**A&S 100-013, Technology and the U.S. Legal System**

**Class Hours and Location: Wedenesday 4:30-7:00, Keeneland Hall-Room 1**

**A&S Wired Course, Fall 2013**

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**Class Website:** [**http://www.uky.edu/~jpwede2/index\_files/Page317.htm**](http://www.uky.edu/~jpwede2/index_files/Page317.htm)

1. **Course Introduction and Description**

In this course we will examine how technology and the legal system intersect in important ways. While our legal system plays an important role in society, it must constantly evolve to be in harmony as new technology emerges. This course will serve as an introduction to how technology has influenced various aspects of the legal system. In looking at how technology has come to play a crucial role in the courtroom, we will examine how forensic evidence has helped and hurt this process, as well as examining how unlimited access to the internet might be harmful for jury trials. In examining how television and internet news has influenced how we select and perceive Supreme Court confirmation hearings, we will see if Senators are providing representation or looking out for their own partisan interests. We will also delve into other topics, such as internet regulation and copyright law. To guide our class, we will discuss and write about readings and videos from scholars and journalists who will illuminate different aspects of this important intersection. Today we live in the digital age yet our legal system is more important than ever to ensure a peaceful society. To understand and know how technology is influencing our legal system, and our perceptions of it, we must examine it from a digital perspective.

1. **Learning Goals**

* Demonstrate an awareness of how technology and law are in tension. Identify the positive benefits of this relationship, as well as identify the negative drawbacks to this tension.
* Compose written texts and deliver oral presentations that represent a relevant and informed discussion of the major points of how law and technology are in tension. Be able to highlight how the two are changing to coexist.
* Develop flexible and effective strategies for organizing, revising, editing, and improving communication of ideas about law and technology.
* Engage in small group activities during class that will allow them to explore and express their experiences and knowledge on issues under discussion.
* Be able to explain the dynamic nature of the tension between law and technology using examples from current events.

1. **Readings**
   1. All readings are free and available through the web or the University/Library.
   2. All readings are listed with their corresponding week at the schedule at the end of the syllabus. All readings listed are required unless otherwise noted. You should read/watch/listen to all of the assigned material before the class period for which it is assigned, and be prepared to discuss it in class.
2. **Apps to be used in class**
   1. Evernote
      1. The [app is free](https://evernote.com/?utm_expid=6007595-9.C_IyEqenS9mnNzYMCm423Q.0).
   2. Blogger
      1. [Instructions to get started on Blogger.](http://www.uky.edu/~jpwede2/BloggerInstructions.pdf)
3. **Course Requirements**
   1. Attendance and Participation

A large portion of your grade is determined by attendance and class participation. Thus, it is to your benefit to attend class prepared to discuss the class material. In addition to class discussion of topics, we will also have participation through group activities and also through reflective pieces written in Evernote during class.

If you miss a class due to illness or death in the family or other University approved absences, the policy for making-up missed participation points is as follows: The student must provide the necessary and proper documentation as approved by the Academic Ombud [(see link).](http://www.uky.edu/Ombud/Policies.php)  Providing documentation and prior notification to the instructor, in most instances, is required to ensure a chance to make-up the points. If prior notification is not possible, the proper documentation must be provided by the next class period. In the case of a death of a family member or friend, you will need to document this with a funeral notice. Once the excuse has been approved, an appropriate make-up assignment involving the missed week will be arranged with the professor.

* 1. Blog

You are required to make 3 blog posts. Posts are due by the assigned dates listed below on the schedule. Though, to ensure that all blog posts are not bunched up at the end of the semester, due dates have been added to the syllabus. Furthermore, you are strongly encouraged to NOT wait for the deadline, but to post at other times. Each blog post must be at least 300 words and contain at least one picture and at least one link (to which it is based on). Be sure to follow fair use guidelines and rules. Each post should have a descriptive title (cleverness is encouraged), and should deal with a topic or theme that fits with the class. It does not have to deal with the topic of that week. And you are not limited to the topics on this syllabus, but the post must directly relate to “law and technology” in some way. You are also required to provide a thoughtful comment at least 3 times on a classmate’s blog post (though more are strongly encouraged). Please keep in mind when posting to follow proper professional etiquette and be constructive when disagreeing with others. Rudeness or unprofessional behavior will not be tolerated.

