

## CYBERLAW (LL204)

**Course duration:** 54 hours lecture and class time (Over three weeks)

**LSE Teaching Department:** Department of Law

**Lead Faculty:** Professor Andrew Murray and Dr Orla Lynskey

**Pre-requisites:** Introduction to legal methods or equivalent. This course does not require an in-depth understanding of information technology

### Introduction

The following provides a course outline, list of lecture topics and sample readings. Use the list to familiarize yourself with the range and type of materials that will be used. Please note that the full reading lists and tutorial discussion questions will be provided at the start of the course.

Welcome to this Summer School course in Cyberlaw. The course will consist of twelve three-hour lectures and twelve one-hour classes. It will examine the law and policy issues relating to a number of key aspects of the information society.

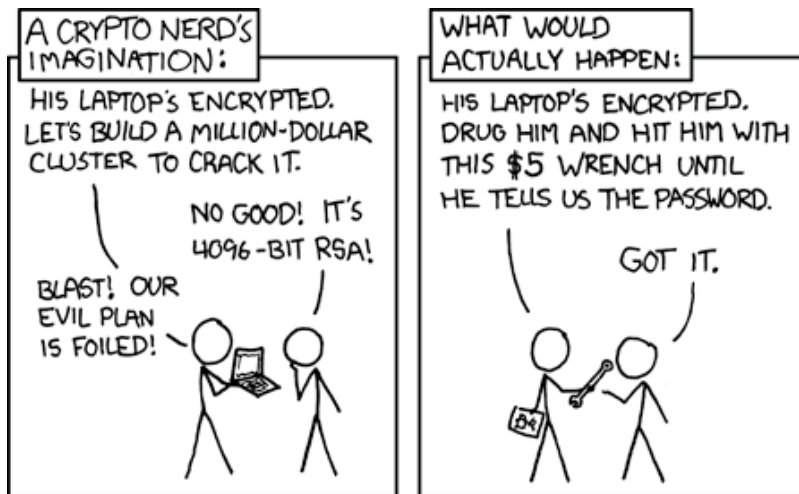
At the end of the course, students should be able to:

- Critically evaluate ongoing developments in law relating to information technologies
- Display an understanding of how these developments relate to one another.
- Examine areas of doctrinal and political debate surrounding rules and theories;
- Evaluate those rules and theories in terms of internal coherence and practical outcomes;
- Draw on the analysis and evaluation contained in primary and secondary sources.

This course covers a selection of topics in the field of Information Technology Law. It will begin by considering the debate about the nature of the influence of information technology upon the development of new legal doctrine, moving on to consider, through topics such as data protection, computer misuse and computer evidence, copyright and digital rights management, criminal content liability and defamation, both how the law has responded to the challenges of information technologies, and the extent to which legal issues have shaped the development of information society policy.

The focus will be initially on English law, although the increasingly global nature of IT law means that there are already strong EU and US legal influences upon the English system, so comparative aspects will be introduced in places, and readings will include materials drawn from, amongst others, US law journals.

This course does not require an in-depth understanding of contemporary computer technology – we are primarily interested in the implications of the use of information technology, and the intended and unintended consequences of regulating that use...



### Course Materials and On-line Support:

This course is supported by a Moodle site. Once the course begins operation (i.e. from the 1<sup>st</sup> day of the course) you will be able to access the site via <http://shortcourses.moodle.lse.ac.uk>. This site will contain copies of handouts and lecture slides as well as coursework requirements. It will be updated regularly and online assignments may be posted via this page. If you need instruction on using Moodle please follow the online guides at <http://shortcourses.moodle.lse.ac.uk>.

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**Students will be expected to check the Moodle site on a regular basis.**

### Course Assessment:

The course will be assessed by means of one two-hour unseen examination to be held during the examinations period on the last Friday, at a time to be advised by the Summer School Office. In addition you will be required to submit **one** summative essay of no more than 2000 words by Thursday of week two of teaching.

You will also receive feedback on two pieces of formative coursework to be completed in weeks one and two of the course. This feedback will help with your summative work and your exam preparation.

