

The Emerging Law of Artificial Intelligence (Law 758)

Antonin Scalia Law School – Spring 2026

Matthew F. Ferraro & Jamil N. Jaffer

Brief Course Description:

This discussion-oriented seminar provides an overview of emerging legal issues, governance structures, and authorities that relate to artificial intelligence (AI). The course aims to prepare students to be informed participants in the unfolding legal and policy debates surrounding the rapidly evolving technologies of machine learning, predictive AI, and generative AI.

The course will survey a broad array of legal and policy topics as they relate to AI, including intellectual property, criminal law, torts, antidiscrimination, consumer protection, cybersecurity and data privacy, national security, and others. It will provide students with a background in the interplay between these areas of law and AI, as well as in the related legal, regulatory, and policy structures that are being developed at state, federal, and international levels.

Learning Outcomes:

The class will examine the application of existing laws and new laws and regulations in both domestic and international spheres to AI. Of particular note:

- Students will learn about the tensions facing an innovation society built on the strong protection of privacy and intellectual property alongside a technology that relies on large amounts of sensitive or controlled data, including personally identifiable information and copyrighted or patented works.
- Students will learn about efforts in the United States and abroad to consider the regulation of AI to protect against real and perceived threats to national security, privacy, and other critical areas of concern, as well as efforts to address potential biases in data and algorithms.
- Students will also have the opportunity to think through some of the key ethical issues at play with respect to artificial intelligence, including the potential issues raised by the use of autonomous military or intelligence capabilities and by the development of technologies that outperform humans or otherwise approach artificial general intelligence.
- At the end of this course, students will understand AI's core technology, including large language models, and the evolving legal and regulatory frameworks. They will be able to identify and analyze key legal and ethical issues in AI development, deployment, and use.

Class Format:

Between 10 to 20 students; two credits; one two-hour class per week, in-person only. **Active participation in class discussions is required, and students are expected to attend every class in person and be fully prepared.**

Class Details:

Mondays, 8:10 pm – 10:10 pm ET

Grading:

Grades will be based on a single exam with only class readings and student's notes permitted to be used for the exam to be administered at the end of the course (date/time currently TBD).

No access to the Internet or resources other than a student's notes and the readings will be permitted. The exam will ask students to analyze the legal and policy issues discussed in the course and proffer legal and policy proposals.

Class Attendance and Participation:

This is a discussion-based class, and all students are expected to participate. Class attendance and participation will factor into grading, consistent with law school policy. Students who will miss more than two class sessions **must** receive advance permission from the instructors and may be required to complete additional work to receive credit for the course.

Office Hours:

Appointments can be made to meet in person, over Zoom, or by telephone. Professors will provide staff information for making appointments in class.

Faculty Contact Information:

Professor Matthew F. Ferraro
mferrar6@gmu.edu

Professor Jamil N. Jaffer
jjaffer@gmu.edu

Course Materials:

The course does not use a textbook; the syllabus includes readings from a variety of sources. Most course materials are available through the links provided below. In addition, most materials (if cases/statutes/ articles/etc.) should also be available on Westlaw and LEXIS.

Please be sure to pull and read all materials well ahead of the relevant class session.

Any slides, study guides, or other material prepared by the professors are their intellectual property and shared for class and student use only; students should not input such material into AI systems, which, depending on their configuration and terms of use, may be able to assert claims of ownership over such material.

Course Specific Policies:

- Students are expected to complete the assigned readings and to come prepared to discuss them.
- Instructors will employ Socratic dialogues to facilitate learning.
- If unforeseen circumstances prevent a student from preparing for class, the student should attend nonetheless and inform the instructors in advance if they are not prepared to be called upon.
- All students are expected to treat each other and the instructors with courtesy and respect.
- The instructors seek a welcoming academic environment wherein critically important ethical and philosophical issues can be intellectually explored. Ideas and theories are welcome and encouraged to be challenged, but such critiques should never take the form of personal attacks on another speaker.
- Students must use their GMU email account to receive important University and Law School information, including communications related to this class.
- The instructors will not respond to messages sent from, or send messages to, a non-Mason email address. Students may wish to text instructors in addition to sending emails to ensure prompt responses.

Class Recordings Prohibited:

- Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device, camera, or computer.
- Any exceptions to this policy must be expressly authorized in writing by the instructor(s).
- The instructors do not intend to record the weekly course meetings.

