

Course Outline

COURSE:	LAWS 3908 A – Approaches in Legal Studies II
TERM:	Fall 2011-12
PREREQUISITES:	LAWS 2908 and third-year Honours standing
CLASS:	Day & Time: Wednesday 11:35-2:25 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Sandra Robinson
CONTACT:	Office: B442 LA – Contract Instructors' Office Office Hrs: 9:30-11:00 am – Wednesday and by appointment Telephone: Email: Please use WebCT email to contact me directly as I will check it regularly (alternatively: srobinse@connect.carleton.ca)

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: <http://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This course will provide in-depth exposure to interdisciplinary and theoretically informed research methods in legal studies through the examination of a particular theme – law and technology. We will explore areas of law and regulation relevant to contemporary digital technology, in particular, information and communication technologies (ICTs) which are more and more interwoven in contemporary society.

This course explores ICTs, applications, and content, including innovative network technologies, computer and digital device platforms, convergence and interactivity, social media and networks, as well as hacking and other exploits. The course will provide a forum for critical analysis of key theoretical ideas about the technologies, alongside examination of important debates about the legal regulation of digital technologies in contemporary society. Issues such as privacy/publicity, data security, media regulation, surveillance, intellectual property, and general 'cyberlaw' will be considered.

While considering these issues, we will work to dismantle or unpack the *how* of the scholarship we are reading: How do authors make knowledge? How do they use abstract concepts in order to make their claims more generalizable? What are they actually studying? What kinds of claims are the authors able to make? What other claims might remain closed to authors because of how they have done their study or constructed their argument? Are we convinced by a certain author – why or why not? We will then seek to apply the theories and methods deployed by the authors we are reading to the case studies and workshops each week, and then to your own written work.

OBJECTIVES

There are a number of learning objectives for this course:

- ⤴ To learn to think critically about current social, legal and regulatory issues in relation to digital technologies;
- ⤴ To expand your understanding of legal studies by examining the ways the social, technological, political, and legal are continuously co-produced and entangled;
- ⤴ To learn to identify the theoretical assumptions in an analysis;
- ⤴ To learn to discern the methodology of an analysis;
- ⤴ To gain experience in the application of theory and methods to scholarly material;
- ⤴ To gain experience in conducting a critical analysis.

COURSE MATERIALS

Readings will be available through the links provided on the course outline, WEBCT, and/or online through the Carleton library databases for access to academic articles in journals.

Course Email via WebCT

I will be using the WebCT service to post content links, as well as to make announcements and convey course-related information. Students are responsible for checking WebCT frequently for such information.

Please use WebCT email for questions. If you have general course-related questions or concerns, post them in a WebCT discussion board and I will address them for the benefit of the entire class. For specific questions or concerns related to your own work and assignments or other issues, I will correspond with you directly via WebCT email and/or please come to see me during office hours or by appointment.

EVALUATION

You are expected to participate thoughtfully in class and in the discussions by posing questions, offering examples, sharing experiences as relevant, and critically analyzing the course material. I will provide a grounding lecture for each class and we will discuss the readings. In the second half of the class, we will conduct a short workshop where we analyze material bringing to bear the theory and methods from that week's readings.

Evaluation in this course will have five components:

- Attendance and participation (10%)
- Blogging (15%)
- Diagnostic paper (20%)
- Critical analysis paper (20%)
- Take home final examination (35%)

Each student must receive a grade in every requirement in order to pass the course.

Attendance and Participation

Each of you will be evaluated on your attendance and participation in the classroom environment. Participation includes having done the assigned readings every week, being prepared to discuss them in an informed manner, making constructive interventions to facilitate the production of group knowledge, asking questions, and listening to the instructor and your colleagues with attention and respect.

Each week we will explore a particular idea or theme around law and technology through a lecture, group work, discussion, and blogging.

Diagnostic Paper

DUE: October 19, 2011

In the Diagnostic Paper you should select **one course reading** (required or optional) from weeks 2 - 5 that you found particularly interesting. You will then write a brief paper of **5 double-spaced pages** analyzing its theoretical assumptions and methodological approach. Your diagnostic paper should consider how the theoretical assumptions and methodological approach of the author shape and structure the kind of knowledge that is produced by that author in the article. How did the theoretical and methodological choices made by the author shape your own response to the piece and how convinced were you by the analysis? In a sense, you are working

backward from the final product, to uncover the theory and methods used to produce it; you are “reverse engineering” the evidentiary claims of the article. DUE: October 19, 2011 in class or by 4pm to Law Department drop-box at D492.

