Law and the Internet of Things (IoT)

Meeting Location and Time: Room 222 and the Helix Innovation Center (40 E. Stewart Street) Fridays from 10:50 - 12:50

Instructors:
This class will be taught by Professor Thaddeus Hoffmeister and Christine Carney, Associate General Counsel for Emerson. The course will also have guest lecturers throughout the semester.

--Nicole Cameli, Senior Counsel (Based in Kennesaw, GA)
--Pat Barry, Associate General Counsel (Based in St. Louis, MO)
--Matt Mottice, Senior IP Counsel (Based in Sidney, OH)
--Mary Brown and Mike Gilgrest, Senior Counsel (Corporate) (Based in St. Louis, MO)
--Grant Hoffman, Innovation Lead (Based in Dayton, OH @ the Helix)

Course Description: The course examines legal issues that arise in the context of the internet of things ("IoT"). Topics covered include data security/privacy, intellectual property (including data ownership), monetization of data, regulation (e.g., State of California, FTC and EU), product liability, automated contracts, IoT advocacy (e.g., Industrial Internet Consortium, API Days, AllSeen Alliance, One M2M), application program interfaces and ethical issues involved in data collection and sharing. Students will be asked to consider the problems presented from a public policy perspective and from the perspective of a client who would like to participate in commerce related to the IoT.

Prerequisites: None

Course Structure: This course will be taught in modules that consist of one to three 60 minute class sessions. The course will follow a traditional seminar format; however, interspersed throughout the course are two practicums. In the practicums, students will go to the Helix and work on real-world problems related to the IoT.

Required Text: No required text, see sample syllabus below for assigned readings

Required Listening: Stacey on IoT weekly podcast

Grading: Option A
--Paper 70% of the final grade
--Class Participation 10% of the final grade
--Weekly Blog Posts 10% of the final grade (must be made on Isidore by 11:59 pm on Thursday)

--Practicum 10% of the final grade

Absences: Every subsequent absence after the 1st absence will result in the loss of 5 points. After 2 absences the student may not be allowed turn in his or her final paper based on ABA attendance requirements.

Course Rationale: In a nutshell, IoT is a system of sensors, CPUs, and wireless radio connected to the Internet. By 2020, it is expected that there will be over 200 billion connected sensor devices to include wearables, telephone devices, internet connected homes, and autonomous cars. These devices will communicate with each other and individuals. While these connected devices will provide a multitude of social and individual benefits, they also raise a host of legal issues. For example, who owns the information generated by the data? How can this data be used? Are the sensors secured? Who is liable if there is a breach? Are consumers aware of the legal implications raised by the collection of such information? What laws or regulations are currently in existence to regulate this subject area? This course will assist law students in answering these questions.

Syllabus (subject to slight modifications)

January 12 (Class 1 and 2 Carney): Course introduction and tour of the Helix

Guide for New In-House (http://www.acc.com/committees/ntic/ntiresources.cfm)

January 19 (Class 3 and 4 Hoffmeister): Background and Interoperability

(1) Kelsey Clubb, Lisa Kirch, and Nital Patwa, *The Ethics, Privacy, and Legal Issues around the Internet of Things*

(2) Jacob Morgan, *A Simple Explanation of 'the Internet of Things'* Forbes (May 13, 2014)

(3) Julie Brill, *Internet of Things: Building Trust and Maximizing Benefits Through Consumer Control,* 83 FORDHAM L. REV. 205 (2014)

(4) Stephanie Sharron and Nikita Tuckett, *The Internet of Things Interoperability, Industry Standards and Related IP Licensing Approaches*, Socially Aware Blog (Feb 2, 2016)

(5) John Gudgel, *Objects of Concern? Risks, Rewards and Regulation in the "Internet of Things,"* SSRN (Apr. 29, 2014)

January 26 (Class 5 and 6 Hoffman): Security (potentially at the Helix)

(1) Breach Notification Rule

(2) FTC Staff Report, *Internet of Things: Privacy and Security in a Connected World,* (January 2015)

(3) Report by U.S. Senator Markey, *Tracking and Hacking Security and Privacy Gaps Put American Drivers at Risk* (Feb 2015)

(4) *Potential - IoT Engineering - Innovation Q&A with Grant Hoffman*

February 2 (Class 7 and 8 Mottice): Contracts and Software Licensing

(1) Irina Manta and David S. Olson, *Hello Barbie: First They Will Monitor, Then They Will Discriminate Against You. Perfectly.,* 67 ALA. L. REV. 135 (2105)

(2) Guido Noto La Diega and Ian Walden, *Contracting for the Internet of Things: Looking into the Nest,* SSRN (Feb. 1, 2016)