For purposes of this class component, I will set up a class blog and I will give you access to it as an author. See the link above on getting started with Blogger. Please keep in mind that the “blogosphere” is a public domain. So, please protect your identity and be mindful that what you post will be seen by people outside this class. Thus, you DO NOT have to use your real name when creating an account. You can use a pseudonym for your blog title, but you need to tell me your pseudonym so I can give you credit. If you have any concerns about this, please come and talk to me.

You will also post your group video project on the blog at the end of the semester.

FERPA Waiver: By continuing in this class after receipt of this syllabus, you agree to wiave your FERPA rights for the blogging assignment portion of the course ONLY. The blog is public and what you write in blog posts or comments there will be available to the public on a permanent basis. Again, keep this in mind when you are posting on the course blog or commenting on other blogs. The FERPA waiver is valid only for the blogging component of the course. All other course work, as well as your grade for the blogging component of the course, will remain private.

* 1. Group Video Project and presentation

Using your ipads, you will be part of a group that makes a 2-3 minute video (2 minutes is the minimum) on some aspect or issue relating to law and technology. Groups will consist of 3-4 people and will be assigned by me. These videos will be presented and displayed at the last class period. This presentation will include a brief oral presentation to the class discussing the topic and theme you were trying to address, as well as any challenges and learning experiences you encountered. Lastly, you will post your group video on the blog. More information on this will be distributed at a later date. Be sure to follow fair use guidelines and rules.

* 1. Reflection Paper Assignment

You will write a 3-4 page, double-spaced (12 point, Times New Roman font) reflection paper on one of the weekly topics. For the week that you pick, you are encouraged to use additional resources outside of those listed on this syllabus. In the paper, you will identify the tension between law and whatever aspect of technology you pick. Next, you will identify the arguments made on all sides of the issue, who (i.e.., what groups) are making those arguments, and what do they stand to gain or lose if their side wins or loses. Lastly, explain how important this tension is, in relative terms, to society (compare it to other events in society and how people are impacted). You must turn in the paper by the assigned date (listed below on the schedule- OCTOBER 23rd). You must submit it via Blackboard or in unusual cases by hard copy. I will not accept assignments via email. Papers will be penalized 10% for each calendar day it is late.

1. **Grading**
   1. Grade Components
      1. Attendance and Participation 20%
      2. Blog 25%
      3. Group Video Project 35%
      4. Reflection Paper 20%
   2. Letter grades are assigned based on the following:
      1. A 100-90
      2. B 89-80
      3. C 79-70
      4. D 69-60
      5. E 59-0
   3. Due to privacy restrictions, I will not reveal or discuss grades by phone or email.
2. **Academic Misconduct and Dishonesty**
   1. Academic dishonesty will not be tolerated. Individuals suspected of academic misconduct will handled according to established rules of the University of Kentucky and the College of Arts & Sciences. Misconduct includes, but is not limited to, cheating on assignments or examinations, plagiarizing (misrepresenting one’s own work done by another), submitting identical papers for more than one course (unless professor approved), depriving another of course materials, and sabotaging another’s work. Any instance of academic misconduct will result in a 0 for the student on that class segment. For more on plagiarism, see section 6 of the [Ombud’s page.](http://www.uky.edu/Ombud/Policies.php)
3. **Other Class Rules and Policies**
   1. Any changes to the schedule and/or syllabus will be announced in class
   2. Students with special needs are advised to contact the professor immediately. Every reasonable effort to accommodate special needs will be made. The student must register with the Disability Resource Center. <http://www.uky.edu/StudentAffairs/DisabilityResourceCenter/index.html>
4. **Course Schedule**
   1. WEEK 1- August 28th
      1. Topic: Introduction, Syllabus, Future of Law and Technology
      2. Videos (during 1st class):
         1. [TED talk by Marc Goodman: A Vision of Crimes in the Future](http://www.ted.com/talks/marc_goodman_a_vision_of_crimes_in_the_future.html?quote=1765)
         2. [10 Future Law Enforcement Technologies](http://www.youtube.com/watch?v=AWMYHhZ5zSQ)
         3. [TED talk by Lawrence Lessig: Laws that Choke Creativity](http://www.ted.com/talks/larry_lessig_says_the_law_is_strangling_creativity.html)