Critical Analysis Paper

The due date of the Critical Analysis Paper will be selected by you. In this paper, you should select one of the workshops undertaken in class weeks 6 through 11 and complete an analysis of it (the theme will be from the readings), applying the readings pertaining to that workshop as well as one additional refereed academic article you find. You should turn the paper in *one week after we take up that particular case study/workshop* in class so that you can benefit from the class discussion and analysis. *You should be careful to select a workshop topic that works with your schedule.* If there are additional/optional readings for that particular theme, it is strongly recommended that you read them.

Workshops will address particular questions in relation to a week's readings. Your assignment is to critically engage with the substantive topic or theme by conducting a critical analysis of the readings and responding to the questions or problems posed in that week's workshop. Guidance on doing a critical analysis is posted on WEBCT.

The critical analysis papers will **not be accepted late**. If you do not complete it by the following class (the next week) after we have done the workshop, then you should pick a different week's case study. The paper should be **7 double-spaced pages** plus your bibliography. Turn in your paper by 4pm the week it is due to the Law Department drop-box at D492 or turn it in to the instructor in class the week it is due.

Blogging assignment

Continuous throughout the term.

You will be evaluated on the clarity and thoughtfulness of your blog posts in relation to each topic. You may include links to relevant online content (such as other blogs, Facebook, Google +, Twitter, YouTube, news sources, legal sources, multi-media sources, and so on) and reference other scholarly material if you wish, as part of and in addition to, your original 200 word commentary. You must make a minimum of FOUR original postings, each of 200 words, during the term.

The Blog will be set up by the instructor and TA in either WEBCT or as a Private Blog in Google Blogger. More details will be provided in the second week of classes.

Take-home final examination

DUE: December 21, 2011 by Noon at the Law Department drop-box (D492).

The exam questions will be made available to you on the last day of class. The questions will be drawn from course material. There are no extensions for this as it is an exam. You may hand it in early if you wish.

All work on the take-home must be that of the individual student.

Your exam must be **10 double-spaced pages** plus a bibliography and you should adhere to one style (MLA, legal, or whatever, but stick with one!). It must use a minimum of five academic sources: at least three from the course list (required and/or optional readings that you have not used in a previous assignment) and two new academic sources (feel free to use more sources). Do not use Wikipedia. Newspapers, magazines, online news sources and websites, blogs, or YouTube, are not academic sources. You may use such non-academic sources to supplement your academic research, but not in place of it.

Please bear these in mind when preparing your final exam:

- (1) clarity of thesis statement and introduction
- (2) logical development of an argument
- (3) insight and originality
- (4) research effort and skill
- (5) demonstrated critical analysis
- (6) use of sources and evidence
- (7) presentation of references
- (8) spelling, grammar and punctuation
- (9) style

Policy on Late Term Work

Assignments must be submitted on the due date to be graded out of full marks. No extensions will be granted for course assignments except under exceptional circumstances substantiated by official documentation (doctor's note, etc.). If no extension has been granted, an assignment will be accepted up to three days after the due date.

However, the mark will be reduced by 1/3 of a letter grade (B+ to a B) for each day late. Assignments more than three days late will not be accepted and will receive a grade of "F." If any assignment is not completed, the grade in the course will be an "F."

Academic Accommodations

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website <http://www2.carleton.ca/equity/accommodation/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website <http://www2.carleton.ca/equity/accommodation/>

Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/physical impairments, specific Learning Disabilities (LD), psychiatric/psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, 613-520-6608, every term to ensure that I receive your Letter of Accommodation, no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website: <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

SCHEDULE**WEEK 1 - September 14, 2011: Introduction**

No assigned readings.

WEEK 2 - September 21: Theory, Methodology, and Scholarly DevelopmentRequired readings:

- Silbey & Sarat. 1987. "Critical Conditions in Law and Society Research." *Law & Society Review* 21 (1): 165-174. [note: page 165 is missing in some versions of this article, but it is just the first paragraph]
<http://www.jstor.org.proxy.library.carleton.ca/stable/3053389>
- Montuori. 2005. "Literature Review As Creative Inquiry: Reframing Scholarship As a Creative Process." *Journal of Transformative Education* 3: 374-393.

Optional reading:

- Calavita. 2002. "Engaged Research, "Goose Bumps," and the Role of the Public Intellectual." *Law & Society Review* 36 (10).
- Stanford Encyclopedia of Philosophy, "Epistemology." <http://plato.stanford.edu/entries/epistemology/>

Workshop.

