MAKERERE UNIVERSITY SCHOOL OF LAW

LAW 4219 – COMPUTERS AND THE LAW

BACHELOR OF LAWS (LL B) READING LIST

SEMESTER II, 2020/2021

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1. COURSE DESCRIPTION

This course introduces students to the impact of information technology on the law, the practice of law and the administration of justice. It also examines the various ways and mechanisms through which the law has responded to the new technological environment and the challenges that have come with it. Topics include: Introduction to Computer architecture; hardware and software; Internet and the Law; the Right to privacy; Database Protection; computer Misuse and crime; Intellectual property issues and what has come to be known as 'disruptive technology'.

2. AIMS & OBJECTIVES OF THE COURSE

Computers and the Law has grown to become perhaps one of the most important subjects in the Law School Curriculum, as it provides the legal basics and foundation upon which the computer is regulated by law in the contemporary world. In studying the subject, an attempt is made to give some idea of the fundamental and essential nature of the computer and the law as a basic tool to virtually all countries in the world. We will thus be concerned with both the theoretical and practical aspects of the computer, at least from the perspective of the law. Furthermore, we shall explore the relation of the computer to human rights aspects such as the right to privacy and database protection. We will also examine the link between the computer and the Internet, and look at the impact of information technology on the law, the practice of law and the administration of justice. The main issues examined in the course are the instruments of computer use and misuse (Computer Misuse Act, 2011), the Internet and the Law, and governance and their relationship with intellectual property law. Students are thus urged to keep abreast with recent and past developments in the area of computers and the law and life in the digital era in Uganda, and the world at large. Selected cases and other materials deemed essential for the course will be availed for photocopying at a cost at Paul's and Mulokole's machines. Every student must have a copy of the Computer Misuse Act, the Electronic Transactions Act and the Electronic Signatures Act, all of 2011.

The specific objectives of the course are to:

- (a) Expose the students to the legal aspects of computer use;
- (b) Enable students to understand the effect of information technology on privacy and human rights;
- (c) Understand the impact of information technology on gender and the law;
- (d) Understand the impact of information technology on disability rights;
- (e) Discuss the role of information technology in the administration of justice.

3. METHODS OF INSTRUCTION

- (a) At the commencement of the course, students are availed with reading lists, which indicate the topics to be covered, and the respective materials for the respective topics. It is expected that the student uses this list in preparation for each lecture;
- (b) The students are introduced to each topic and guided on the principles therein. Thereafter, students will be given problem questions for discussion in class. Students are further encouraged to also formulate their problems for discussion during the lectures. Where possible, the use of moot-courts shall be employed.

4. LEARNING OUTCOMES

By the end of the course, students will be expected to have grasped the basic elements of Computer and the Law, appreciate its over-arching character in relation to the Internet; fully comprehend the main principles of computer and its relationship with human rights (right to privacy and database protection) and to be able to apply the key principles of computer and the law to the practice of law and the administration of justice.

5. COURSE DURATION AND OUTLINE OF TOPICS

The course lasts 15 weeks and covers the following topics, viz., Introduction to Computers and the Law; architecture; hardware and software; Internet and the Law; the Right to Privacy; Database Protection; Computer Misuse and (Cyber) Crime; and Intellectual Property Issues of the Computer.

6. ASSESSMENT

In tandem with the University Policy, Class attendance is **MANDATORY**. 30% of the total mark will be by Coursework.

70% of the total will be by written examination done at the end of the semester.

The examination shall be Open-book and of a duration of 3 ½ Hours.

GENERAL READING

STATUTORY INSTRUMENTS/BILLS

- The Computer Misuse Act, Act No. 2/2011
- The Electronic Signatures Act, Act No. 7/2011
- The Electronic Transactions Act, Act No.8/2011
- The Regulation of Interception of Communications Act, Act No. 18/2010
- Anti-Terrorism Act, Act No.14/2002
- Anti-Pornography Act, 2014
- Access to Information Act, 2005
- Access to Information Regulations, 2011
- Electronic Media Act, Cap. 104
- Press and Journalists Act, Cap. 105
- The Electronic Transactions Regulations, 2013
- The Electronic Signatures Regulations, 2013
- The National Information Technology Authority, Uganda (Certification of Providers of Information Technology Products and Services) Regulations, 2016
- The National Information Technology Authority Uganda (E-Government) Regulations, 2015
- The National Information Technology Authority, Uganda (Authentication of Information Technology Training) Regulations, 2016
- ICT Policy
- Uganda Communications Act, 2013 (as amended)
- NITA Uganda Act, 2009
- Whistleblowers Protection Act, 2010
- Penal Code Act, Cap. 120
- African Union Convention on Cyber Security and Personal Data
- European Union (EU) General Data Protection Regulations, May 2018
- The Copyright and Neighbouring Rights Act, Act No. 19/2006
- The Copyright and Neighboring Rights Regulations, 2010
- East African Community Management Act, 2004 (Act No. 1 of 2005)
- The Anti Counterfeiting Bill, 2010
- The East African Community Anti-Counterfeit Bill,
- The Uganda Counterfeit Goods Bill, 2008
- The Uganda Anti-Competition Bill, 2004
- The Uganda Consumer Protection Bill, 2002
- The Data Protection and Privacy Act, 2019.
- The Judicature (Visual-Audio Link) Rules, Statutory Instrument No. 26 of 2016.
- The Constitution (Integration of ICT into the Adjudication Processes for Courts of Judicature) (Practice) Directions, Legal Notice No. 6 of 2019.
- Draft ICT for Disability Policy 2017

• The National IT Policy Framework 2003

TEXT BOOKS AND SCHOLARLY ARTICLES

Cyber Law in Uganda (Wolters Kluwer, 2021) cited as Kakungulu-Mayambala, Ronald. 'Uganda'. In *International Encyclopaedia of Laws: Cyber Law*, edited by Jos Dumortier, Pieter Gryffroy, Ruben Roex & YungShin Van Der Sype. Alphen aan den Rijn, NL: Kluwer Law International, 2021 vailable at https://pubkit.newgen.co/auth_token_login/8e3fae5e-f2ca-4cf3-9d65-98ac559be0cf