* 1. WEEK 2- September 4th
     1. Topic: “Trial by a Googling jury?”- Access to Info & Juries
     2. Reading and Listening:
        1. “[As Jurors turn to Web, Mistrials are Popping Up” by John Schwartz, New York Times](http://www.nytimes.com/2009/03/18/us/18juries.html?pagewanted=all&_r=2&) (March 17, 2009)
        2. [“Google Mistrials, Twittering Jurors, Juror Blogs, and Other Technological hazards.”](http://www.mass.gov/courts/ncsc-juror-use-of-technology.pdf) By Paula Hannaford-Agor in *The Court Manager*. Jury News. Vol 24(2). National Center for State Courts
        3. Listen or read story: [“For Modern Jurors, Being on a case means being offline.” By NPR Staff (June 24, 2013).](http://www.npr.org/blogs/alltechconsidered/2013/06/24/195172476/JURORS-AND-SOCIAL-MEDIA)
        4. “[’Trial by Google’ a risk to jury system, says attorney general”](http://www.theguardian.com/law/2013/feb/06/trial-by-google-risk-jury-system) by Owen Bowcott. The Guardian. Feb. 6, 2013.
        5. “Can the Jury Trial Survive Google?” by Caren Myers Morrison. In *Criminal Justice* 24(Winter 2011): pages 4-15.
           1. [Access through UK library- HeinOnline](http://heinonline.org/HOL/Page?handle=hein.journals/cjust25&div=52&g_sent=1&collection=journals)
        6. “Can the Jury Disregard that Information? The Use of suspicion to Reduce the Prejudicial Effects of Pretrial Publicity and Inadmissable Testimony.” By Steven Fein, Allison L. McCloskey and Thomas M. Tomlinson. *Personality and Social Psychology Bulletin* (1997) 23:1215-1226.
           1. [Access through the UK Library/web.](http://psp.sagepub.com/content/23/11/1215.full.pdf+html)
  2. WEEK 3- September 11th **- Blog post #1 due**
     1. Topic: “The CSI Effect?” Threshold of Reasonable Doubt
     2. Reading:
        1. Reasonable Doubt definition: [Law.com](http://dictionary.law.com/Default.aspx?selected=59)
        2. [“The ‘CSI Effect’: Does It Really Exist?”](http://www.nij.gov/journals/259/csi-effect.htm) by Honorable Donald E. Shelton. National Institute of Justice
        3. Read or listen online [“Is The ‘CSI Effect’ Influencing Courtrooms?”](http://www.npr.org/2011/02/06/133497696/is-the-csi-effect-influencing-courtrooms) by Arun Rath. NPR.org (February 5, 2011).
        4. [“The CSI Effect: Fact or Fiction”](http://yalelawjournal.org/the-yale-law-journal-pocket-part/criminal-law-and-sentencing/the-csi-effect:-fact-or-fiction/) by Andrew P. Thomas. *Yale Law Journal Essay.* Jan. 31, 2006.
        5. [“The “CSI Effect”](http://www.economist.com/node/15949089) The Economist. April 22, 2010.
        6. Video: [Anderson Coooper 360: The CSI Effect.](http://www.youtube.com/watch?v=fGc4PaLB-ek)  A
        7. [“The CSI Effect: Popular Fiction about Forensic Science Affects the Public’s Expectations about Real Forensic Science.”](http://lsprg.asu.edu/archive/csieffect.pdf) by N.J. Schweitzer and Michael J. Saks. In *Jurimetrics* 47(Spring 2007): 357-364.
     3. Due: **Blog post #1 due**
  3. WEEK 4- September 18th
     1. Topic: Television and Legal Proceedings (Confirmation hearings, oral arguments, tv judges)
     2. Reading:
        1. Video: Elena Kagan testifying at confirmation hearing on [“Inalienable Rights- I’ve never really considered that question](http://www.youtube.com/watch?v=z2Jj-a9SK3s)”
        2. [“The Candor Factor: Does Nominee Evasiveness Affect Judiciary Committee Support for Supreme Court Nominees?”](http://law.hofstra.edu/pdf/academics/journals/lawreview/lrv_issues_v39n02_bb-2-wedeking-farganis-final.pdf) By Justin Wedeking and Dion Farganis. 2010. *Hofstra Law Review* 39(2): 329-368.