February 9 (Class 9 and 10 Carney): Privacy

(1) Meg Leta Jones, *Privacy Without Screens and the Internet of Other People's Things,* 51 Idaho L. Rev. 639 (2015)

(2) Adam Thierer, *The Internet of Things and Wearable Technology: Addressing Privacy and Security Concerns Without Derailing Innovation,* 21 RICH. J. L. and TECH 6 (2015)

(3) Spy Car Act of 2015

(4) Christin McMeley, *Protecting Consumer Privacy and Information in the Age of the Internet of Things,* 29-FALL Antitrust 71 (2014)

(5) Module: Privacy Policy Review and Recommendations to Client

February 16 (Class 11 and 12 Cameli): Regulatory Framework (potentially at the Helix)

(1) Fair Credit Reporting Act

(2) Fair Information Practice Principles

(3) Health Insurance and Portability and Accountability Act

(4) Children's Online Privacy Protection Act

February 23 (Class 13 and 14 Mottice): Ownership and Intellectual Property

(1) Christina Mulligan, *The Cost of Personal Property Servitudes: Lessons from the Internet of Things,* 50 GA. L. REV. XXXX (2015)

(2) Lily Hay Newman, *Who Owns the Software in the Car You Bought?,* SLATE (May 22, 2015)

(3) Tim Fernholz, *US Copyright Rules Made it Easier for Volkswagen to Cheat,* QUARTZ (Sep. 22, 2015)

(4) W. Keith Robinson, *Patent Law Challenges for the Internet of Things*, 15 Wake Forest Journal of Business and IP 657 (2015)

Mar 2 (Class 15 and 16 Brown/Gilgrist): International Perspective
The EU General Data Protection Regulation: A guide for in-house lawyers (2016) (Available via student portal)

Important definitions under the GDPR:
https://www.dataiq.co.uk/blog/summary-eu-general-data-protection-regulation

Territorial scope and data subjects rights:
https://www.eugdpr.org/the-regulation.html

International data transfer:

https://iapp.org/news/a/top-10-operational-impacts-of-the-gdpr-part-4-cross-border-data-transfers/

Data Protection Officer:
https://iapp.org/news/a/top-10-operational-impacts-of-the-gdpr-part-2-the-mandatory-dpo/

March 16 (Class 17 and 18 Hoffmeister):

(1) Sam Zeitlin, *Botnet Takedowns and the Fourth Amendment,* 90 N.Y.U. L. Rev. 764 (2015)

(2) Andrew Guthrie Ferguson, *The Internet of Things and the Fourth Amendment of Effects,* 104 CAL. L. REV. 805 (2016)

(3) Thaddeus Hoffmeister, Chapter 9 Criminal Law and Procedure (PLI) (this will be uploaded to Resources on Isidore)

March 23 (Class 19 and 20 Barry): Liability and Consumer Protection

(1) The Era of the Internet of Things: Can Product Liability Laws Keep Up Leta Gorman

(2) H. Michael O'Brien, *The Internet of Things: The Inevitable Collision with Product Liability, Part I* (Feb. 2, 2015) and *II* (July 15, 2015)

(3) William Bierce, *Managing Liability from the Internet of Things,* National Law Journal (Oct. 5, 2015)

(4) *Cahen, et al. v. Toyota Motor Corporation, et al.,* U.S. District Court of Northern California, San Francisco Division, Civil Action No. 4:2015cv01104

(5) Bryant Walker Smith, *Proximity-Driven Liability,* 102 GEO. L.J. 1777 (2014)

(6) Natali Helberger, *Profiling and Targeting Consumers in the Internet of Things--A New Challenge for Consumer Law,* SSRN (Feb. 6, 2016)

April 6 (Class 21 and 22 Cameli): Reform Proposals, Social Media, and the Future of IoT

(1) Scott R. Peppet, *Regulating the Internet of Things,* 93 Tex. L. Rev. 85 (2014)

(2) Tim O'Reilly, *Silicon Valley is Massively Underestimating the Impact of the IoT*, Venture Beat (April 20, 2015)

(3) The U.S. Senate Committee on Commerce, Science and Transportation Hearing, "The Connected World: Examining the Internet of Things" (February 11, 2015)

(4) Brett Frischman, *Will the "Internet of Things" Result in Predictable People*? Cardozo Law

(5) Ellen P. Goodman, *The Atomic Age of Data: Policies for the Internet of Things,* ASPEN INSTITUTE, 2015

April 13 (Class 23 and 24 Carney): Student Presentations at the Helix