

ACCESS TO KNOWLEDGE

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Course Description

Access to Knowledge Practicum (21264). 2 or 3 units. Students will work on projects that promote innovation and democratic values through the design and reform of rules relating to intellectual property, the Internet and new media, online privacy, and telecommunications. These laws and policies shape the delivery of health care services, the design of new information technologies, international trade, access to education, opportunities for either civic engagement or repression, and sharing of research and culture around the globe. We are at a time of intense domestic and international debate with respect to whether and how citizens and their governments will address these problems; questions arising from the sometimes tortuous application of existing legal and regulatory frameworks to new technologies, and vice versa, will provide rich source material for student projects and articles. Students will supplement projects with doctrinal and theoretical readings, engagement with policymakers, and frequent contact with Information Society Project Fellows. Paper required. Enrollment limited to ten.

Course Logistics & Expectations

Meets Wednesdays, 3:10pm-5:00pm, Room 108.

Materials and readings available through YLS Inside, or email nicholas.bramble@yale.edu.

The A2K Practicum is offered as a two-credit course for students that attend each week and complete a ten- to fifteen-page writing project. A third credit may be awarded to students that complete a substantially longer writing project during the semester. There will be no final exam apart from your writing project.

The first several weeks of the semester will focus on background readings presenting essential concepts for understanding the theory and political economy of copyrights, patents, communications law, privacy, and other legislative and regulatory frameworks that affect capabilities in online spaces. The remaining weeks of the course will involve readings and discussions specific to each of the practicum projects, as well as case studies linking course concepts to broader legal and social problems. A description of this semester's practicum projects will be distributed during the first class and also posted to YLS Inside. Students wishing to work on a self-designed project should seek the instructors' approval prior to the start of the term. Each project will be supervised by an Information Society Project fellow.

Aside from equipping students with a foundational knowledge of access to knowledge theory and concepts, the practicum will serve as a workshop for students' academic and/or advocacy projects, offering frequent feedback in a collegial and collaborative setting. Students will take turns presenting their evolving work in class, submitting materials for colleagues' review no later than Sunday evening. By Tuesday evening, students not

presenting that week will return preliminary comments by email. These comments will assist the presenter in framing discussion during class time.

Students who have participated in the A2K Practicum in the past are welcome to take the class again and work on new projects.

WEEK 1: What is “Access to Knowledge”? (Jan. 26)

The first week features a slim set of readings, on the assumption that some students will still be shopping for classes, and because only one half of the class time will be devoted to discussion of readings. The other half of class time will focus on explaining the structure of the class and describing the specific projects that students can choose among this semester.

- Jack Balkin, *What is Access to Knowledge?*, Balkinization (2006) (5 pages), <http://balkin.blogspot.com/2006/04/what-is-access-to-knowledge.html>
- Wikileaks FAQ (3 pages), <http://futureoftheinternet.org/wikileaks-cable-faq>
 - Optional: Radio Berkman, Wikileaks and the Information Wars [http://wilkins.law.harvard.edu/podcasts/mediaberkmán/radioberkmán/2010-12-09_004\]ZLESSIG.mp3](http://wilkins.law.harvard.edu/podcasts/mediaberkmán/radioberkmán/2010-12-09_004]ZLESSIG.mp3)
- Yochai Benkler, *THE WEALTH OF NETWORKS* Ch. 2: Some Basic Economics of Information Production and Innovation 35-58 (24 pages), http://www.benkler.org/Benkler_Wealth_Of_Networks_Chapter_2.pdf
- Robert Darnton, *Google & the Future of Books*, <http://www.nybooks.com/articles/archives/2009/feb/12/google-the-future-of-books/?pagination=false> (6 pages)

WEEK 2: What Does the Rise of the Internet Mean for Communication and Sharing of Information? (Feb. 2)