Alex B. Makulilo, (ed.) African Data Privacy Laws (Springer: Bremen, 2016)

David Bainbridge, Introduction to Computer Law (Pearson Longman, London, 2004)

Chris Reed and John Angel (eds.), Computer Law: The Law and Regulation of Information Technology (Oxford University Press, 2007)

David Bainbridge, Data Protection Law (XPL Publishing, England, 2005)

David I. Bainbridge, Introduction to Information Technology Law (Pearson Longman, London, 2008)

David Bainbridge, Legal Protection of Computer Software (Tottel Publishing, 2008)

DJ Bakibinga & RM Kakungulu, *Intellectual Property Law in East Africa* (lawAfrica: Nairobi, Dar es Salaam, Kampala, 2016) accessible at http://lawafrica.com/item_view.php?itemid=156 (approx. 250 pages)

Daniel David Ntanda Nsereko, Criminal Law in Uganda (Wolters Kluwer, The Hague, 2015)

Daniel J. Solove and Paul M. Schwartz, Information Privacy Law (Aspen Publishers, New York, 2009)

Daniel J. Solove, Understanding Privacy (Harvard University Press, Massachusetts, 2008)

Diane Rowland, Uta Kohl & Andrew Charlesworth, Information Technology Law (Routledge, London & New York, 2017)

Benjamin J. Goold and Daniel Neyland (eds.), New Directions in Surveillance and Privacy (William Publishers, Portland, 2009)

Andrew Chadwick, Internet Politics: States, Citizens, and New Communication Technologies (Oxford University Press, New York, 2006)

Lee A. Bygrave and Jon Bing (eds.), Internet Governance: Infrastructure and Institutions (Oxford University Press, Oxford, 2009)

Jack Goldsmith and Tim Wu, Who Controls the Internet? Illusions of a Borderless World (Oxford University Press, New York, 2008)

Robert W. Taylor, Eric J. Fritsch & John Liederback, Digital Crime and Digital Terrorism (Pearson, Texas, 2016)

Michael Geist, Internet Law in Canada (Captus Press Inc., Ottawa, 2002)

Rolf H. Weber, Normative Movements in Internet Governance and Cyber law: Publications 2002-2016 (Editions Weblaw: Anthologia, Bern, 2017)

Rustad, Michael L., Internet Law in a Nutshell (January 16, 2009). Michael L. Rustad, INTERNET LAW IN A NUTSHELL, 2009; Suffolk University Law School Research Paper No. 09-05. Available at SSRN: http://ssrn.com/abstract=1329092

TOPIC ONE: General Introduction to Computers and the Law

- 1.1 Definition of Computers
- 1.2 Sources of Computer Law
- 1.3 Functions of Computer Law
- 1.4 Development of Computers and the Law
- 1.5 Architecture; hardware and software
- 1.1 Computer contracts
- 1.2 Electronic/E-Commerce
- 1.3 Smart Contracts

Cases

• Ebbzworld Limited & Vicent Depaul Nyuma v. Tonny Rutakirwa, High Court (Commercial Division) Civil Suit No. 398 of 2013.

Required Readings

- D.I. Bainbridge, Introduction to Computer Technology, Chap. 13
- D. Bainbridge, Computer Law, Chap. 15.
- D. Rowland, U. Kohl & A. Charlesworth, Chap. 6

Thomas Burri, "International Law and Artificial Intelligence", 27 October 2017, available on SSRN: https://ssrn.com/abstract=3060191 (in German Yearbook of International Law 2017/18)

Thomas Burri, "Free Movement of Algorithms – Artificially Intelligent Persons Conquer the European Union's Internal Market", in Woodrow Barfield and Ugo Pagallo (eds), Research Handbook on the Law of Artificial Intelligence, Edward Elgar (forthcoming),

this version at SSRN: https://ssrn.com/abstract=3010233 – please cite to the book section after publication.

TOPIC TWO: Internet and the Law

- 2.1 Definition of the Internet
- 2.2 Sources of Internet Law
- 2.3 Introduction to Internet Governance
- 2.4 Internet Jurisdiction and Liability, ISP, Internet Speech Regulation, Regulation of online Obscenity, Hate Speech, online Defamation, online commercial speech, Internet Privacy, Internet and Intellectual Property and Digital Music and the Internet
- 2.5 Development of Core Internet Standards Players and Processes
- 2.6 Domain Name System and ICANN, Cybersquatting/Cyber gripping
- 2.7 Domain Name Dispute Resolution UDRP, Trademarks and Beyond
- 2.8 World Summit on Information Society (WSIS) and Internet Governance Forum (IGF)
- 2.9 Cyber democracy
- 2.10 Internet neutrality
- 2.11 Artificial Intelligence (AI)
- 2.12 The Internet of Things (IoT)

Required Reading

Cases

• Fred Muwema v. Facebook Ireland Limited (2016) IEHC 519/4637P

Chapters in books:

- R. Kakungulu-Mayambala, Data Protection and Privacy in Uganda in Alex B. Makulilo (ed.) *African Data Privacy Laws* (Springer Publishers, New York, 2016) accessible at http://www.springer.com/de/book/9783319473154 (25 pages); pp. 117 142
- DJ Bakibinga & RM Kakungulu, *Intellectual Property Law in East Africa* (lawAfrica 2016) accessible at http://lawafrica.com/item_view.php?itemid=156 (approx. 250 pages)
- Lee A. Bygrave and Jon Bing (eds.), *Internet Governance: Infrastructure and Institutions* (Oxford: Oxford University Press, 2009). (approx. 235 pages)
- Rolf H. Weber, Normative Movements in Internet Governance and Cyberlaw, Publications 2002-2016 (Editions Weblaw).
- Milton L. Mueller, "Networks and States: The Global Politics of Internet Governance", MIT Press, 2010, Chapters 7-11 (approx. 140 pages).
- A. Michael Froomkin, "Almost Free: An Analysis of ICANN's 'Affirmation of Commitments'", *Journal of Telecommunications and High Technology Law*, Vol. 9, 2011 (47 pages). http://ssrn.com/abstract=1744086