        3. [“Is Anybody Shocked that Americans Trust TV Judges More than Supreme Court Justices?”](http://abovethelaw.com/2013/05/is-anybody-shocked-that-americans-trust-tv-judges-more-than-supreme-court-justices/) by Staci Zaretsky. Above the Law.com. May 8, 2013.
        4. Video: [“The People’s Court- Case of the Misfiring Stun Gun”](http://www.youtube.com/watch?v=-PD-mejrByo) with Judge Wapner.
        5. Video: Example of Television Judges- [Judge Judy](http://www.youtube.com/watch?v=ZqIXmEkRT-A)
        6. [“Blame Judge Judy: The Effects of Syndicated Television Courtrooms on Jurors.”](http://heinonline.org/HOL/Page?handle=hein.journals/amjtrad25&div=39&g_sent=1&collection=journals) By Kimberlianne Podlas. American Journal of Trial Advocacy 25: 557-586
  4. WEEK 5- September 25th - **Blog Post #2 Due**
     1. Topic: Copyright and Piracy
     2. Reading:
        1. TED talk- [“Rob Reid: The $8 billion iPod”](http://www.youtube.com/watch?v=GZadCj8O1-0)
        2. [Constitution Article 1 Sec. 8 clause 8](http://www.law.cornell.edu/constitution/articlei#section8) (only read first part and start with clause “To promote the progress…”
        3. US Code
           1. [17 USC §102](http://www.copyright.gov/title17/92chap1.html#102)
           2. [17 USC §103](http://www.copyright.gov/title17/92chap1.html#103)
           3. [17 USC §105](http://www.copyright.gov/title17/92chap1.html" \l "105)
           4. [17 USC §106](http://www.copyright.gov/title17/92chap1.html" \l "105)
        4. [“Copyright: The Elephant in the Middle of the Glee Club](http://www.yaleisp.org/2010/06/copyright-and-glee)” by Christina Mulligan, in Yale Law School, Information Society Project (June 7, 2010).
        5. [“The Copyright wars come to ‘Glee’”](http://www.salon.com/2010/06/09/glee_and_the_copyright_wars/) by Andrew Leonard, Salon. June 9, 2010.
        6. [“Film piracy attitudes shift”](http://www.screendaily.com/news/film-piracy-attitudes-shift/5054217.article) by Michael Rosser. Screendaily.com (April 24, 2013).
        7. [“Student Attitudes on Software Piracy and Related Issues of Computer Ethics.”](http://link.springer.com/article/10.1007/s10676-004-3391-4) By Robert M. Siegfried (2012). Ethics and Information Technology 6(4): 215-222.
     3. Due: **Blog Post #2 Due**
  5. WEEK 6 – October 2nd
     1. Topic: More on Internet Regulation
     2. Reading:
        1. [TED talk: “Clay Shirky: Why SOPA is a bad idea.”](http://www.ted.com/talks/defend_our_freedom_to_share_or_why_sopa_is_a_bad_idea.html)
        2. [“What are SOPA and PIPA and why all the fuss?”](http://www.forbes.com/sites/larrymagid/2012/01/18/what-are-sopa-and-pipa-and-why-all-the-fuss/) by Larry Magid. Forbes (January 18, 2012).
        3. [“SOPA, PIPA: What you need to know”](http://www.cbsnews.com/8301-503544_162-57360665-503544/sopa-pipa-what-you-need-to-know/) by Stephanie Condon. CBSNews.com (January 18, 2012)
        4. [“PIPA and SOPA were stopped, but the Web hasn’t won”](http://www.huffingtonpost.com/art-brodsky/pipa-and-sopa-were-stoppe_b_1230818.html) by Art Brodsky, The Huffingtonpost.com Blog (January 25, 2012).
        5. TED talk: [“Rebecca MacKinnon: Let’s take back the Internet](http://www.ted.com/talks/rebecca_mackinnon_let_s_take_back_the_internet.html)”
        6. Video: [The U.N. tackles internet regulation](http://www.youtube.com/watch?v=lCgWENRtZcQ)
