

Law, Technology & Entrepreneurship  
4 units, Area III

Preliminary outline

**Summary:** The course discusses the relationship between law, technology and entrepreneurship by exploring two complementary perspectives: one that depicts legal change as a consequence of technological evolution; the other that considers legal change a part of the modern institutional apparatus that shapes technological change and its applications. The first perspective highlights legal changes that become “natural”, “efficient” or “inevitable” once new technologies have come about. The second emphasizes the role of law in upholding different political and ethical values, including by facilitating or hindering the development of entrepreneurship. To ground the discussion, the course focuses mostly on recent case law and contemporary debates surrounding the adoption of new technologies. A preliminary outline of the covered topics goes as follows:

**I. INTRODUCTION .....**

A. LT&E IN HISTORY .....

    1. *The beginnings of technology*.....

    2. *The beginnings of law* .....

    3. *The beginnings of entrepreneurship* .....

    4. *The regulatory state*.....

    5. *The information age*.....

B. THE NOT-SO-NEW CONCERNS .....

    1. *The collapse of jobs* .....

    2. *The collapse of democracy*.....

    3. *The destabilizing nature of tech*.....

    4. *The perils of machine intelligence*.....

    5. *Tech catastrophism*.....

C. BALANCING CONSIDERATIONS .....

    1. *Technology and welfare*.....

    2. *Business opportunities*.....

    3. *The mirage of joblessness*.....

    4. *Technology and political repression untangled*.....

    5. *A note on futures studies*.....

D. THE TECH AND SOCIETY CONUNDRUM .....

    1. *Institutionally exogenous technology* .....

    2. *Institutionally endogenous technology*.....

    3. *The Way Forward* .....

    4. *What this course is not about*.....

    5. *What you will learn*.....

**II. TECHNOLOGY AS A LEGAL CATALYST .....**

A. A SIMPLE PHENOMENOLOGY .....

    1. *New technologies, old legal fields*.....

    2. *New legal fields*.....

    3. *New technologies, time-honored legal doctrines*.....

    4. *New legal doctrines*.....

- 5. *New technologies and the US Constitution*.....
- B. ADJUDICATION: CHALLENGES.....
  - 1. *Obsolete law* .....
    - a) Over-inclusive law .....
    - b) Under-inclusive law .....
    - c) Arcane statutes .....
  - 2. *Constitutional dilemmas*.....
  - 3. *Conflicts of jurisdiction*.....
  - 4. *Politics*.....
  - 5. *Technical proficiency* .....
- C. REGULATION: JUSTIFICATIONS.....
  - 1. *Legal uncertainty*.....
  - 2. *Precautionary concerns*.....
  - 3. *Preservation of democracy and other political values*.....
  - 4. *Targeted regulation*.....
    - a) Pro-businesses .....
    - b) Pro-consumers .....
    - c) Pro-workers.....
  - 5. *National interest* .....
- D. TECHNOLAW .....
- 1. *The regulatory role of technology*.....
  - a) Lex Informatica .....
  - b) Code as law .....
  - c) Governance by design.....
  - d) Lex Cryptographia .....
- 2. *Lawtech and the practice of law*.....
  - a) Lawyers .....
  - b) Other legal service providers.....
  - c) End-uses .....
- 3. *Tech companies as courthouses* .....
- E. SOME CONTEMPORARY LEGAL PUZZLES .....
- 1. *Robot liability*.....
- 2. *Bitcoin as money* .....
- 3. *Smart contracts as contracts*.....

**III. LAW AS A TECHNOLOGY CATALYST** .....

- A. INDUSTRIAL POLICY .....
- 1. *Active*.....
  - a) Interventionism .....
  - b) Digital protectionism.....
- 2. *Passive*.....
  - a) Curbing the cost of doing business.....
  - b) Curbing the cost of doing cyber-business .....
  - c) Pro-entrepreneurship policies .....
- B. IP LAW.....
  - 1. *Overview* .....
  - 2. *IP in the Digital Age*.....
- C. ANTITRUST LAW.....
  - 1. *Overview* .....
  - 2. *Antitrust in the digital economy*.....
- D. BUSINESS LAW AND ENTREPRENEURSHIP .....
- 1. *Corporate law*.....
- 2. *Finance and banking*.....
- 3. *Bankruptcy law*.....

- 4. *Property law and contract law*.....
- 5. *Employment regulation* .....
- 6. *IP Law (again)*.....
- E. LAW AS THE OBSTACLE FOR TECH ENTREPRENEURSHIP.....
  - 1. *Prohibition*.....
  - 2. *Red tape*.....
  - 3. *Legal uncertainty*.....
  - 4. *Human rights exigencies*.....
  - 5. *Anti-competitive regulation*.....
- F. LAW AS BUSINESS OPPORTUNITY.....
  - 1. *Arbitrage*.....
  - 2. *Compliance* .....
  - 3. *Loopholes*.....
  - 4. *Adaptation* .....
- IV. CONCLUSION** .....

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