- Statutes:
 - Communications Decency Act, 47 U.S.C. § 230, <http://www.law.cornell.edu/uscode/47/230.html>
 - Optional: Danielle Citron, *Civil Rights in Our Information Age*, *THE OFFENSIVE INTERNET* 31-49 (ed. Martha Nussbaum 2010)
 - Optional: *Doe v. MySpace*, 528 F.3d 413 (5th Cir. 2008)
 - Digital Millennium Copyright Act, 17 U.S.C. §§ 512(c) & 1201, <http://www.law.cornell.edu/uscode/17/512.html> & <http://www.law.cornell.edu/uscode/17/1201.html>
- Jonathan Zittrain, *The Fourth Quadrant*, 78 *FORD. L. REV.* 2767 (2010) (15 pages), http://www.fordhamlawreview.org/assets/pdfs/Vol_78/Zittrain_Vol_78_May.pdf
- Josiah Ober, *DEMOCRACY AND KNOWLEDGE* (2008), Ch. 1: Dispersed Knowledge and Public Action (30 pages), <http://press.princeton.edu/chapters/s8742.html>
- Hal Varian, *Computer-Mediated Transactions* (15 pages), <http://people.ischool.berkeley.edu/~hal/Papers/2010/cmt.pdf>
- Wikimedia Strategy, http://strategy.wikimedia.org/wiki/Main_Page (browse)

WEEK 3: Shifting Political Economies of Copyright and Patent Law (Feb. 9)

- William Landes & Richard Posner, *THE POLITICAL ECONOMY OF INTELLECTUAL PROPERTY* (2004) pp. 2-27 (25 pages)
http://www.aei.org/docLib/20040608_Landes.pdf
- Amy Kapczynski, *The Access to Knowledge Mobilization and the New Politics of Intellectual Property*, 117 *YALE L. J.* 806-10, 820-59 (2008) (44 pages)
<http://yalelawjournal.org/images/pdfs/642.pdf>
- Tim Wu, *Copyright's Communications Policy*, 103 *MICH. L. REV.* 278, 343-56 (2005) (13 pages), <http://ssrn.com/abstract=532882>
- James Love, *Suggestions for Obama's Next Two Years* (6 pages)
http://www.huffingtonpost.com/james-love/suggestions-for-obamas-ne_b_803025.html

WEEK 4: Reconstruction of the Commons? (Feb. 16)

- Boyle, James. 2003. *The Second Enclosure Movement and the Construction of the Public Domain.* *Law and Contemporary Problems*, Vol. 66, pp. 33-74. (40 pages)
<http://www.law.duke.edu/pd/papers/boyle.pdf>
- Michael Madison, Brett Frischmann & Katherine Strandburg, *Constructing Commons in the Cultural Environment*, 95 *CORNELL L. REV.* 657, 659-74 (16 pages)
<http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Madison-Frischmann-Strandburg-final.pdf>
- Arti Rai and James Boyle, *Synthetic Biology: Caught Between Property Rights, the Public Domain, and the Commons*, 5 *PLoS Biology* 389 (2007),
<http://www.plosbiology.org/article/info:doi/10.1371/journal.pbio.0050058>
- GNU General Public License, Version 3 (5 pages)
<http://www.gnu.org/licenses/gpl.html>

WEEK 5: Case Study I: Legislative and Regulatory Interventions in the Design of Information and Communications Architecture (Feb. 23)

- Federal Communications Commission, *Open Internet Report and Order* 2-8, 27-58, 61-62, 77-81, *skim* 8-27 on background & 62-77 on jurisdiction (42 pages)
http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db1223/FCC-10-201A1.pdf
 - Barbara van Schewick, *The FCC's Open Internet Rules* (3 pages)
<http://netarchitecture.org/2010/12/the-fcc%E2%80%99s-open-internet-rules-%E2%80%93-stronger-than-you-think/>
 - Optional: Joseph Farrell & Philip Weiser, *Open Access Policies in the Internet Age*, 17 *Harv. J. L. & Tech.* 85, 105-34 (2004) (29 pages)
<http://ssrn.com/abstract=452220>
- Federal Trade Commission, *Protecting Consumer Privacy in an Era of Rapid Change* 1-2, 19-21, 39-68 (35 pages) <http://www.ftc.gov/os/2010/12/101201privacyreport.pdf>

