the opportunity to share your interests and discoveries with your colleagues. It also helps you practice an expected professional skill.) | December 3 and 10 - In Class  
Think about this paper as an opportunity for independent study. After taking this course, several of my past students developed these into award-winning papers, published articles, and masters theses. What are you interested in? Is there something that would be useful for your professional development or personal curiosity? |

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<th>Extra Credit or in lieu of Chat or Note-Taker items, above:</th>
<th>~750 words pages, about 2 pages, single-spaced.</th>
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| Final Short Paper: Reflection on Classmates’ Final Papers, Presentations, and the course - 10% | Submit in Canvas. Confirm in quiz that you submitted  
Due December 18 (in lieu of in-class exam) |

### Papers
You will write several short papers for this course. The papers will (1) give you an opportunity to demonstrate to what extent you understand and can communicate thoughtfully about the fundamental principles of this course; (2) provide the foundation for a discussion for us as student, instructor, and your classmates as colleagues; and (3) give you an opportunity to think...
deeply and write critically about the aspects of intellectual property and information law that interest you.

- Please submit your papers on the due date established.
- *I will not review late papers unless you make arrangements with me beforehand - or you have a dire emergency.*
- The due dates allow me to comment on your work in a timely manner.
- Strong papers will offer reasoned arguments and positions on issues – rather than mere descriptions of what others have written – supported by research, evidence, and innovative thinking. (Higher levels of Bloom’s taxonomy.)
- Pay careful attention to your writing style so that you convey your thoughts as clearly and effectively as possible.
- Your writing assignments may include citations to applicable class readings as well as to outside research materials.
- You will discuss your drafts with classmates. If you get an important idea from a classmate, cite them as the source.
- I read each of your written assignments carefully and will try to provide feedback within 72 hours.

Please comply with the format requirements to help me read your work quickly and efficiently. DO NOT get creative with the format unless asked to do so - it makes it harder for me to read your work. Written assignments will follow the following format:

- Single-spaced with breaks between paragraphs
- 1” margins
- Times Roman 12 point font
- Your name and assignment title in header (“Suzy Student, Short Paper 1”)
- APA citation style

I encourage you to use a citation tool like Zotero. Citation management tools will make your academic lives infinitely easier and more productive. Contact Shevon Desai in the U-M Library to learn how to use these tools or for any questions about help and ideas from your library.

Presentations
You will give one brief, formal presentation related to one of the class topics we cover this term based on your Final Paper. I will work with each of you to select a subject appropriate for you and the class. You will develop a short (4-5-sentences) abstract that we’ll discuss. We’ll meet early enough in the term so you can refine your topic. Once approved, you will list it in Canvas with your classmates’ topics.

Participation
You will also give informal presentations or lead discussions throughout the course as part of your class participation, typically on the assigned reading material.

By taking this class, we are entering a kind of partnership. I chose readings that will allow us to have vibrant class discussions (even in a remote class setting online), applying what we learn in those readings. Our class time is a combination of lecture and guided discussion.
I will carefully schedule a series of activities for each class that will, ideally, allow us to enjoy our exploration of intellectual property and information law. In exchange, I ask for your diligent and enthusiastic participation in the class discussions (whether in a Canvas discussion thread or during our synchronous time together).

I will assume that you have read and understood the readings, and will bring any questions to the class for exploration and clarification. **While I encourage you to challenge notions that you read about or hear about during this class, you will treat the members of this class cordially and with the utmost respect.**

I expect you to be fully prepared for each class. Be prepared to discuss the facts, issues, and holdings of assigned cases, lead conversation about their implications, relate them to other aspects of the course to-date and general news of the day as it relates to our course.

Please contact me as soon as you know you may be absent in case of illness or emergency.

**Meetings Outside Class**
Plan to meet with me at least once during the semester to discuss paper or presentation topics or other issues of interest (*e.g.*, career options).

I am available during the regular business day by appointment at my office in the Shapiro Library, Room 4020 or via Zoom. To schedule an appointment with me, email me at mslevine@umich.edu or call 734-615-3194. I frequently check my email; email is the best way to contact me.

**Canvas**
Please use the Canvas tools to forward articles or Announcements that relate to the subject matter of our class. I use the Canvas Announcement tool to communicate important information to the whole class.