## Recommended Reading:

The recommended textbook is:

**Murray: *Information Technology Law: The Law and Society* 3ed, 2016, OUP.**

## Texts for Reference Purposes:

- Benkler: *The Wealth of Networks*, 2007, Yale UP.
- Goldsmith & Wu: *Who Controls the Internet*, 2006, OUP.
- Mayer-Schonberger: *Delete: The Virtue of Forgetting in the Digital Age*, 2009, Princeton UP.
- Mayer-Schonberger & Cukier: *Big Data: A Revolution That Will Transform How We Live, Work and Think*, 2013, John Murray.
- Murray: *The Regulation of Cyberspace*, 2006, Routledge.
- Negroponte: *Being Digital*, 1995, Hodder.
- Nissenbaum *Privacy in Context: Technology, Policy, and the Integrity of Social Life*, 2009, Stan. UP.
- Post: *In Search of Jefferson's Moose*, 2009, OUP.
- Solove: *Future of Reputation*, 2008 Yale UP.
- Solove: *Understanding Privacy*, 2008 Harvard UP.
- Zittrain: *The Future of the Internet*, 2008, Allan Lane.

## Specialist Journals (You will need to make use of these) :

- Berkeley Technology Law Journal (BTLJ)
- Computer and Telecommunications Law Review (CTLR)
- Duke Law & Technology Review
- European Journal of Law & Technology (EJLT)
- Harvard Journal of Law and Technology
- International Journal of Law and Information Technology (IJLIT)
- International Review of Law Computers and Technology (IRLCT)
- Journal of Information Law and Technology (JILT)
- Michigan Telecommunications and Technology Law Review

## Lecture Outline:

Week One	Subject	Lecture Date
An Introduction to IT Law (Prof. Murray)	An introduction to the subject matter and content of the course. Including an introduction to essential computer basics.	Mon
Digitisation and the Information Society (Prof. Murray)	Digitisation and Law. <ul style="list-style-type: none"> <li>• Introducing the Internet</li> <li>• How the Modern Internet Functions</li> <li>• Higher Level Protocols</li> <li>• The worlds of Atoms and Bits</li> <li>• The Cross-border challenge of information law</li> <li>•</li> </ul>	Mon
Regulating the Digital Environment (Prof. Murray)	Can we regulate the Digital Environment? <ul style="list-style-type: none"> <li>• Cyberlibertarianism and Cyberpaternalism</li> <li>• Lawrence Lessig's Modalities of Regulation</li> <li>• Network Communitarianism</li> <li>•</li> </ul>	Tues
Intellectual Property Rights – Theory and Software (Prof. Murray)	IPRs and the Information Society <ul style="list-style-type: none"> <li>• The role of IPRs in ICT</li> <li>• Mapping Rights online</li> <li>• Hyperlinking and Browsing</li> </ul> Protecting Computer Software <ul style="list-style-type: none"> <li>• Copyright in Computer Software.</li> <li>• <i>SAS v World Programming</i></li> <li>• Software Patents</li> <li>• <i>Aerotel v Telco and Macrossan's Application</i></li> <li>•</li> </ul>	Wed
Intellectual Property Rights – Peer to Peer (Prof. Murray)	Peer-to-Peer and Filesharing <ul style="list-style-type: none"> <li>• Peer-to-Peer Networks</li> <li>• <i>Napster v. A&amp;M Records</i></li> <li>• <i>MGM v. Grokster</i></li> <li>• BitTorrent</li> </ul>	Thurs