- ICANN, "gTLD Applicant Guidebook" (30 May 2011), Module 1, Module 3 (excluding attachments) and "Registry agreement" (attachment to Module 5), (approx. 95 pages). The text can be downloaded from http://www.icann.org/en/topics/new-gtld-program.htm
- N.D. Zatz, "Sidewalks in Cyberspace: Making Space for Public Forums in the Electronic Environment", *Harvard Journal of Law & Technology*, Vol. 12 1998 (149-184).
- R. Kakungulu-Mayambala, "Internet Censorship and Freedom of Expression: A Critical Appraisal of the Regulation of Hate Speech on the Internet", in INTERNET ACCESS: TECHNO LEGAL BARRICADES (C.S. Krishna ed. 2009), at 75-95.
- ICTS & Human Rights, East African Journal of Peace & Human Rights, Vol. 16, No. 1 (2010).
- R. Kakungulu-Mayambala, "Data Protection and National Security: Analyzing the Right to Privacy in Correspondence and Communication in Uganda", *Huripec Working Paper*, No. 25, 2009.
- Rosen, Jeffrey: "The Deciders: The Future of Privacy and Free Speech in the Age of Facebook and Google", Fordham Law Review, 2012, Vol.80, Issue 4, pp.1525-1538.
- R. Kakungulu-Mayambala & Solomon Rukundo, Digital Activism and Free Speech in Uganda (2018) (on file with the authors)
- R. Kakungulu-Mayambala & Solomon Rukundo, Online Defamation in Uganda: Rights and Liabilities (2018) (on file with the authors)
- Solomon Rukundo, Criminals or Activists? Finding the Space for Hacktivism in Uganda's Legal Framework, Stellenbosch Law Review 2 (2017) 508-525 published by Stellenbosch University https://journals.co.za/content/journal/10520/EJC-a782866f0 and SSRN: https://ssrn.com/abstract=3068621
- R. Kakungulu-Mayambala & Solomon Rukundo, Defending Personal Privacy: The Case Against Revenge Pornography in Uganda (2018) (on file with the authors)
- R. Kakungulu-Mayambala & Solomon Rukundo, Protection of Ugandan Consumers in the Cyberspace (2018) (on file with the authors)
- Solomon Rukundo, "Electronic Protests: Hacktivism as a Form of Protest in Uganda", *Computer Law and Security Review* 7 (2017) 1-11, published by Elsevier and University of Southampton, accessible at

http://www.sciencedirect.com/science/article/pii/S0267364916301 704

- Solomon Rukundo, Taxation of the Telecommunication Sector: A Focus on Policy Issues and Considerations in Taxation of Mobile Money in Uganda (2016) (on file with the author)
- Solomon Rukundo, "Intolerable Acts: An Analysis of the Law Relating to Online Child Pornography in Uganda", *Pretoria Student Law Review* 10 (2016) 124-142 published by

- Pretoria University Law Press http://www.pulp.up.ac.za/journals/pretoria-student-law-review- 2016-10 and at SSRN: https://ssrn.com/abstract=2900246
- Solomon Rukundo, Taxation in the Digital Era: An Analysis of the Challenges of Taxation of E-Commerce in Uganda (URA, 2016) (on file with the author)
- Solomon Rukundo, Impact of Harmful Tax Incentives and Exemptions in Uganda SEATINI (December 2018-February 2019)
- Solomon Rukundo, Taxation of Social Media and Social Economic Human Rights in Uganda CYBERLINE Cyber law Initiative (June 2018-August 2018) published by Elsevier and University of Southampton http://www.sciencedirect.com/science/article/pii/S0267364916301 704
- Solomon Rukundo, "My President is a Pair of Buttocks": the limits of online freedom of expression in Uganda' (2018) 26(3) International Journal of Law and Information Technology 252-271 published by Oxford University Press https://academic.oup.com/ijlit/advance article/doi/10.1093/ijlit/eay009/5056124?guestAccessKey=6b1412 b5-0120-4468-92a9-d02062ea4391
- Solomon Rukundo, 'Regulating Harmful Communication Online: Defamation, Harassment, Offensive Communication and Cyber Stalking in Uganda', (2017) The Uganda Living Law Journal 39-50
- Solomon Rukundo, Uganda Law Reform Commission 'New tide in African Affairs? An Analysis of Internet Activism in Africa' (2018) Makerere Law Journal 1-31 published by the Makerere Law Society
- Thomas W. Lauer & Albert J. Meehan, Closed Circuit Televeision System on University Campuses: Unexamined Implications for the Expectation of Privacy and Academic Freedom, International Journal of Law and Public Administration, 2019, Vol. 2, No. 2.
- R. Kakungulu-Mayambala & Solomon Rukundo, How Uganda is using Old and New Laws to Block Activists on Social Media, The Conversation, accessible at http://theconservation.com/how-uganda-is-using-old-and-new-laws-to-block-activities-on-social-media-121823

Supplementary Reading

- A.M. Froomkin, "Habermas@Discourse.Net: Toward a Critical Theory of Cyberspace", *Harvard Law Review*, 2003, vol. 116, no. 3, pp. 749–873.
- Viktor Mayer-Schonberger & Malto Ziewitz, "Jefferson Rebuffed: The United States and the

Future of Internet Governence", *The Columbia Science & Technology Law Review*, 188 – 228.