**Academic Integrity and Collaboration**
UMSI strongly encourages collaboration while working on some assignments, such as homework problems and interpreting reading assignments as a general practice. Active learning is effective. Collaboration with other students in the course will be especially valuable in summarizing the reading materials and picking out the key concepts. You must, however, write your homework submission on your own, in your own words, before turning it in. If you worked with someone on the homework before writing it, you must list any and all collaborators on your written submission. Each course and each instructor may place restrictions on collaboration for any or all assignments. Read the instructions careful and request clarification about collaboration when in doubt. Collaboration is almost always forbidden for take-home and in class exams.

**Plagiarism**
All written submissions must be your own, original work. Original work for narrative questions is not mere paraphrasing of someone else’s completed answer; you must not share written
answers with each other at all. At most, you should be working from notes you took while participating in a study session. Largely duplicate copies of the same assignment will receive an equal division of the total point score from the one piece of work. You may incorporate selected excerpts, statements or phrases from publications by other authors, but they must be clearly marked as quotations and must be attributed. If you build on the ideas of prior authors, you must cite their work. You may obtain copy editing assistance, and you may discuss your ideas with others, but all substantive writing and ideas must be your own, or be explicitly attributed to another. See the (Doctoral, MSI, BSI) student handbooks available on the UMSI intranet for the definition of plagiarism, resources to help you avoid it, and the consequences for intentional or unintentional plagiarism.

Copyright Integrity
Your work as a student at the University of Michigan will often involve considerations related to copyright and academic integrity. The library's guide to Copyright Basics provides information about your rights and obligations under copyright law. You can also contact the Library Copyright Office at copyright@umich.edu or visit their website to sign up for an online or in-person appointment. For resources on the related issues of plagiarism and academic integrity, please visit the Academic Integrity site maintained by the library and the Center for Research on Learning and Teaching.

Collaboration
I emphasize collaboration in this course as part of an active approach to learning. Collaboration with other students in the course is especially valuable in summarizing the reading materials and picking out key concepts. You must, however, write your papers on your own, in your own words, before turning them in. You may work in groups on some projects: if you worked with someone on an assignment, you must list any and all collaborators on your written submission. Collaboration is almost always forbidden for take-home and in-class exams. (But I am not planning on giving any exams this term. That could change depending on the semester works out. But my plan is not to have formal exams.)

Original Work - No Plagiarism
All written submissions must be your own, original work. You may incorporate selected excerpts, statements or phrases from publications by other authors, but they must be clearly marked as quotations and must be attributed. If you build on the ideas of prior authors, you must cite their work. You may discuss your ideas with others, but all substantive writing and ideas must be your own, or be explicitly attributed to another. See the (Doctoral, MSI, MHI, or BSI) student handbooks available on the UMSI intranet for the definition of plagiarism, resources to help you avoid it, and the consequences for intentional or unintentional plagiarism.

Accommodations for Students with Disabilities
If you think you need an accommodation for a disability, please let me know at your earliest convenience. Some aspects of this course, the assignments, the in-class activities, and the way we teach may be modified to facilitate your participation and progress. As soon as you make me aware of your needs, we can work with the Office of Services for Students with Disabilities (SSD) to help us determine appropriate accommodations. SSD (734-763-3000; ssd.umich.edu/) typically recommends accommodations through a Verified Individualized Services and Accommodations (VISA) form. I will treat any information that you provide in as confidential a manner as possible.
Please do not hesitate to raise questions about approaches to learning, learning styles, and accessibility with me. I am fully committed to doing my best to support the best possible experience for each of you.

Student Mental Health and Well Being
The University of Michigan is committed to advancing the mental health and wellbeing of its students, while acknowledging that a variety of issues, such as strained relationships, increased anxiety, alcohol/drug problems, and depression, directly impacts students’ academic performance.

If you or someone you know is feeling overwhelmed, depressed, and/or in need of support, services are available. For help, contact Counseling and Psychological Services (CAPS) at (734) 764-8312 and https://caps.umich.edu/ during and after hours, on weekends and holidays. You may also consult University Health Service (UHS) at (732) 764-8320 and https://www.uhs.umich.edu/mentalhealthsvcs, or for alcohol or drug concerns, see www.uhs.umich.edu/aodresources.