	<ul style="list-style-type: none"> <li>• <i>Sweden v. Neij et al.</i></li> <li>• Volume Litigation</li> </ul>	
Cyberlaw and Rights – Cyber Speech, Harmful Speech & Injunctions (Dr. Lynskey)	<p>Cyber-Speech and Defamation</p> <ul style="list-style-type: none"> <li>• Freedom of Expression and Social Responsibility</li> <li>• Public Interest</li> <li>• Superinjunctions and Twitter</li> <li>• Digital Defamation: Publication and Republication</li> <li>• Digital Defamation and UGC</li> </ul>	Mon
Cyberlaw and Rights – Obscene Speech (Dr. Lynskey)	<p>Pornography and Hate in the Information Society</p> <ul style="list-style-type: none"> <li>• Obscenity &amp; Pornography</li> <li>• Child Abuse Images and Pseudo Images</li> <li>• Age Play</li> <li>• Extreme Pornography</li> <li>• Private Regulation of Pornographic Imagery</li> <li>• Hate Speech</li> </ul>	Tues
Cyberlaw and Rights – Cybercrime (Dr. Lynskey)	<p>Computer Crime</p> <ul style="list-style-type: none"> <li>• Hacking</li> <li>• Viruses &amp; Mailbombing</li> <li>• Denial of Service</li> <li>• Grooming, Harassment and Cyberstalking</li> </ul>	Wed
E-Commerce – Trade Marks and Domain Names (Prof. Murray)	<p>Domain Names</p> <ul style="list-style-type: none"> <li>• Trade Marks in the Global Business Environment</li> <li>• Trade Mark/Domain Name Disputes</li> <li>• The ICANN UDRP</li> <li>• The Nominet DRS</li> </ul> <p>Brand Identities and Secondary Markets</p> <ul style="list-style-type: none"> <li>• The use of Trade Marks in Advertising</li> <li>• Resellers and Re-importers</li> <li>• Sponsored Links</li> <li>• Secondary Markets (eBay etc)</li> </ul>	Thurs

	<ul style="list-style-type: none"> <li>• <i>Google France v. Louis Vuitton</i></li> <li>• <i>Portakabin v. Primakabin</i></li> </ul>	
E-Commerce – Contracts, Customers Payment (Prof. Murray)	<p>Electronic Contracts and Payments</p> <ul style="list-style-type: none"> <li>• Contracting Informally</li> <li>• Formal Contracts</li> <li>• Electronic Money</li> <li>• Consumer Protection</li> <li>• Jurisdiction and Choice of Law</li> </ul>	Mon
Data Privacy – The Data Protection Act 1998 (Dr. Lynskey)	<p>Data Protection</p> <ul style="list-style-type: none"> <li>• Digitisation, Personal Data and the Data Industry.</li> <li>• Data Protection Act 1998: Background and Structure</li> <li>• Rights and Responsibilities under the Data Protection Act</li> </ul>	Tues
Data Privacy – The Data Protection Review (Dr. Lynskey)	<p>Review of Data Protection Law</p> <ul style="list-style-type: none"> <li>• The EU's Draft Data Protection Regulation</li> <li>• The challenges of Social Networking and Online Data Surveillance (Facebook and Google)</li> </ul>	Wed
Revision (Prof. Murray)	<ul style="list-style-type: none"> <li>• Revision Lecture</li> </ul>	Thurs

## INDICATIVE READINGS

### Week One:

#### Digitisation and the Information Society

- Murray: *Information Technology Law: Law and Society 2ed*, Chs.1&3.
- Johnson & Post: "Law and Borders – The Rise of Law in Cyberspace" 48 *Stanford Law Review* 1367 (1996): [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=535](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=535)
- Barlow: *The Economy of Ideas*: [http://www.wired.com/wired/archive/2.03/economy.ideas\\_pr.html](http://www.wired.com/wired/archive/2.03/economy.ideas_pr.html)

#### Regulating the Digital Environment

- Lessig: *Code ver.2.0*, Chs. 6&7: <http://codev2.cc/download+remix/Lessig-Codev2.pdf>
- Murray: *Information Technology Law: Law and Society 2ed*, Ch.4.
- Murray: "Nodes and Gravity in Virtual Space" (2011) 5 *Legisprudence* 195 (Via Moodle)
- Barlow, *A Declaration of Independence for Cyberspace*: <http://memex.org/barlow.html>.

#### Intellectual Property Rights – Theory and Software

- William Fisher 'Theories of Intellectual Property'  
<http://cyber.law.harvard.edu/people/tfisher/iptheory.pdf>
- Murray: *Information Technology Law: Law and Society 2ed*, Chs.9&10.
- *Public Relations Consultants Association v Newspaper Licensing Agency and Ors* Case C-360/13 (5June 2014)  
<http://eurlex.europa.eu/legalcontent/EN/TXT/HTML/?uri=CELEX:62013CJ0360&qid=1401959911292&from=EN>
- *Navitaire Inc. v. EasyJet Airline Co and Another* [2004] All ER (D) 162.
- *Nova Productions Ltd. v. Mazooma Games Ltd.* [2007] EWCA Civ 219.