- Jack Gold and Tim Wu, "Who Controls the Internet?" Illusions of a Borderless World (Oxford/New York: Oxford University Press, 2006)
- William J. Drake and Ernest M. Wilson III (eds.), Governing Global Electronic Networks: International Perspectives on Policy and Power (Cambridge, MA: Press, 2008)
- Milton Mueller, *Nertworks and States*, MIT Press, 2010. Chapters 4, 6, 10

TOPIC THREE: THE RIGHT TO PRIVACY

- 3.1 Definition of privacy
- 3.2 Internet/Online Privacy
- 3.3 Privacy on the Computer
- 3.4 Privacy and place/the media
- 3.5 Privacy and disability rights
- 3.6 Privacy and law enforcement (national security, counter-terrorism measures and foreign intelligence)
- 3.7 Health and genetic privacy
- 3.8 Privacy and Government records and databases
- 3.9 International privacy law
- 3.10 Surveillance and privacy (phone-tapping and CCTV)
- 3.11 Privacy in electronic communication
 - The Computer Misuse Act
 - Article 27 of the Constitution
 - The Regulation of Interception of Communications Act, Act No. 18/2010
 - Anti-Terrorism Act, Act No.14/2002
 - (UN) Convention on the Rights of Persons with Disability (CRPD) 2006
 - The Disability Rights Act, 2006
 - Protocol to the ACHPR on Rights of PWDs
 - East African Community Persons with Disability Act (2016)
 - EAC Policy on Persons with Disabilities, March 2012
 - Makerere University Policy on Persons with Disabilities

Cases:

- Yunus Lubega Butanaziba v. MTN (U) Limited, HCCS No. 156 of 2009
- Human Rights Network for Journalists Uganda Limited & Legal Brains Trust (LBT) v. Uganda Communications Commission (UCC) & Attorney General, Mis. App. No. 81 of 2013 Arising out of Misc. Cause No. 219 of 2013.
- Victor Juliet Mukasa & Yvonne Oyo v. Attorney General, Misc. Cause No. 247 of 2006, High Court of Uganda in Kampala, (2008) AHRLR 248 (UGHC 2008)

- Kasha Jacqueline, Pepe Onziema & David Kato v. Giles Muhame and the Rolling Stone Publications Ltd, Misc. Cause No. 163 of 2010, High court of Uganda in Kampala (unreported)
- Prof. J. Oloka-Onyango & Others v. the Attorney General, Constitutional Petition No. 08 of 2014.
- Bernard Murage v. Fineserve Africa Limited & 3 Others, Petition No. 503 of 2014, High Court of Kenya at Nairobi, [2015] eKLR.
- Asege Winnie v. Opportunity Bank (U) Limited & Maad Limited, High Court (Commercial Division) Civil Suit No. 756 of 2013.
- Fred Muwema v. Facebook Ireland Limited (2016) IEHC 519.
- Roe v. Wade, 410 U.S. 113 (1973).
- Synder v. Millersville Univ., No. 07-1660, 2008 WL 5093140, at *14-16 (E.D. Pa. Dec. 3, 2008).

Required Readings

- *Privacy International Report, For God and My President: State Surveillance in Uganda, October 2015
- *D.J. Solove & P.M. Schwartz (supra).
- *D.J. Solove (supra).
- *D. Bainbridge, Data Protection Law, Chapt. 14.
- *B.J. Goold & D. Neyland (supra).
- *Bygrave, LA: Data Protection Law: *Approaching Its Rationale, Logic and Limits* (The Hague/London/New York: Kluwer Law International, 2002), chapters 2–8, 18–19 (200 pages).
- *Rosen, Jeffrey: "The Deciders: The Future of Privacy and Free Speech in the Age of Facebook and Google", Fordham Law Review, 2012, Vol.80, Issue 4, pp.1525-1538.
- R. Kakungulu-Mayambala & Solomon Rukundo, Defending Personal Privacy: The Case Against Revenge Pornography in Uganda (2018) (on file with the authors).
- *Koops, B-J & Leenes, R., "'Code' and the Slow Erosion of Privacy", Michigan Telecommunications and Technology Law Review, 2005, vol. 12, issue 1, pp. 115–188.
- Bygrave, LA: "Data Protection Pursuant to the Right to Privacy in Human Rights Treaties", *International Journal of Law & Information Technology*, 1998, volume 6, pp. 247–284; also available via http://folk.uio.no/lee/publications (37 pages).
- Bygrave, L.A., Privacy and Data Protection in an International Perspective", Scandinavian Studies in Law, 2010, volume 56 (166-200) (34p)
- Burkert, H: "Privacy-Enhancing Technologies: Typology, Critique, Vision", in PE Agre

& M Rotenberg (eds), Technology and Privacy: The New Landscape (Cambridge, Massachusetts: MIT Press, 1997), pp. 125–142 (17 pages).

Bygrave, LA: "Determining Applicable Law pursuant to European Data Protection Legislation", *Computer Law & Security Report*, 2000, volume 16, pp. 252–257 (5 pages); also available via http://folk.uio.no/lee/publications alternatively Bing, J: "Data Protection, Jurisdiction and the Choice of Law", Privacy Law & Policy Reporter, 1999, volume 6, pp. 92–98 (6 pages).

Greenleaf, G: "An Endnote on Regulating Cyberspace: Architecture vs Law?", University of New South Wales Law Journal, 1998, volume 21, number 2, available at http://www.austlii.edu.au/au/journals/UNSWLJ/1998/52.html (29 p)

Lessig, L: Code and Other Laws of Cyberspace (New York: Basic Books, 1999), Chapter 11.

Reidenberg, J: "Lex Informatica: The Formulation of Information Policy Rules Through Technology", *Texas Law Review*, 1998, volume 76, pp. 553–593; also available at http://reidenberg.home.sprynet.com/lex_informatica.pdf (40 pages).

Rotenberg, M: "Fair Information Practices and the Architecture of Privacy (What Larry Doesn't Get)", *Stanford Technology Law Review*, 2001, available at http://stlr.stanford.edu/STLR/Articles/01_STLR_1/index.htm pages).

Davide Szep, "Anti-Money Laundering and Privacy: Are They Interrelated or in Conflict? A Comparison Between the U.S. and the E.U.", 21 NY *Business Law Journal*, page 31 (Winter 2017).