Since many students are remote during fall 2020, CAPS COVID-19 Support features SilverCloud, an online, self-guided, interactive mental health resource that provides cognitive behavioral interventions.

For a more comprehensive listing of the broad range of mental health services available on campus, please visit: http://umich.edu/~mhealth/

Resources
I work in the University of Michigan Library. Take advantage of the expertise and collections provided by the Library. If you have general questions or want direction on citation tools, there is help. Shevon Desai is at the Library and typically has office hours at North Quad for part of the semester.

Shevon Desai, Communication and Information Studies Librarian

Feedback
Besides the formal feedback required by the SI at the end of the term, I also ask for feedback from you from time to time. I encourage any constructive suggestions for the course at any time during the term.

Guest Speakers
I’m working on having a few guest speakers this term either in recorded conversations that I’ll share with you -- or in synchronous class sessions where you’ll have the opportunity to talk with them. Guest speakers are scheduled according to their availability and their topics may not coincide with the topic for the given week. Right now, I’m talking to colleagues at the Metropolitan Museum of Art, ICANN, the UM Press, and UM office of government affairs about meeting with you.

Information for Students Regarding Religious Holidays and Academic Conflicts
http://www.provost.umich.edu/calendar/religious_holidays.html
Please let me know in advance of the dates of religious holidays on which you will be absent. I will do my best to work around such necessary absences. Although the University of Michigan,
as an institution, does not observe religious holidays, it has long been the University's policy that every reasonable effort should be made to help students avoid negative academic consequences when their religious obligations conflict with academic requirements. Absence from classes or examinations for religious reasons does not relieve students from responsibility for any part of the course work required during the period of absence.

Students who expect to miss classes, examinations, or other assignments as a consequence of their religious observance shall be provided with a reasonable alternative opportunity to complete such academic responsibilities. Such notice must be given by the drop/add deadline of the given term. Students who are absent on days of examinations or class assignments will be offered an opportunity to make up the work, without penalty, unless it can be demonstrated that a make-up opportunity would interfere unreasonably with the delivery of the course. Should disagreement arise over any aspect of this policy, the parties involved should contact the Department Chair, the Dean of the School, or the Ombudsperson. The provost will resolve final appeals.

Topical Overview and Readings
If you find a link that is not working, email me and communicate the correct link to the entire class via Canvas.

- READ means something is assigned and required.
- LOOK means something is of interest but optional.

Classes

Week 1 – Introduction and Foundations
   Read by class on September 3

Week 2 – The First Amendment, Speech & Expression, Defamation
   Read by class on September 10

Week 3 – Privacy and Surveillance on the Internet
   Read by class on September 17

Week 4 – Copyright Law
   Read by class on September 24

Week 5 – Copyright Law (continued)
   Read by class on October 1

Week 6 – Copyright Global Context
   Read by class on October 8

Week 7 – Trademark, Trade Secret
   Read by class on October 15

Week 8 – Open Dissemination and Access to Information
   Read by class on October 22
An overview of foundational laws and policies that determine how ideas and expression are developed and disseminated in our society, with a focus on cyberspace.

- Introduction and overview of the course; review of course requirements
- Introduction to U.S. Law – the court system; U.S. Constitution; legislation
- Introduction to the subject matter of the course – why intellectual property and information law are so important.

**Week 1 – Introduction and Foundations**

Read by class on September 3

**READ**

Before our first class on September 3, go to a favorite spot and read the Syllabus. Spend some time getting familiar with the way the Canvas site is organized. In our first class, we’ll take some time to get to know one another. Why did you sign up for this class? What do you hope to get from it? Do you have special topics you want to discuss?

**READ**

- Syllabus
- Review Canvas site
- [How to Give an Academic Talk](#) by Paul Edwards
These materials will give you an overview of the U.S. legal system to assist you in understanding the manner in which we implement and enforce intellectual property and information laws.

- Lawrence Lessig, Code 2.0, Chapter Code is Law, pp. 1-8
- The Constitution and The Bill of Rights (Legal Information Institute)

LOOK

- ALA Code of Ethics (professional values – preservation, access to information)
- IFLA Code of Ethics
- How to Read a Case
- How to Brief a Case

Week 2 – The First Amendment, Speech & Expression, Defamation

Read by class on September 10

- Origins and purpose of the First Amendment: underlying assumptions of freedom of expression.
- When and how do ideas become translated into “protected free speech”?  
- To what extent does protection for speech depend on its context or content?  
- Should the rules for the internet differ from those for other media?  
- What interests (both private and public) merit legal restrictions on the otherwise free dissemination of ideas and expression?  
- Are there particular persons that should have more or less protection from defamation?  
- How does the Internet change the way we think about defamation?