- Open Government Directive, <http://www.whitehouse.gov/open/documents/open-government-directive> (6 pages)
 - Open Government Directive Agency Datasets, <http://www.data.gov/open/raw> (browse)
 - Brief for the Chamber of Commerce in Support of AT&T, *FCC v. AT&T*, 3-16 (14 pages) http://www.abanet.org/publiced/preview/briefs/pdfs/09-10/09-1279_RespondentAmCuUSCoC.pdf

WEEK 6: Case Study II: Health Care and Innovation (Mar. 2)

- Stephen Bradley & James Weber, *The Pharmaceutical Industry: Challenges in the New Century* (Harvard Business School 2004) (25 pages)
- Suerie Moon, *Innovation and Access for Neglected Diseases* testimony 3-11 (2010) (8 pages) http://www.msface.org/fileadmin/user_upload/medinnov_accesspatents/US%20Senate-NTD%20hearing-July%202010-MSF%20Testimony.pdf
- David Bollier, *The Promise and Peril of Big Data* 25-32 (7 pages) http://citpsite.s3.amazonaws.com/events/big-data/Aspen-Big_Data.pdf

WEEK 7: Case Study III: Different Implications of Information Flow Re Civic Engagement and Opportunities for Repression (Mar. 9)

- Comments of The New America Foundation, Free Press, Electronic Frontier Foundation, Public Knowledge, Reporter Without Borders, American Civil Liberties Union, *Global Free Flow of Information on the Internet*, Department of Commerce (2010) (14 pages) http://www.ntia.doc.gov/comments/100921457-0457-01/attachments/NAFetal_FreeFlowofInfoComments.pdf
- Rebecca MacKinnon, *Global Internet Freedom and the Rule of Law* testimony (2010) (12 pages) http://rconversation.blogs.com/files/rm_sjc_2march2010.pdf
- Jack Goldsmith & Tim Wu, *Digital Borders*, LEGAL AFFAIRS (2006) (6 pages), http://www.legalaffairs.org/issues/January-February-2006/feature_goldsmith_janfeb06.msp
- Christopher Slobogin, *Is the Fourth Amendment Relevant in a Technological Age?*, BROOKINGS GOVERNANCE STUDIES (2010) (22 pages) http://www.brookings.edu/~media/Files/rc/papers/2010/1208_4th_amendment_slobogin/1208_4th_amendment_slobogin.pdf
- Lawrence Lessig, *Against Transparency*, THE NEW REPUBLIC (2009) (11 pages) <http://www.tnr.com/print/article/books-and-arts/against-transparency>

*** Spring Recess -- No Class Meeting on Mar. 16 ***

NOTE: WEEKS 8 ONWARD will be oriented towards Project-Focused Readings. Readings for the remainder of the semester will be focused on the specific projects selected.

- When presenting, submit your reading materials no later than Sunday evening.

- Written comments on others' materials are due by Tuesday evening. Draft materials will be due in 3 stages:
 - March 23 & 30: Students present detailed outlines/concept notes for early feedback.
 - Apr. 6 & 13: Students present a partial draft for feedback.
 - Apr. 20 & 27: Students present a substantially complete first draft for final feedback.

WEEK 8: Workshop and Case Study IV: New Education Capabilities (Mar. 23)

- Students in Group A present detailed outlines & concept notes for early feedback.

WEEK 9: Workshop and Case Study V: Competition, Trade, & Infrastructure (Mar. 30)

- Students in Group B present detailed outlines & concept notes for early feedback.

WEEK 10: Workshop and Presentations (Apr. 6)

- Students in Group A present partial drafts for feedback.

WEEK 11: Workshop and Presentations (Apr. 13)

- Students in Group B present partial drafts for feedback.

WEEK 12: Workshop and Presentations (Apr. 20)

- Students in Group A present substantially complete drafts for feedback.

WEEK 13: Workshop and Presentations (Apr. 27)

- Students in Group B present substantially complete drafts for feedback.
- Review of papers and course themes; forward-looking thoughts