Thomas W. Lauer & Albert J. Meehan, Closed Circuit Television System on University Campuses: Unexamined Implications for the Expectation of Privacy and Academic Freedom, International Journal of Law and Public Administration, 2019, Vol. 2, No. 2.

R. Kakungulu-Mayambala & Solomon Rukundo, How Uganda is using Old and New Laws to Block Activists on Social Media, The Conversation, accessible at http://theconservation.com/how-uganda-is-using-old-and-new-laws-to-block-activities-on-social-media-121823

Supplementary literature

Bennett, C.J. & Raab, C.D.: *The Governance of Privacy. Policy instruments in global perspective* (MIT Press, 2006).

Bygrave, L.A.: "Electronic Agents and Privacy: A Cyberspace Odyssey 2001", *International Journal of Law and Information Technology*, 2001, volume 9, pp. 275–294.

Bygrave, L.A.: "Privacy-enhancing technologies – caught between a rock and a hard place", *Privacy Law & Policy Reporter*, 2002, volume 9, pp. 135–137.

Bygrave, L.A.: "Digital Rights Management and Privacy – Legal Aspects in the European Union", in E. Bekker et al. (eds.), *Digital Rights Management: Technological, Economic, Legal and Political Aspects* (Berlin / Heidelberg: Springer, 2003), pp. 418–446.

Flaherty, D.H.: *Protecting Privacy in Surveillance Societies* (Chapel Hill / London: University of North Carolina Press, 1989).

Froomkin, A.M.: "The Death of Privacy?", *Stanford Law Review*, 2000, volume 52, pp. 1461–1543;

Grijpink, J.: "Biometrics and Privacy", *Computer Law & Security Report*, 2001, vol. 17, no. 3, pp. 154–160.

Kuner, C.: *European Data Privacy Law and Online Business* (Oxford: Oxford University Press, 2007 2nd edition).

Lessig, L: "The Law of the Horse: What Cyberlaw might Teach", *Harvard Law Review*, 1999, volume 113, pp. 501–546 http://cyber.law.harvard.edu/works/lessig/finalhls.pdf (45 pages).

Olsen, T. & Mahler, T.: "Identity Management and Data Protection Law: Risk, Responsibility and Compliance in 'Circles of Trust'", Computer Law & Security Report, 2007, vol. 23, nos. 4–5, pp. 342–351, 415–426.

Olsen, T. & Mahler, T.: "Data Protection Issues in Collaborative Identity Management: Compliance and Responsibility in Circles of Trust" (2006), working paper (available from authors).

Reidenberg, J.R.: "Resolving Conflicting International Data Privacy Rules in Cyberspace", *Stanford Law Review*, 2000, vol. 52, pp. 1315–1371.

Shaffer, G.: "Globalization and Social Protection: The Impact of E.U. and International Rules in Ratcheting Up of U.S. Privacy Standards", *Yale Journal of International Law*, 2000, volume 25, pp. 1–88.

Solove, D.: "Privacy and Power: Computer Databases and Metaphors for Information Privacy", *Stanford Law Review*, 2001, volume 53, pp. 1393–1462.

Westin A.F.: *Privacy and Freedom* (New York: Atheneum, 1970).

Regulatory instruments

Council of Europe's Convention on Data Protection (1981) – *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (ETS No 108), adopted 28.1.1981; available at http://conventions.coe.int/Treaty/EN/Treaties/Html/108.htm

Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows (E.T.S. No. 181), adopted 8.11.2001.

EC Directive on Data Protection (1995) – *Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* (O.J. No. L 281, 23.11.1995, 31).

EC Directive on Privacy and Electronic Communications (2002) – *Directive 2002/58/EC* of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector_ (O.J. No. L 201, 31.07.2002, 37).

EC Directive on Data Retention (2006) – *Directive 2006/24/EC of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (O.J. No. L 105, 13.4.2006, 54).* Available at http://eurlex.europa.eu/LexUriServ/site/en/oj/2006/1 105/1 10520060413en00540063.pdf

Decision 2000/520/EC of 26.7.2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbor privacy principles and related frequently asked questions issued by the US Department of Commerce (O.J. L 215, 25.8.2000, 7). Available at http://eurlex.europa.eu/LexUriServ/site/en/oj/2000/1_215/1_21520000825en00070047.pdf

Norway's Personal Data Act (2000) – *lov om behandling av personopplysninger av 14. april* 2000 *nr* 31; available at http://www.datatilsynet.no/upload/Dokumenter/regelverk/lov_forskrift/lov-20000414-031-eng.pdf

OECD Guidelines on Data Protection (1980) – *Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, adopted 23.9.1980*; available at http://europa.eu.int/comm/justice-home/fsj/privacy/instruments/oecdguideline-en.htm

UN Guidelines on Data Protection (1990) – *Guidelines Concerning Computerized Personal Data Files*, adopted 14.12.1990; available at http://europa.eu.int/comm/justice_home/fsj/privacy/instruments/un_en.htm

Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters; available at athttp://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:0071:EN:PDF

TOPIC FOUR: DATABASE PROTECTION

- 4.1 Introduction to data protection law/rationale for protecting databases
- 4.2 Definitions
- 4.3 Data protection principles
- 4.4 Notification
- 4.5 Constraints on processing
- 4.6 Rights of Data subjects
- 4.7 Exemptions to data protection national security, crime and taxation, government policy, etc
- 4.8 Electronic database protection
- 4.9 Processing personal data
- 4.10 Enforcement and criminal offences
- 4.10 Erasure of personal data/the 'right to be forgotten'