READ

- Carefully read the First Amendment. Why is something so short so complex? What IS speech?  
- This is an opinion by the US Supreme Court. The case is one in a line of challenges to laws passed by Congress intended to protect minors from pornography on the Internet. These laws are often in tension with First Amendment rights (adult speech). See Ashcroft v. ACLU, 542 U.S. 656 (June 29, 2004) Just read the Syllabus (the summary of the case) and Justice Kennedy’s Opinion. (Of course, feel free to read the whole case.)  
- See Libraries, Children & the Internet Questions & Answers from the American Library Association (ALA).  
- The following provides a general overview of defamation law principles – note the interesting ways defamation varies from country to country and culture to culture. How can we address these variations in a globally connected online world? Defamation (Wikipedia)  
- Before you write that scathing online review, beware of defamation, The Conversation, March 19, 2018
LOOK

- Anna Vamialis, Online Defamation: Confronting Anonymity, 21 Int’l J.L. & Info. Tech. 31 (2013) (find in HeinOnline from UM Library website - need to be logged in)
- Who is responsible? Barrett v. Rosenthal, 40 Cal.4th 33 (2006) is an opinion by the Supreme Court of California regarding service provider liability for defamatory comments. Start with this Wikipedia summary to get oriented, then read the case.
- Software as speech:
  - Junger v. Daly (6th Cir. 1999) (Case Western professor and encryption)
  - Bernstein v. US Department of Justice, 176 F.3d 1132 (1999) (encryption as ‘ammunition’ - Computer Fraud & Abuse Act)
- Printed 3D Guns example
- Software Speech, Essay
- Apple, the FBI, and Free Speech

Week 3 – Privacy and Surveillance on the Internet

Read by class on September 17

- What principles dictate when and why it is appropriate to regulate access to information?
- How does privacy apply in the online environment and is that different than at home or at work?
- Does technology blur traditional boundaries concerning our expectation of privacy?
- What are the rights and responsibilities of individuals, network providers, etc concerning security? [gdpr, snowden good or bad, service provider liability]
- What are the tensions inherent in the rights of privacy and speech? (intrusion?)

READ

- The following chapter provides a good overview of privacy issues: Lawrence Lessig, Code 2.0, Chapter on Privacy, pp. 200-232
- US PATRIOT Act “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001” Text from the GPO
- The USA PATRIOT Act, ALA
- European Union - ‘The Right to Be Forgotten’ - Explore this website: Data protection: Rules for the protection of personal data inside and outside the EU
- ‘Factsheet on the “Right to be Forgotten” ruling (C-131/12)
- Who is in control? How should it vary? Bringing new Redirect Method features to YouTube, July 20, 2017
- General Data Protection Regulation and California's Consumer Privacy Act (Wikipedia)
LOOK

- Introduction to Privacy (International Association of Privacy Professionals (IAPP))
- Carpenter v. US decided June 2018
- Data and Privacy
  - Facebook and Data For Good Public License
  - Facebook and Data for Good. A look at how other legal doctrines, government policy, design, or philosophy regulate technology, especially the Internet.
- Take a look at some of the policies that apply here at the University of Michigan to the subjects we'll discuss in this course. Peruse these to be generally aware of them. Are there other University policies you've wondered about?
  - SPG 201.17 Employment Oath
  - SPG 601.01 Freedom of Speech and Artistic Expression
  - 601.08-1 Identification, Maintenance, and Preservation of Digital Records Created by University of Michigan
  - SPG 601.12 Institutional Data Resource Management Policy
  - SPG 601.20 Music Performance License Fees
  - SPG 302.06 Michigan Historical Collections – Acquisitions

Week 4 – Copyright Law

Read by class on September 24

- Origins and purpose of intellectual property and law
- The bundle of rights involved in copyright
- What is the difference between ideas and tangible expression? Do these terms have distinct meaning in the digital age?
- In what ways has the Internet changed the norms and assumptions underlying intellectual property protection?
- How do the purposes of intellectual property and free expression relate to each other?
- What is the relationship between limits on intellectual property protection (e.g., fair use doctrine or patentable subject matter restrictions) to the First Amendment?