        7. [“A Post-SOPA (STOP Online Piracy Act) Shift in International Intellectual Property Norm Creation”](http://onlinelibrary.wiley.com/doi/10.1111/j.1747-1796.2012.00443.x/full) by Christian Yoder (2012). The Journal of World Intellectual Property 15(December,5-6): 379-388.
  6. WEEK 7- October 9th - **Blog Post #3 due**
     1. Topic: Privacy
     2. Reading:
        1. [4th amendment](http://www.law.cornell.edu/constitution/fourth_amendment)
        2. TED Talk on Behavioral Tracking: [“Gary Kovacs: Tracking our online trackers”](http://www.ted.com/talks/gary_kovacs_tracking_the_trackers.html)
        3. Justice Scalia aggregation example
           1. [“Justice Scalia’s Dossier: Interesting Issues about Privacy and Ethics”](http://www.concurringopinions.com/archives/2009/04/justice_scalias_2.html) by Daniel Solove. Concurring Opinions.
           2. [“What Fordham knows about Justice Scalia”](http://abovethelaw.com/2009/04/what-fordham-knows-about-justice-scalia/) by Kashmir Hill. Abovethelaw.com (April 22, 2009).
           3. [“Justice Scalia Responds to Fordham Privacy Invasion!”](http://abovethelaw.com/2009/04/justice-scalia-responds-to-fordham-privacy-invasion/) by Kashmir Hill at Abovethelaw.com (April 29, 2009)
        4. [“Google Privacy: 5 Things the Tech Giant Does with your Data”](http://mashable.com/2012/03/01/google-privacy-data-policy/) by Christine Erickson (March 1, 2012).
        5. [“With New Privacy Policy, Twitter Commits to Respecting Do Not Track.”](https://www.eff.org/deeplinks/2012/05/new-privacy-policy-twitter-commits-respecting-do-not-track) By Rainey Reitman at EFF.org (May 17, 2012).
     3. Due: **Blog Post #3 due**
  7. WEEK 8- October 16th
     1. Topic: 4th amendment and electronic tracking of criminals & students
     2. Reading:
        1. UK Library: [“Old Answers to New Questions: GPS Surveillance and the Unwarranted Need for Warrants.”](http://heinonline.org/HOL/Page?handle=hein.journals/ncjl11&div=17&g_sent=1&collection=journals) By Tarik N. Jallad. 2009-2010. North Carolina Journal of Law & Technology 11(2): 351-375
        2. Can the police use GPS to track suspects? US v. Jones
           1. Read Facts of the case for US v. Jones; read the legal question; and [listen to some of the oral argument Oyez.org.](http://www.oyez.org/cases/2010-2019/2011/2011_10_1259)
           2. [“Justices Say GPS Tracker Violated Privacy Rights”](http://www.nytimes.com/2012/01/24/us/police-use-of-gps-is-ruled-unconstitutional.html?pagewanted=all) by Adam Liptak, New York Times (January 23, 2012).
           3. Supreme Court Opinion (read majority opinion): [United States v. Jones (2012)](http://www.law.cornell.edu/supremecourt/text/10-1259)
        3. Video: [“Tracked: A week under GPS supervision”](http://www.youtube.com/watch?v=QBAT07UEWug)
        4. [“Ankle Monitors on High-Risk Offenders Malfunctioned for Years, Officials Found”](http://www.businessinsider.com/gps-tracking-flaws-california-criminals-2013-4) by Rebecca Baird-Remba. Businessinsider.com (April 1, 2013)
        5. [“GPS Technology Helping Texas Police Capture Criminals”](http://dfw.cbslocal.com/2013/08/21/gps-technology-helping-texas-police-capture-criminals/)
        6. [“NYPD’s Social Media Unit Will Track Criminals on Facebook, Twitter”](http://www.huffingtonpost.com/2011/08/10/nypd-social-media_n_923208.html) Huffingtonpost.com (August 10, 2011)
        7. [“Student IDs that Track the Students”](http://www.nytimes.com/2012/10/07/us/in-texas-schools-use-ids-to-track-students.html) by Maurice Chammah and Nick Swartsell. New York Times (October 6, 2012).