Note on Assignments:

- Given the fast-developing nature of AI law and policy, the instructors will likely be updating the assignments listed below throughout the semester. Please stay alert to such amendments.

Course Assignments

Class 1 (Wed. 1/21/26): Introduction to AI: Technology and Policy Issues

Note: *The first class will meet on Wednesday per the Law School schedule accounting for the Martin Luther King, Jr. Holiday*

- Matthew Mittlesteadt, *AI Policy Guide*, Mercatus Center (updated September 2024):
 - [*What Is AI?*](#) (read pp. 1-10) (10 pp.)
- U.S. Copyright Office, [*Copyright and Artificial Intelligence, Part 3: Generative AI Training*](#), Section II: Technical Background (May 2025) (read pp. 4-9) (6 pp.)
- Timothy B. Lee & Sean Trott, [*A Jargon-free Explanation of How AI Large Language Models Work*](#), ARS Technica (July 31, 2023) (read pp. 1-17) (17 pp.)
- Mittlesteadt, *AI Policy Guide*:
 - [*AI Policy Challenges*](#) (read pp. 1-11) (11 pp.)

Class 2 (1/26/26): AI and Intellectual Property Law I: Patent Law & Introduction to Copyright

Patent Law

- [*Thaler v. Vidal*](#), 43 F.4th 1207, 1209-13 (Fed. Cir. 2022) (6 pp.)
- U.S. Patent and Trademark Office, [*Revised Inventorship Guidance for AI-Assisted Inventions*](#), Dkt. No. PTO-P-2025-0014 (Nov. 28, 2025) (read pp. 1-5) (5 pp.)

Copyright Registration

- [*Thaler v. Perlmutter*](#), 130 F. 4th 1039, 1041-52 (D.C. Cir. 2025) (12 pp.)
- U.S. Copyright Office, [Letter of Robert J. Kasunic, Associate Register of Copyrights and Director of the Office of Registration Policy & Practice to Van Lindberg, Esq., Re: Zarya of the Dawn \(Registration # VAu001480196\)](#) (Feb. 21, 2023) (read pp. 1-12) (12 pp.)
- Gene Maddus, [*Copyright Office Offers Assurances on AI Filmmaking Tools*](#), Variety (Jan. 29, 2025) (read pp. 1-10) (10 pp.)

Class 3 (2/2/26): AI and Intellectual Property Law II: Fair and Unfair Use

- [*Thomson Reuters Enter. Ctr. GMBH v. Ross Intel. Inc.*](#), 765 F. Supp. 3d 382, 390-401 (D. Del. 2025) (Mem. Op.) (12 pp.)
- [*New York Times v. Microsoft, OpenAI, et al.*](#), 777 F.Supp.3d 283, 297-302, 303-11, 314-24, 327-329 (S.D.N.Y. 2025) (Op. Granting in Part and Denying in Part Motion to Dismiss) (29 pp.)
- [*In re OpenAI, Inc. Copyright Infringement Litig.*](#), No. 23-CV-10211, 2025 WL 3003339, *1-*10 (S.D.N.Y. Oct. 27, 2025) (11 pp.)

Class 4 (2/09/26): AI and Intellectual Property Law III: Fair and Unfair Use, continued

- [*Bartz v. Anthropic PBC*](#), 787 F.Supp.3d 1007, 1014-34 (N.D. Cal. 2025) (Order on Fair Use) (20 pp.)
- [*Kadrey v. Meta Platforms Inc.*](#), 788 F.Supp.3d 1026, 1034-60 (N.D. Cal. June 25, 2025) (Order Denying the Plaintiffs' Motion for Partial Summary Judgment and Granting Meta's Cross-Motion for Partial Summary Judgment) (26 pp.)

Class 5 (2/16/26): Alleged AI Harms I: Product Liability and Intimate Harms

Product Liability/Chatbots

- [*Garcia v. Character Technologies, Inc. et al.*](#), 785 F.Supp.3d 1157, 1166-70, 1172-85 (M.D. Fla. 2025) (Order) (19 pp.)
- Matthew Lee, [*Four Landmark Cases on AI Chatbot Harm to Children and the Vulnerable: Updates on Garcia v Character AI and Who Is Responsible?*](#), Doughty Street (Sep. 05, 2025) (read pp. 1-3) (3 pp.)