WEEK 3 - September 28: Theories of Law and Information Technology IRequired readings:

- Dreier. 2006. "Law and information technology—An uneasy marriage, or getting along with each other?" *Information & Communications Technology Law* 14 (3): 207-216.
- Lessig, Lawrence. (2006). "What things regulate." In *Code Version 2.0* (pp. 120-137). New York, NY: Basic Books. Available open access here: <<http://codev2.cc/download+remix/>>

Optional reading:

- Wajcman. 2009. "Feminist Theories of Technology." *Cambridge Journal of Economics* 1.
- McTaggart, Craig. 2003. "A Layered Approach to Internet Legal Analysis." *McGill Law Journal* 48: 571-625.

Workshop.

WEEK 4 – October 5: Theories of Law and Information Technology II: Introduction to Privacy & SurveillanceRequired readings:

- O'Brien. 2008. "Law, privacy and information technology: a sleepwalk through the surveillance society?" *Information & Communications Technology Law* 17 (1): 25-35.
- Burk. 2008. "Information ethics and the law of data representations." *Ethics and Information Technology* 10:135–147.

Optional reading:

- Solove. 2007. *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet*. Yale University Press. Pages: 189 – 205 Available here: <<http://docs.law.gwu.edu/facweb/dsolove/Future-Reputation/text/futureofreputation-ch8.pdf>>
- Albrechtslund, Anders. 2008. "Online Social Networking as Participatory Surveillance", *First Monday* 13 (3). Available here: <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/2142/1949>

Workshop.

WEEK 5 – October 12: Privacy & Surveillance in CanadaRequired readings:

- Cameron. 2009. "Learning from Data Protection Law at the Nexus of Copyright and Privacy." In I. Kerr (ed.) *Lessons from the Identity Trail: Anonymity, Privacy and Identity in a Networked Society*. Oxford: Oxford University Press. Available here as open access: Chapter 3
<<http://idtrail.org/content/view/full/799>>
- Boyd, d. 2008. "Facebook's Privacy Trainwreck: Exposure, Invasion, and Social Convergence." *Convergence* 14(1): 13–20.
- OPC on social media: <http://www.priv.gc.ca/information/social/index_e.cfm>

Optional reading:

OPC guide to PIPEDA and links to the Act: <http://www.priv.gc.ca/leg_c/leg_c_p_e.cfm>

Gilbert, Kerr, and McGill. 2007. "The medium and the message: Personal privacy and the forced marriage of police and telecommunications providers." *Criminal Law Quarterly* 51(4): 469-507.

Timmer, J. Smart grids drag utilities into the swamp of online privacy

<<http://arstechnica.com/business/news/2009/11/smart-grids-drag-utilities-into-the-swamp-of-online-privacy.ars>>

Workshop.

WEEK 6 - October 19: IT & Intellectual PropertyRequired readings:

Hamilton, Sheryl. 2007. "Now It's Getting Personal: Copyright Issues in Canada" in *How Canadians Communication, vol. II* (D. Taras, ed.), Calgary: University of Calgary Press, pp. 244-320. Jones [available as an electronic resource through Carleton library:

<http://catalogue.library.carleton.ca/search~S9?/ataras%2C+d/ataras+d/1%2C3%2C23%2CB/framest&FF=ataras+david+1950&6%2C%2C18>]

Jones. 2006. "REALITY©- AND VIRTUAL REALITY©: When virtual and real worlds collide." *Cultural Studies* 20 (2/3): 211-226.

DIAGNOSTIC PAPER DUEOptional reading:

Boyle, J. 2002. "Fencing off ideas: enclosure & the disappearance of the public domain" in *Daedalus* 131(2): 13-25. Available here: <<http://james-boyle.com/daedalus.pdf>>

Facebook moves closer to trademarking 'face'

<<http://www.theglobeandmail.com/news/technology/facebook-moves-closer-to-trademarking-face/article1812166/>>

Creative Commons Canada <<http://creativecommons.ca/>>

REMINDER: Watch one of the movies for next week (or all of them if you wish).

Workshop.

WEEK 7 – October 26: Law & Technology and/in Cinematic AdventuresRequired readings:

Almog & Aharonson. 2004. "Law as Film: Representing Justice in the Age of Moving Images." *Canadian Journal of Law and Technology* 3 (1): 1-18.

Watch either of *I, Robot* (2004), or, *Minority Report* (2002), or, *The Social Network* (2010).

Workshop.

WEEK 8 - November 2: Freedom of Expression OnlineRequired readings:

Bailey. 2003. "Private Regulation and Public Policy: Toward Effective Restriction of Internet Hate Propaganda." 49 *McGill Law Journal* 59.

