

HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 30, NUMBER 1

FALL 2016

CONTENTS

ARTICLES

- IT'S TOO COMPLICATED: HOW THE INTERNET UPENDS
KATZ, SMITH, AND ELECTRONIC SURVEILLANCE LAW
Steven M. Bellovin, Matt Blaze, Susan Landau, and Stephanie K. Pell 1
- PATENT RIGHTS IN A CLIMATE OF INTELLECTUAL
PROPERTY RIGHTS SKEPTICISM
Hon. Maureen K. Ohlhausen..... 103
- PRIZING INSURANCE: PRESCRIPTION DRUG INSURANCE
AS INNOVATION INCENTIVE
Rachel E. Sachs 153
- ROBOTS AS LEGAL METAPHORS
Ryan Calo..... 209

NOTES

GET TO KNOW ME: PROTECTING PRIVACY AND AUTONOMY UNDER BIG DATA'S PENETRATING GAZE <i>Sheri B. Pan</i>	239
GOVERNMENT SUBSIDIES AND INTELLECTUAL PROPERTY RIGHTS: CONFINING THE APPLICABILITY OF THE SUBSIDIES DOCTRINE TO CASH BENEFITS <i>Lindsay Church</i>	263
WHAT INTELLECTUAL PROPERTY CAN LEARN FROM INFORMATIONAL PRIVACY, AND VICE VERSA <i>Diana Liebenau</i>	285

HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 30

2016–2017

EDITORIAL BOARD

	<i>Editors-in-Chief</i> Andrea Els Patrick Gallagher	
<i>Executive Editor</i> Arun Bodapati		<i>Managing Editors</i> Frederick Ding Steven Mermelstein
<i>Digest Executive Editor</i> Henry Thomas	<i>Submissions Editor</i> Katherine Kwong	
<i>Digest Technical Editor</i> Kayla Haran	<i>Notes and Comments Editor</i> Nicholas Varone	<i>Technical Editor</i> Kayla Haran
<i>Digest Content Editor</i> Colette Ghazarian	<i>Article Editors</i> Kayla Haran Danielle Kehl Carolyn Killea Jaehwan Park Neha Sabharwal Parth Sagdeo Evan Tallmadge	<i>Communications Editor</i> Daniel Etcovitch
<i>Digest Submissions Editor</i> Felicia (Feiran) Chen		<i>Outreach Editors</i> Evan Tallmadge Shailin Thomas
<i>Submissions Managers</i> Jennifer K. Chung Tom Derbish Heidi Liu Kenneth C. Winterbottom IV Jacqueline Wolpoe	<i>Production Editors</i> R. Levi Barry Tina Chao Haydn Forrest Alicia Guo Ryan Petty Kelly Tripathi Brian Yost Sylvia Zhang	<i>Speakers Editors</i> Danielle Kehl Steve Meil
<i>Citations Managers</i> Brennan Halloran Jason Manion Brendon Vetter		<i>Technology Editors</i> Janet Lee Lydia Lichlyter Crystal Nwaneri
		<i>SSRN Editors</i> Marco Medellin Kasey Wang

EDITORS

Arjun Adusumilli
T. Ben Cason
Emily Chan
Colette Ghazarian
Tom Holt
Julia Huang
Dianne Kim

Evan R. King
George Maliha
Evan Mann
Justin Mann
Steve Meil
Priyanka Nawathe
Dana Or

Timothy Saviola
Ariel Shpigel
Alisha Siqueira
Mary K. Swears
James Yang
Frances Zhang

STAFF

Jeff Adler
Alina Afinogenova
Cristina Azcoitia
R. Levi Barry
Jon-Paul D. Berexa
Leila Bijan
T. Ben Carson
Sarah Catalano
Evelyn Chang
Tina Chao
Yiran Cheng
Wendy Chu
Yanbing Chu
Shuang Ci
Grayson Clary
Todd Clayton
Yuqing Cui
Isabella Cusano
Yoseph Desta
Mike Donohue
Zachary Fisch
Ryan Folio
Haydn Forrest
Colette Ghazarian
Sarah Guerrero
Alicia Guo
Yuchen Han
Alex Harding