- Read “Copyright Basics” circular from this list of resources from the US Copyright Office. Note the other topics covered and explore the site.
- Read this overview of the key provisions of U.S. Copyright Law - Jessica Litman, Digital Copyright, pp. 15-34 (full book is in Deep Blue, free)
- This 9th Circuit case addresses fair use regarding “thumb nail” reproductions of copyrighted materials. Kelley v. Arriba Soft Corp., (9th Cir. 2003)
- Can a magazine release a digital compilation of its past magazine issues? Review and compare outcomes and viewpoints:
  - Greenberg v. National Geogaphic (11th Cir. 2007)
  - New York Times v. Tasini - From the National Writers Union
This Supreme Court case addresses secondary liability for file-sharing technology. (Read only Justice Souter's Opinion.) Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd., 2005 U.S. LEXIS 5212 (June 27, 2005)

LOOK

- Nina Paley video, All Creative Work is Derivative (on YouTube)

Week 5 – Copyright Law (continued)

Read by class on October 1

- Does the Internet alter the rationale for copyright protection? Would you still create if you were not given the full bundle of copyrights in your creation?
- Could you find someone to publish/distribute your work if they were not granted that full bundle of rights?
- How does the DMCA impact Universities? 17 USC 1201
- What types of reform are needed to best protect free expression and/or innovation? Who is best situated to implement that reform?

READ

- Golan v. Holder (2012) (69 pages - the dissent mentions the University of Michigan specifically.)
- Orphan Works: Read the district court opinion for the AG v. HathiTrust case - and then the opinion on appeal. How are they similar or different?
  - District Court
  - US Court of Appeals
  - From Publishers Weekly

LOOK

- Happy Birthday is in the public domain (Wikipedia) And this short article with a link to video documentary (15 min)

Week 6 - Copyright Global Context

Read by class on October 8

- What are the key international conventions or treaties that address copyright?
- How do they function in practice? How do different cultural assumptions lead to different results or challenges in a global context?
• How does copyright relate to freedom of speech, inquiry, and expression as a practical matter?
• What are the current discussions at the US and international level (WIPO) regarding copyright and access to people with print disabilities? Notions of intellectual property and ‘traditional knowledge’?

READ

❑ Read this. We’ll go over the concepts in class. Module 2: The International Framework, Berkman
❑ Review the actual document - you’ll find the pdf in several languages here: Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled
❑ 17 USC 121 and new ARL Whitepaper: The Law and Accessible Texts
❑ Adaptive Technology at Michigan
❑ Lessons from Open Source Bach: Robert Douglass and Kimiko Ishizaka - opengoldbergvariations.org
❑ Braille Edition of Open Goldberg Variations
❑ https://www.youtube.com/watch?v=eGoI2DjeHhc

❑ WIPO and Traditional Knowledge: This page links to information about several of WIPOs areas that touch on traditional culture and expression from genetic matter to culture expressed and conveyed from generation to generation. Spend time on this site; get familiar with the interests, issues, and opportunities. What are some areas of conflict or controversy?
❑ Peruse this website: Local Contexts

LOOK

❑ Describing Visual Resources Toolkit
❑ European Commission's Report on Digitisation, Online Accessibility and Digital Preservation of Cultural Material, September 24, 2015
❑ Peruse Kenny Crews, WIPO Copyright Exceptions familiarity.
❑ Peruse rightsstatements.org
❑ Copyright Directive Webinars, COMMUNIA
Week 7 – Trademark, Trade Secret

Read by class on October 15

- How does the rationale for trademark protection differ from copyright and patent protection?
- How has the Internet affected the duty to police one’s trademark rights? It is easier to police, but is there a concern of overly aggressive policing?
- What types of “use” of a mark should we be most concerned about?
- Who should control the distribution of domain name rights?
- Does trademark ever conflict with freedom of speech notions? How?