* 1. WEEK 9- October 23rd -- **REFLECTION PAPER DUE TODAY**
     1. Topic: National security issues
     2. Reading:
        1. [“U.S. Internet Spying Draws Anger, and Envy”](http://www.nytimes.com/2013/06/08/business/global/us-internet-spying-draws-anger-and-envy.html?adxnnl=1&ref=onlineprivacyregulation&adxnnlx=1377198977-qz3VQlgo1pP3XnL58W2Y3Q) by Eric Pfanner and James Kanter, New York Times (June 7, 2013)
        2. [“Divisions Widen Among Snowden’s Supporters”](http://online.wsj.com/article/SB10001424127887324823804579014611497378326.html) by Lukas I. Alpert. Wall Street Journal (August 15, 2013).
        3. WikiLeaks
           1. [Chronology](http://topics.nytimes.com/top/reference/timestopics/organizations/w/wikileaks/index.html)
           2. [“WikiLeak’s Assange condems Manning verdict, Obama”](http://uk.reuters.com/article/2013/07/30/uk-usa-wikileaks-manning-assange-idUKBRE96T1IW20130730) by Andrew Osborn, Reuters (July 31, 2013)
        4. Podcast- [“Privacy, Technology and National Security: An Overview of Intelligence Collection.”](http://www.brookings.edu/events/2013/07/19-privacy-technology-security-intelligence) An Address by General Counsel of the Office of the Director of National Intelligence Robert S. Litt (Brookings Institution July 19, 2013). (one hour)
        5. Video- [“New Technologies, National Security, and the Law”](http://www.c-spanvideo.org/program/311627-1&showFullAbstract=1) Andrew Weissmann, General Counsel for the FBI (American Bar Association, March 20, 2013). C-SPAN.
        6. “Neuroscience, Ethics, and National Security: The State of the Art” by Michael N. Tennison and Jonathan D. Moreno (2012). PLoS Biology 10(3): 1-4.
           1. [Access online/Library](http://www.plosbiology.org/article/fetchObject.action?uri=info%3Adoi%2F10.1371%2Fjournal.pbio.1001289&representation=PDF)
     3. **Due: Reflection paper assignment DUE TODAY**
  2. WEEK 10- October 30th
     1. Topic: Biotechnology
     2. Reading:
        1. Patent Genes-Breast Cancer Case
           1. Facts of case and Legal Question- Oyez: [Association for Molecular Pathology v. Myriad Genetics (2013)](http://www.oyez.org/cases/2010-2019/2012/2012_12_398)
           2. [Read the opinion (not the summary)](http://supreme.justia.com/cases/federal/us/569/12-398/)
           3. News of Decision- video and read[: “Supreme Court says genes can’t be patented; patient advocates and researchers cheer”](http://usnews.nbcnews.com/_news/2013/06/13/18935727-supreme-court-says-genes-cant-be-patented-patient-advocates-and-researchers-cheer?lite) by Pete Williams and Erin McClam. NBC News. June 13, 2013.
           4. [“You can’t patent human genes. So why are genetic testing companies getting sued?”](http://www.washingtonpost.com/blogs/wonkblog/wp/2013/07/12/you-cant-patent-human-genes-so-why-are-genetic-testing-companies-getting-sued/) by Timothy B. Lee (Washington Post WONKBLOG (July 12, 2013).
        2. [“Genetically modified foods raise new legal issues”](http://www.cov.com/files/Publication/e435e641-b00a-4e20-92f3-0a8639b8f9bb/Presentation/PublicationAttachment/7cd905a2-fe8e-4a25-8709-1096d7ce6aef/oid6070.pdf) by Elizabeth S. Weiswasser, Kimberly K. Egan and Kurt G. Calia. National Law Journal (June 25, 2001).
        3. [“New Law Spurs Controversy, Debate Over Genetically Modified Crops”](http://abcnews.go.com/blogs/politics/2013/04/new-law-spurs-controversy-debate-over-genetically-modified-crops/) by Sarah Parnass, ABC News (April 2, 2013).
  3. Week 11- November 6th
     1. Topic: Presentation of Group Video Projects
     2. **Due: Group Presentations and Group Video Projects (posted on class Blog)**