Thornton, L. 2010. "'South Park: Religious Defamation,' Freedom of Expression and Human Rights"

<<http://www.humanrights.ie/index.php/2010/04/25/south-%20park-religious-defamation-freedom-of-expression-human-rights/>>

Workshop.

WEEK 9 - November 9: Online Gaming: Issues of Legality, Commerce, and CodeRequired readings:

- Humphreys. 2009. "Norraht: New Forms, Old Institutions." *Game Studies: The International Journal of Computer Game Research* 9 (1). Available at: <http://gamestudies.org/0901/articles/humphreys>
- Postigo. 2008. "Video Game Appropriation through Modifications: Attitudes Concerning Intellectual Property among Modders and Fans." *Convergence: The International Journal of Research into New Media Technologies* 14(1): 59–74.

Optional reading:

- Lastowka. 2009. "Rules of Play." *Games and Culture* 4 (4): 379-395.
- Nakamura. 2009. "Don't Hate the Player, Hate the Game: The Racialization of Labour in World of Warcraft." *Critical Studies in Media Communication* 26(2): 128-144.

Workshop.

WEEK 10 - November 16: Hacking and Other ExploitsRequired readings:

- Wark, W. Excerpt from "A Hacker Manifesto" Available here open access:
<http://subsol.c3.hu/subsol_2/contributors0/warktext.html>
- Geist, Michael. (2009). "Piercing the peer-to-peer myths: An examination of the Canadian experience." *First Monday* 10(4), n.p. Available open access at
<<http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/1217/1137>>
- And see: Akkad. 2010. "2010, The Year of the Hacker." Available at:
<<http://www.theglobeandmail.com/news/technology/2010-the-year-of-the-hacker/article1834020/>>
[if link behind pay wall, you can access this story through CU Library database as they carry an online subscription to the Globe]

Optional reading:

- Government of Canada Introduces Anti-Spam Legislation <<http://www.ic.gc.ca/eic/site/ecic-ceac.nsf/eng/gv00521.html>>
- If interested, see: Dyer-Witherford & de Peuter. 2009. *Games of Empire: Global Capitalism and Video Games*. Minneapolis and London: University of Minnesota Press. [CU library has a copy of this]

Workshop.

WEEK 11 - November 23: Regulating Smart Things I: Chips Anyone?Required readings:

- Kerr. 2009. "The Internet People. Reflections on the Future Regulation of Human Implantable Radio Frequency Identification." In I. Kerr (ed.) *Lessons from the Identity Trail: Anonymity, Privacy and Identity in a Networked Society*. Oxford: Oxford University Press. Available here as open access: Chapter 19 <<http://idtrail.org/content/view/799>>
- Michael & Michael. 2010. "The Diffusion of RFID Implants for Access Control and ePayments: Case Study on Baja Beach Club in Barcelona." IEEE International Symposium on Technology and Society (ISTAS10). Ed. Katina Michael. Wollongong, NSW, Australia: IEEE. Available open access at:
<http://works.bepress.com/kmichael/188/>
- AND SEE <http://www.kevinwarwick.com/> [just review some of the links at this website along the left side which detail his experiments]
- AND SEE <http://www.youtube.com/watch?v=vsk6dJr4wps>

Workshop.

WEEK 12 - November 30: Regulating Smart Things II: Ubiquitous/Ambient ComputingRequired readings:

- Kerr, Binnie and Aoki. 2008. "Tessling on my brain: The future of lie detection and brain privacy in the criminal justice system." *Canadian Journal of Criminology and Criminal Justice* 50 (3).
- Hildebrandt, M. 2008. "A Vision of Ambient Law." In *Regulating Technologies*. Ed. Roger Brownsword and Karin Yeung. Oxford: Hart. (pp175-191). Available from author's open access version on her website here: http://works.bepress.com/mireille_hildebrandt/4/.

Academic Journals:**Journals:**

Journal of Law & Society

Canadian Journal of Law & Society

Law & Social Inquiry

Law, Politics, and Society

Law & Society Review

Critical Legal Studies

Information & Communications Technology Law

Berkeley Technology Law Journal

Harvard Journal of Law & Technology

University of Ottawa Law & Technology Journal

Stanford Technology Law Review

European Journal of Law & Technology

Canadian Journal of Law & Technology

Journal of High Technology Law (Suffolk)

Media, Culture & Society

Journal of Media and Communication Studies

The Canadian Journal of Media Studies

The Canadian Journal of Communication

Game Studies: the international journal of computer game research

Games and Culture: A Journal of Interactive Media

Loading ... (this is a Canadian journal that aims to support current and future interdisciplinary, multi-method and multimodal approaches to the study of digital games)