Brandt Henslee
Erika Herrera
Dylan Herts
Jonathan Hofman
Ross Holley
April Hua
Tammuz Huberman
Daisy Joo
Makala Kaupalolo
Shermila Kher
Carolyn Killea
Nati Hyojin Kim
Harold King
Han Woong (Han) Lee
Yong Bum Lee
Yangtian Li
Lydia Lichlyter
Ariane Moss
Sarah Vasquez Lightstone
Carol Lin
Andrew Lu
Evan Mann
Mushegh Manukyan
Deborah Mariottini
Daniel Medici
Erik Mortensen
Emil N. Nachman
Ezra Newman
Alex Noonan

Jennifer Park
Asher Perez
Ryan Petty
Ben Pittenger
Stephen Prifti
Joseph Ptomey
Sarah Racicot
Rebecca Rechtszaid
Christopher Reilly
Abigail Riddle
Joseph Ruckert
Parth Sagdeo
Sandra Gonzalez Sanchez
Akilesh Shastri
Ben Shiroma
Ariel Shpigel
Erica Sims
Evan Tallmadge
David Nathaniel Tan
Kelly Tripathi
Grace Truong
Nicholas Varone
Brendon Vetter
Li Wang
Amanda T. White
Catherine Wiener
Brian Yost
Anqi Zhang

DIGEST STAFF

Cristina Azcoitia
Javier Careaga
Nehaa Chaudhari
Wendy Chu
Tom Derbish†
Ding Ding
Kelly Ding

Mike Donohue
Seán Finan
Haydn Forrest
Ellora Israni
Daisy Joo
Nati Hyojin Kim
Michael Lemm

Jieun (June) Nam
Alex Noonan
Mila Owen†
Filippo A. Raso†
Grace Truong
Li Wang

† Digest Subject Matter Coordinator

SPONSORS

COOLEY LLP

KIRKLAND & ELLIS LLP

DESMARAIS LLP

KNOBBE MARTENS

FENWICK & WEST LLP

MORRISON & FOERSTER LLP

FINNEGAN, HENDERSON,
FARABOW, GARRETT &
DUNNER, LLP

SIDLEY AUSTIN LLP

FISH & RICHARDSON P.C.

WILMERHALE

FOLEY & LARDNER

WILSON SONSINI GOODRICH
& ROSATI

GOODWIN

WOLF GREENFIELD

HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 30, NUMBER 1

FALL 2016

The Harvard Journal of Law & Technology
Suite 3050, Wasserstein Hall
1585 Massachusetts Avenue
Harvard Law School
Cambridge, MA 02138

Email: jolt@mail.law.harvard.edu
Website: <http://jolt.law.harvard.edu>

Copyright © 2017 by the President and Fellows of Harvard College.

The *Harvard Journal of Law & Technology* is published by Harvard Law School students. While the *Journal* is an official publication of Harvard Law School, it receives no funding from the Law School and is funded exclusively by subscriptions and sponsor contributions.

The *Journal* publishes two issues each year. Previous issues are also available. Orders for subscriptions or back issues should be addressed to:

William S. Hein & Co., Inc.
Attn: New Orders
2350 North Forest Rd.
Getzville, NY 14068

Toll-Free: (800) 828-7571
Main Line: (716) 882-2600
Fax: (716) 883-8100
Email: order@wshein.com

The *Journal* welcomes the submission of articles and comments addressing the intersection of law and technology. Please see our website for more submissions information.

Individuals and organizations interested in sponsoring the *Journal* should contact the Managing Editors at the above address at Harvard Law School.

The views expressed in the *Journal* do not necessarily reflect the views of the Editorial Board or the sponsors of the *Journal*.

Cite as: 30 HARV. J.L. & TECH. ____ (2017)

JOLT Digest: The online companion to the *Harvard Journal of Law & Technology*, featuring coverage of and commentary on developments in law and technology.
<http://jolt.law.harvard.edu/digest>