Required reading

- Data Protection and Privacy Act, 2018
- European Union (EU) General Data Protection Regulations, May 2018
- R. Kakungulu-Mayambala, Data Protection and Privacy in Uganda in Alex B. Makulilo (ed.) *African Data Privacy Laws* (Springer Publishers, New York, 2016) accessible at http://www.springer.com/de/book/9783319473154 (25 pages); pp. 117 - 142
- R. Kakungulu-Mayambala, "Data Protection and National Security: Analyzing the Right to Privacy in Correspondence and Communication in Uganda", *Huripec Working Paper*, No. 25, 2009.
- S. Slokenberga, et al, EU Data Transfer Rules and African Legal Realities: Is Data Exchange for Biobank Research Realistic? International Data Privacy Law 2018, Vol. 0, No. 0, ipy010, 20th August 2018, https://doi.org/10.1093/idpl/ipy010, accessible at https://academic.oup.com/idpl/advance-article-abstract/doi/10.1093/idpl/ipy010/5076710?redirectedFrom=fulltext
- D. Bainbridge, Data Protection Law (2nd Ed.).
- C. Reed & J. Angel (supra), Chapter 8.
- D.I. Bainbridge, Introduction to Information Technology law (6th Ed.), pp. 495 624.
- D. Bainbridge, Introduction to Computer Law (5th Ed.), pp. 429 542.

• C. Ncube, A Comparative Analysis of Zimbabwean and South African Data Protection Systems' 2004 (1) *Journal of Information, Law and Technology (JILT)* 1 – 24 available at http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2004_2/ncube/

TOPIC FIVE: COMPUTER MISUSE AND (CYBER) CRIME

- 5.1 What is computer Misuse and Crime
- 5.2 Scale and nature of computer Misuse, Cyber crime
- 5.3 Types of computer fraud
- 5.4 Hacking unauthorized access to computer material
- 5.5 Unauthorized modification of computer programs or data
- 5.6 Piracy and related offences
- 5.7 Computer pornography and harassment
- 5.8 Computer crime cyber stalking, offensive communication, etc
- 5.9 Computer related offences/content-related offences, computer integrity offences
- 5.10 Forensic issues/evidential issues
- 5.11 The prosecution of computer crime
- *The Computer Misuse Act, 2011
- *Anti-Terrorism Act, 2002
- * The Judicature (Visual-Audio Link) Rules, Statutory Instrument No. 26 of 2016.

Required reading

Cases:

- Hansa & Lloyds Ltd, Emanuel Onyango v. Aya Investments Ltd, Mohammad Hamid (HCT-CC-CS-857-2007);
- Dian GF International Limited v. Damco Logistics Uganda Limited & Trantrac Limited (HCCS. No. 161 of 2010);
- Uganda v. Guster Nsubuga & Others (HCT-00-AC-SC-0084-2012);
- Fred Muwema v. Facebook Ireland Limited (2016) IEHC 519;
- Amongin Jane Fances Akili Vs Lucy Akello & Anor (HCT 02 CV EP 0001 2014) [2015] UGHCCD 1 (3 June 2015);
- Cargo World Logistics Limited v. Royal Group Africa Limited (HC-Commercial Division-CS No. 157 of 2013);
- Uganda v. Ivan Ganchev & Others (Chief Magistrate's Court of Uganda at Nakawa 2014);
- Uganda v. Emin Baro (Chief Magistrate's Court of Uganda at Nakawa 2013)

- Uganda vs. Enoch Katerega,
- Uganda vs. Enoch Katerega, HCACD, Criminal Case No. 0023 OF 2013
- Uganda Law Society v Attorney General, Ongoing Constitutional Petition filed in January 2019 by the Uganda Law Society against the constitutionality of sections 24 and 25 of the Computer Misuse Act 2011, Uganda Law Society (November 2018-todate)

Textbooks and Other Materials:

- Mohammed Chawki & Ezekiel Uzor Okike, "Fighting Cybercrime: Issues for the Future", 1:1 *African Journal of Crime and Criminal Justice* 143 176 (2009).
- C. Reed & J. Angel (supra), Chapter 12.
- D. Bainbridge, Introduction to Computer Law (5th Ed.), pp. 357 428.
- D.I. Bainbridge, Introduction to Information Technology Law (6th Ed.), pp. 417 494.
- Solomon Rukundo, Criminals or Activists? Finding the Space for Hacktivism in Uganda's Legal Framework, *Stellenbosch Law Review* 2 (2017) 508-525 published by Stellenbosch University https://journals.co.za/content/journal/10520/EJC-a782866f0 and SSRN: https://ssrn.com/abstract=3068621
- Lewis Chezan Banda, "A Case for Cybercrime Legislation in Malawi," *Malawi Law Journal*, Vol. 5, Issue 2, November 2011.
- A. Molokomme, "Combating Cybercrime in Botswana," Vol. 13, *University of Botswana Law Journal* 55 61, December 2011.
- Caroline Ncube 'Africa Confronts Cyber-crime' 2004 (2) *Speculum Juris* 312 317.
- Prudens Rweyongeza, Cybercrimes in Tanzania: A Critical Analysis of the Legal and Institutional Framework, Unpublished LL M Dissertation, University of Dar es Salaam, 2012.
 - Pornography Obscenity (S67A) Case Conviction | State Vs Jayanta Das (Odisha) Pdf File [Press Right Click to Download file]
- Cyber Cafe Owner Liability (S67C) Conviction | State Vs Vishal Bogade + 1(Maharashtra) Pdf File [Press Right Click to Download file]
- Cyber Stalking Case Conviction | State Vs Yogesh Prabhu (cyber cell Mumbai)

 <u>Pdf File</u> [Press Right Click to Download file]
- Data Theft Case Conviction S43(a) & S(66)| State Vs Prabhakar sampath (Hyderabad) Pdf File [Press Right Click to Download file]
- Nigerian Email Scam Case Conviction | State Vs Opara chilezien Joseph & Ors (Mah.) Pdf File
- Montagna, Anthony Stephen, When Words Harm: Cyber Bullying: What Should the Legal Consequences Be for Abusive Speech? Is it Protected? Should it Be a Crime or Sanctioned Under Civil Liability Law? (June 9, 2011). Available at SSRN: http://ssrn.com/abstract=1861565 or http://ssrn.com/abstract=1861565 or http://dx.doi.org/10.2139/ssrn.18615655

TOPIC SIX: INTELLECTUAL PROPERTY ISSUES OF THE COMPUTER

- 1.1 The study of intellectual property in the realm of ICT/IT Law, contemporary issues emanating from IT/ICT
- 1.2 Copyrights: Computer programs and technical protection measures/TPMs, database and circuit drawings, infringement in the IT sector, broadcasting and infringement of copyrights
- 1.3 Trademarks and Passing Off: trademarks and domain names, territorial scope of protection
- 1.4 Patents: biotechnological inventions.