#### Intellectual Property Rights – Peer to Peer

- Murray: *Information Technology Law: Law and Society 2ed*, pp.263-291.
- *Sweden v. Neij et al.*, Stockholms Tingsrätt No B 13301-06, 17 April 2009 (Available via Moodle)
- *Scarlet Extended (Intellectual property)* [2011] EUECJ C-70/10
- *Dramatico Entertainment Ltd v. British Sky Broadcasting Ltd & Ors* [2012] EWHC 268 (Ch)
- *EMI Records & Others v. Eircom Ltd* [2010] IEHC 108

**Week Two:**

**Cyberlaw and Rights – Cyber Speech and Defamation**

- Murray: *Information Technology Law: Law and Society 2ed*, Chs.6&8.
- *Tamiz v Google Inc* [2013] EWCA Civ 68
- *Delfi AS v Estonia* (2014) 58 EHRR 29

**Cyberlaw and Rights – Obscene Speech**

- Murray: *Information Technology Law: Law and Society 2ed*, Ch.14.
- Hornle: "Countering the dangers of online pornography - shrewd regulation of lewd content?" 2011 *European Journal of Law and Technology*: <http://ejlt.org/article/view/55/121>
- Murray: The Reclassification of Extreme Pornographic Images (2009) MLR 73.
- Rowbottom, 'To Rant, Vent and Converse: Protecting Low Level Digital Speech' (2012) 71 CLJ 355

**Cyberlaw and Rights – Cybercrime**

- Murray: *Information Technology Law: Law and Society 2ed*, Ch.13&15.
- Karansiou: 'The changing face of protests in the digital age: on occupying cyberspace and Distributed-Denial-of-Services (DDoS) attacks' *International Review of Law, Computers & Technology*, 2014
- House of Lords Select Committee Report, 'Social media and criminal offences' (HL Paper 37) 29 July 2014, p.5-27

**E-Commerce – Trade Marks and Domain Names**

- Murray: *Information Technology Law: Law and Society 2ed*, Ch.16.
- *Interflora Inc. v. Marks & Spencer Plc.* [2012] ETMR 1
- *L'Oreal v. eBay* [2011] ETMR 52
- *British Telecommunications plc v. One in a Million Ltd.* [1999] 1 WLR 903.
- McEvedy: Keywords and resales and other fair and referential uses [2012] *Intellectual Property Quarterly* 149



**Week Three:**

**E-Commerce – Contracts and Payment**

- Murray: *Information Technology Law: Law and Society 2ed*, Ch.17-18.
- Regnard-Weinrabe et al: Mobile payments and the new e-money Directive [2011] *Computer and Telecommunications Law Review* 117
- Akhtar: Distant selling, e commerce and company liability [2012] *European Competition Law Review* 497.
- Mason: Revising the EU e-Signature Directive [2012] *Communications Law* 56.

**Data Privacy – The Data Protection Act 1998**

- Murray: *Information Technology Law: Law and Society 2ed*, Ch.19.
- Look at the website of the Information Commissioner: <http://www.informationcommissioner.gov.uk/>
- C-101/01 Bodil Lindqvist [2003] ECR I- 12971.
- C-141/12 and 372/12 *YS v Minister voor Immigratie, Integratie en Asiel and Minister voor Immigratie, Integratie en Asiel v MS* [2014] ECR I-000 (nyr)

**Data Privacy – Review of Data Protection Law**

- European Commission, Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) COM (2012) 11 final (pgs.1-16)
- C-131/12, *Google Spain SL, Google Inc. v Agencia Española de Protección de Datos and Mario Costeja González* [2014] ECR I-000, nyr
- B. Koops, 'The Trouble with European Data Protection Law' (2014) 4 *International Data Privacy Law* 250-261

**Credit Transfer:** If you are hoping to earn credit by taking this course, please ensure that you confirm it is eligible for credit transfer well in advance of the start date. Please discuss this directly with your home institution or Study Abroad Advisor.

As a guide, our LSE Summer School courses are typically eligible for three credits within the US system and 7.5 ECTS in Europe. Different institutions and countries can, and will, vary. You will receive a digital transcript and a printed certificate following your successful completion of the course in order to make arrangements for transfer of credit.

If you have any queries, please direct them to [summer.school@lse.ac.uk](mailto:summer.school@lse.ac.uk)