READ (Trademark)

- Review this overview of some of the important principles of trademark law.
- Look at the ICANN site generally and the Domain Registration Process. What’s changing and what's the impact?
- This case addresses trademark infringement in metatags: Brookfield Communications v. West Coast Entertainment (9th Cir. 1999) - From Wikipedia
- This case addresses early trademark issues in linking: Boston Duck Tours v. Super Duck Tours, 2007
- Discuss: How do domain names intersect with trademark? Do they? How do they intersect with speech? Do they?

READ (Trade Secret)

- Review this WIPO site (go through each section) What is a Trade Secret?
- Frommer, Jeanne, “Trade Secrecy in Willy Wonka’s Chocolate Factory” in The law and theory of trade secrecy: a handbook of contemporary research, Rochelle C. Dreyfuss, Katherine J. Strandburg, 2011. (to be provided)
- Uniform Trade Secrets Act - From Wikipedia
- Defend Trade Secrets Act - From Wikipedia (May 2016)
- Look over the structure and language of the actual statute: 18 USC 1836

LOOK

- Video of ‘Barbie Girl’ by Aqua
- Speech/Trademark
- Sambo's Restaurants v. City of Ann Arbor, 473 F. Supp. 41 - Dist. Court, ED Michigan 1979
  https://scholar.google.com/scholar_case?case=10613756454361765204&hl=en&as_sdt=6&as_vis=1&oi=scholar (with Slant’s case)
Week 8 – Open Dissemination and Access to Information

Read by class on October 22

- What are the rights of the general public regarding access to and use of ideas and expression?
- What is the concept of the public domain (including government documents, open-source)?
- How can open source be an effective business model?
- In what ways, if any, does the Internet make open source licenses more practical?
- What is open access? What is open source? How are they similar and distinct?
- How does Creative Commons work? Which of the concerns about the current state of copyright law does the Creative Commons project address?

READ

☐ The following chapter gives an example of how non-proprietary dissemination of work can thrive: Lawrence Lessig, Free Culture, Chapter One: Creators, pp. 21-30
☐ This chapter serves as a good introduction to the concept of open source software: Lawrence Rosen, Open Source Licensing: Software Freedom and Intellectual Property Law. See the free version. (May also be found in the UM Library’s catalog - the Library has a license for 7 concurrent users in Safari.)
  ☐ Preamble, xix-xxii
  ☐ Chapter 1: Freedom and Open Source, pp. 1-11
  ☐ Chapter 3: Distribution of Software, pp. 41-49
☐ Here is the first case addressing the enforceability of open source licenses and confirming that open source is based on intellectual property protection. Jacobsen v. Katzer, Aug. 13, 2008
☐ Skim Creative Commons Primer – get a sense of how the licenses work
☐ Peruse this website. SPARC – Scholarly Publishing and Academic Resources Coalition

Week 9 – Restrictions on Access to and Dissemination of Information on the Internet

Read by class on October 29

- Should we be concerned about the ways private parties can achieve through contract what they do not otherwise achieve under the law? (e.g., protect databases, restrict otherwise fair uses?)

READ

☐ I will provide several contracts, licenses, and terms of use/service agreements for you to read.
(The reading is light this week - get ahead on the patent materials for next week.)

LOOK

Consider this article from August 7, 2007. How does this strike you today? What are the current issues concerning elections and politics as they relate to the integrity of information? Internet vote-swapping legal, court finds: Swing state voter with third-party leanings but don't want to endanger more. (The value of in-person voting as compared to absentee/mail-in voting.)

Week 10 – Patent; University IP Policies, Technology Transfer

Read by class on November 5

- In what ways does strong patent protection help innovation? Hurt innovation?
- What are the rationales for granting a patent monopoly? Are those rationales different for different types of technologies? Does the Internet or globalization alter those rationales?
- With respect to patent monopolies, should the courts or Congress better protect the public interest?
- Do patents make sense for inventions embodied in software? What factors would affect the decision to pursue patent protection?
- Who is best situated to provide meaningful patent reform: the courts or Congress?
- Should the public have a greater voice in patent reform issues?

- Should Universities be held to a different standard in terms of their ownership or control of intellectual property? What interests should we consider in regulating how Universities disseminate their intellectual property?
- Under the UM policies, if a faculty member authors new software that creates a database system that makes it significantly easier to collect, manage, and analyze genetic data, who owns the rights in that software?
- What is at stake?