2. Required reading

Cases:

- Digital Solutions Ltd. v. MTN Uganda Ltd. (Mis. App. No. 546 of 2004 Arising out of Misc. Cause No. 570 of 2004).
- Asege Winnie v. Opportunity Bank (U) Limited & Maad Limited, High Court (Commercial Division) Civil Suit No. 756 of 2013.
- Ebbzworld Limited & Vicent Depaul Nyuma v. Tonny Rutakirwa, High Court (Commercial Division) Civil Suit No. 398 of 2013.
- Basajjabaka Yakub v. MTN UGANDA LTD, H.C.C.S. NO. 100 of 2012.

Textbooks and Other Materials:

DJ Bakibinga & RM Kakungulu, *Intellectual Property Law in East Africa* (lawAfrica: Nairobi, Dar es Salaam, Kampala, 2016) accessible at http://lawafrica.com/item_view.php?itemid=156 (approx. 250 pages)

Hector MacQueen, Charlotte Waelde & Graeme Laurie: *Contemporary Intellectual Property: Law and Policy*, Oxford University Press, 2nd edition, 2010.

- R. Kakungulu-Mayambala, "Digital Music and the Internet: A critical Appraisal of the Use of Technological Protection Measures in Combating Online Music Piracy", *East African Journal of Peace & Human Rights*, Vol. 17, No.2 (2011).
- L. Bently & B. Sherman, Intellectual Property Law (3rd Ed.), pp. 303 334.
- P. Torremans, Intellectual Property Law (3rd Ed.), Chapters 29 & 30 (pp. 522 564).
- C. Ncube, 'Equitable Intellectual Property Protection of Computer Programs in South Africa: Some Proposals for Reform' (2012) *Stellenbosch LR* 438 461.

Caroline Ncube, 'Software Patents' in Sylvia Papadous & Sizwe Snail (eds) *Cyberlaw* III @ SA *the law of the internet in South Africa* 3ed. (2012) Van Schaik Publishers 123 – 136.

Divya Prakash, Protection of Trademarks in Virtual Reality Environment (August 22, 2012). Available at

SSRN:<u>http://ssrn.com/abstract=2134016</u> or http://dx.doi.org/10.2139/ssrn.2134016

2. Supplementary reading

- J. Bing, "Intellectual property exclusive access rights and some policy implications", *Scandinavian Studies in Law*, 2002, vol. 42, pp. 31–48.
- R. Bray, "The European Union 'Software Patents' Directive: What Is It? Why Is It?
 Where Are We Now?", *Duke Law & Technology Review*, 2005, No. 11, at: http://www.law.duke.edu/journals/dltr/articles/PDF/2005DLTR0011.pdf, 17 pages.
- I. Bubert & M. Büning, "Trademark law: domain name issues", in I. Walden & J. Hörnle (ed.s), E-commerce law and practice in Europe (Woodhead, 2001, looseleaf), 53 pages.
- M. Büning & J. Kaestner, "Copyright", in I. Walden & J. Hörnle (ed.s), E-commerce law and practice in Europe (Woodhead, 2001, looseleaf), 40 pages.
- Commission on Intellectual Property Rights (U.K.), Integrating Intellectual Property Rights and Development Policy, September 2002, Chapter 5, available at http://www.iprcommission.org/papers/pdfs/final_report/Ch5final.pdf, 15 pages.
- Copyright Law Review Council (Australia), Copyright and Contract (2002), Chapts. 4–6,

 available
 http://www.ag.gov.au/www/agd/agd.nsf/Page/RWPDD516F2DE964EF5ACA257

 35A001E5106
- M.J. Davison, The Legal Protection of Databases (Cambridge: Cambridge University Press, 2003).
- E. Derclaye, The Legal Protection of Databases: A Comparative Analysis (Cheltenham: Edward Elgar, 2008).
- H.A. Deveci, "Databases: Is Sui Generis a Stronger Bet than Copyright?", International Journal of Law & Information Technology, 2004, vol. 12, no. 2, pp. 178–208.
- S. Dusollier, "Electrifying the Fence: The Legal Protection of Technological Measures for Protecting Copyright", *European Intellectual Property Review*, 1999, vol. 21, pp. 285 et seq.
- N. Elkin-Koren & N.W. Netanel (eds.), The Commodification of Information (Hague:

- Kluwer Law International, 2002).
- M. Ficsor, The Law of Copyright and the Internet: The 1996 WIPO Treaties, their Interpretation and Implementation (Oxford University Press, 2002).
- B. Fitzgerald et al. (eds.), Copyright Law, Digital Content and the Internet in the Asia-Pacific (Sydney: Sydney University Press, 2008).
- J. Ginsburg, "From Having Copies to Experiencing Works: The Development of an Access Right in US Copyright Law", *Journal of the Copyright Society of the USA*, 2003, vol. 50, pp. 113 et seq.
- A. Guadamuz, "Viral Contracts or Unenforceable Documents? Contractual Validity of Copyleft Licences", *European Intellectual Property Review*, 2004, vol. 26, pp. 331–339.
- L.M.C.R. Guibault & P.B. Hugenholtz, Study on the Conditions Applicable to Contracts relating to Intellectual Property in the European Union (2002), especially Chapts. 1–3, 5–7, available at: http://www.ivir.nl/publications/other/final-report2002.pdf
- L.M.C.R. Guibault, Copyright Limitations and Contracts: An Analysis of the Contractual Overridability of Limitations on Copyright (Hague: Kluwer Law International, 2002).
- P.B. Hugenholtz, "Code as code, or the end of intellectual property as we know it", *Maastricht Journal of European and Comparative Law*, 1999, vol. 6, pp. 308–318.
- P.B. Hugenholtz (ed.), Copyright and Electronic Commerce (The Hague / London / New York: Kluwer Law International, 2000).
- P.B. Hugenholtz & M.J. Davison, "Football Fixtures, Horse Races and Spin-offs: The ECJ Domesticates the Database Right", *European Intellectual Property Review*, 2005, vol. 27, issue 3; also available at http://www.ivir.nl/publications/hugenholtz/EIPR_2005_3_databaseright.pdf, 12 pages.
- P. Johnson, "All Wrapped Up? A Review of the Enforceability of "Shrink-wrap" and "Click-wrap" Licences in the United Kingdom and the United States", *European Intellectual Property Review*, 2003, vol. 25, pp. 98–102.
- K.J. Koelman, "A Hard Nut to Crack: The Protection of Technological Measures", *European Intellectual Property Review*, 2000, vol. 22, pp. 272 et seq.
- L. Lessig, Code, and Other Laws of Cyberspace (New York: Basic Books, 1999), chapt. 10.

- L. Lessig, The Future of Ideas (New York: Vintage Books, 2002).
- S.M. Maurer et al., "Europe's Database Experiment", Science, 2001, vol. 294, p. 789–790, available at http://www.ivir.nl/publications/hugenholtz/maurer.pdf
- Jeremy Phillips, Trade Mark Law: A Practical Anatomy (Oxford: Oxford University Press, 2003), chapter 17.
- L.R. Pitell, "Non-transferability of Software Licences in the European Union", European Intellectual Property Review, 2004, vol. 26, pp. 390–401.
- M. Senftleben, Copyright, Limitations and the Three-Step Test (The Hague: Kluwer Law International, 2004), 340 pages.
- M. O'Sullivan, "Making Copyright Ambidextrous: An Expose of Copyleft", *Journal of Information Law and Technology*, 2002, issue 3, http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2002_3/osullivan, 26 pages.
- Matthew Rimmer, Digital Copyright and the Consumer Revolution, Edward Elgar, 2007

[NB: You should try to read a selection (but not all) of the supplementary reading materials on the basis of lecturers' advice. The books written/edited by Davison, Elkin-Koren & Netanel, Guibault, Hugenholtz and Senftleben are only worth reading if you are going to prepare a tutorial paper or thesis on one of the topics they cover.]

3. Regulatory instruments

International legal instruments

Berne Convention for the Protection of Literary and Artistic Works; Paris Act of 24 July 1971, as amended on 28 September 1979 http://www.wipo.int/treaties/en/ip/berne/

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, 26 October 1961 http://www.wipo.int/treaties/en/ip/rome/

Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 29 October 1971 http://www.wipo.int/treaties/en/ip/phonograms/index.html

Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, 21 May 1974 http://www.wipo.int/treaties/en/ip/brussels/

WIPO Copyright Treaty, 20 December 1996 http://www.wipo.int/treaties/en/ip/wct/index.html

WIPO Performances and Phonograms Treaty, 20 December 1996 http://www.wipo.int/treaties/en/ip/wppt/index.html

TRIPS Agreement: Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994 http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm

European legal instruments

Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ L 122 17.5.1991 p.42) http://europa.eu.int/eurlex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31991L0250:EN:HTML

Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 346 27.11.1992 p.61) http://europa.eu.int/eurlex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992L0100:EN:HTML

Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248 6.10.1993 p.15) http://europa.eu.int/eurlex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31993L0083:EN:HTML

Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights (OJ L 290 24.11.1993 p.9) http://europa.eu.int/eurlex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31993L0098:EN:HTML

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 077 27.3.1996 p.20) http://europa.eu.int/eurlex/lex/LexUriServ.do?uri=CELEX:31996L0009:EN:HTML

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (OJ L 167 22.6.2001 p. 10) http://europa.eu.int/eurlex/pri/en/oj/dat/2001/1_167/1_16720010622en00100019.pdf

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 195 2.6.2004 p. 16)http://europa.eu.int/eur-lex/pri/en/oj/2004/l_195/l_19520040602en00160025.pdf

Council Directive 89/104 of 21 December 1988 on to approximate the laws of the Member States relating to trade marks (OJ L 40 11.02.1989 p. 1) http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31989L0104:EN:HTML

Council Regulation 40/94 of 20 December 1993 on the Community trade mark (OJ L 11 14.01.1994 p. 1) http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1994:011:0001:0036:EN:PDF

Directive 98/71 of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289 28.10.1909 p. 28 http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998L0071:EN:HTML

Council Regulation 6/2002 of 12 December 2001 on Community designs (OJ L 3 05.01.2001 p. 1) http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:003:0001:0024:EN:PDF

Directive 98/44 of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions (OJ L 213 30.07.98) http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:213:0013:0021:EN:PDF

Proposal for a Regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection of 13 April 2011 (COM (2011) 215 final) http://ec.europa.eu/internal_market/indprop/docs/patent/com2011-215-final_en.pdf

NB: Please note that this reading list is largely premised on materials found at the website of University of Oslo, LL M ICT Law website at http://www.uio.no/studier/emner/jus/jus/JUS5660/h11/undervisningsmateriale/INTERNET-L&IKT-0811.pdf

Other Essential Websites to visit

www.barefootlaw.org Barefootlaw

www.nita.go.ug NITA-U

www.unwantedwitness.or.ug Unwantedwitness

www.ucc.co.ug Uganda Communications Commission (UCC)

www.signumadvocates.com M/S Signum Advocates

http://computer.howstuffworks.com/internet/basics/internet.htm

http://videos.howstuffworks.com/computer/internet-videos.htm http://computer.howstuffworks.com/