READ

- Read this first: The US patent process (plain language)
- The following will provide a background on the main principles of patent law: General Information Concerning Patents - work through the whole page and the contents listed on the menu on the left side of the website - you can do it.
- Can you patent a business process? Review the Wikipedia entries for:
  - State Street Bank and Trust Company v. Signature Financial Group
- Then read Bilski v. Kappos (2010)
- Can you patent “life”?
• ‘Human Genes Cannot Be Patented’
• ‘What’s the gene that led to Angelina Jolie’s double mastectomy?’
• Association for Molecular Pathology v. Myriad Genetics (2013)


• UM Policies on IP - Review and familiarize yourself with these UM Policies on IP for class discussion.
  
  • Bylaw 3.10 - Updated Tech Transfer Policy
  • Who Holds Copyright at or in Affiliation with the University of Michigan

LOOK


• https://news.terry.uga.edu/articles/patent_study_looks_at_gender_and_racial_disparities/

• Consider Chou v. University of Chicago, (Fed. Cir. 2001). What kinds of disputes might arise in the university setting? How much is about law versus behavior and choices?


• Artificial Intelligence, Augmented Reality and Virtual Reality - How does the current legal framework work with AI, AR, and VR? Does it? What are the issues - legal and ethical? See Law, Virtual Reality, and Augmented Reality by Mark Lemley and Eugene Volokh

Week 10 – Internet Regulation By Government, Technology, Governance

Read by class on November 5

• What constitutional principles limit the federal government’s ability to regulate the Internet?
• What are the implications of technology issued by private companies regulating the Internet? Should the government care?
• How does copyright enforcement function?
● What is ‘net neutrality’ and why does it matter?

READ

- The following chapters serve as a background on Internet regulation through both government and the code itself: Lawrence Lessig, Code 2.0:
  - Chapter 5: Regulating Code, pp. 61-82
  - Chapter 7: What Things Regulate, pp. 120-137
- Review the ICANN website. What is ICANN? Note that their annual meeting is being held virtually this year October 17-22, 2020. Consider signing up.
- What is ‘net neutrality’? Why does it matter? What are the implications of its end? Public Knowledge on Net Neutrality

LOOK

- Maintaining US Leadership in Internet Governance, Council of Foreign Relations
- The Global War for Internet Governance, Laura DeNardis (Book in UM Library)

Week 11 - Cybercrime

Read by class on November 12

- What interests should the government consider in deciding to criminalize certain activities on the Internet?
- What kinds of crimes that occur online should be federal versus state crimes? The Commerce Clause of the US Constitution generally allows Congress to regulate activities that impact interstate commerce.
- Does the Internet render meaningless the interstate commerce limitation on Congress’s power?
- How does the form and execution of governance shape privacy, speech, investment and other areas we’ve discussed in this course?
- In what ways does the government’s heavy involvement in pursuing and prosecuting crimes committed via the internet impact our other constitutional freedoms to a greater extent than with the government’s pursuit of traditional crime?

READ

- It is difficult to know what jurisdiction controls activity on the Internet. The basic issues discussed in this 2004 law review article remain accurate. Approaches to Cybercrime Jurisdiction.
Internet Crime Report, FBI Internet Crime Complaint Center - Annual Reports Peruse the most recent annual report.


This very early cyberstalking case occurred close to home. NOTE: the case addresses the nature of threats and includes violent and sexually explicit content. It is important to read the opinion and the dissent (which contains the more explicit materials) for the purpose of class discussion. United States v. Abraham Jacob Alkhabaz (6th Cir. 1997)

LOOK


Kerr, Orin, Criminal Law in Virtual Worlds, University of Chicago Legal Forum

Kerr, Orin, 'Does the federal computer hacking law apply to a laptop not connected to the Internet?', The Washington Post, August 25, 2014

Week 12 – Presentations and discussion

Papers due on December 1. Review classmates papers for class on December 3.

Read your classmates papers for the presentations. You will either make a short video presentation or present via Zoom -- we’ll decide together. Participation in these classes is critical.

Week 13 - Presentations and discussion

Review classmates papers for class on December 10.

Read your classmates papers for the presentations. You will either make a short video presentation or present via Zoom -- we’ll decide together. Participation in these classes is critical.

Week 14 - Last day of class

We will have class on December 17 if needed to schedule presentations.
What have you learned? What surprised you? How has this course affected your thinking about the topic overall?