Intimate Harms

- Julie Jargon, [*Teen Sues Maker of Fake-Nude Software*](#), Wall Street Journal (Oct. 16, 2025) (read pp. 1-3) (3 pp.)
- Russell Brandom, [*A New Jersey Lawsuit Shows How Hard it is to Fight Deepfake Porn*](#), TechCrunch (Jan. 12, 2026) (read pp. 1-3) (3 pp.)
- *United States v. Anderegg*, Case No. 24-CR-50-JDP, [*Gov't Brief in Support of Detention*](#), (W.D. Wisc. May 20, 2024) (read pp. 1-10) (10 pp.)
- Steven Yablonski & Ivan Taylor, [*Jurors Rule in favor of Megan Thee Stallion in Miami Deepfake Porn Case, Order Milagro Gramz to Pay \\$75,000 in Damages*](#), CBS Miami (Dec. 1, 2025) (read pp. 1-3) (3 pp.)

Class 6 (2/23/26): Alleged AI Harms II: Discrimination and Defamation/Right of Publicity

Discrimination

- [*Mobley v. Workday, Inc.*](#), 740 F.Supp.3d 796, 802-03, 806-08, 809-13 (N.D. Cal. 2024) (Order Granting in Part and Denying in Part Motion to Dismiss) (10 pp.)

Defamation/Right of Publicity

- [*Walters vs. OpenAI*](#), 2025 WL 2979163, at *1-*10 (Ga. Sup. Ct. May 19, 2025) (Order Granting Summary Judgment in Favor of Defendant OpenAI, L.L.C.) (10 pp.)
- [*Lehrman v. Lovo Inc.*](#), 790 F.Supp.3d 348, 355-58, 362-73, 374-86 (S.D.N.Y. 2025) (Opinion & Order) (29 pp.)

Class 7 (3/02/26): Alleged AI Harms III: Facial Recognition/Biometrics and Data Privacy

Facial Recognition/Biometrics

- Kashmir Hill, [*Eight Months Pregnant and Arrested After False Facial Recognition Match*](#), The New York Times (Aug. 6, 2023) (read pp. 1-5) (5 pp.)
- Federal Trade Commission, [*Rite Aid Banned from Using AI Facial Recognition After FTC Says Retailer Deployed Technology without Reasonable Safeguards*](#), Press Release (Dec. 19, 2023) (read pp. 1-5) (5 pp.)

Data Privacy

- *In Re: Otter.AI Privacy Litigation*, No. 25-cv-06911-EKL, [*Consolidated Class Action Complaint*](#) (N.D. Cal. Dec. 05, 2025) (read pp. 1-4, 6-26) (25 pp.)
- Kristen E. Busch, [*Generative Artificial Intelligence and Data Privacy: A Primer*](#), Congressional Research Service (May 23, 2023) (read pp. 1-8) (8 pp.)

Note: Spring Recess: Monday, March 09 – Sunday, March 15 (Note: no class on March 9, 2026)

Class 8 (3/16/26): AI and National Security: CBRN, Cybersecurity, and Disinformation

CBRN

- Department of Homeland Security, [*DHS Report on Reducing the Risks at the Intersection of Artificial Intelligence and Chemical, Biological, Radiological, and Nuclear Threats*](#) (Apr. 26, 2024) (read pp. 1-2, 4-9, 11-14) (12 pp.)
- The White House, [*Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*](#) 88 Fed. Reg. 75191, 75191-93, 75194, 75196-97 (Oct. 30, 2023) (on the pages cited above read only Sects. 1-2, Sec. 3(k), and Sect. 4.1(b)) (6 pp.)

Cybersecurity

- Anthropic, [*Disrupting the First Reported AI-Orchestrated Cyber Espionage Campaign*](#), Anthropic (Nov. 13, 2025) (read pp. 3-4, 6-14) (11 pp.)

Disinformation

- Federal Communications Commission, [*FCC Settles Spoofed AI-Generated Robocalls Case*](#), Press Release (Aug. 21, 2024) (read pp. 1-2) (2 pp.)
- Peter Carlyon, [*Deepfakes Aren't the Disinformation Threat They're Made Out to Be*](#), RAND (Dec. 19, 2023) (read pp. 1-4) (4 pp.)

Class 9 (3/23/26): AI in War: Capabilities, Opportunities, Threats and Ethical Considerations

- Secretary of War Pete Hegseth, [*AI Strategy for the Department of War*](#), Department of War (Jan. 9, 2026) (read pp. 1-6) (6 pp.)
- International Committee of the Red Cross, [*ICRC Position on Autonomous Weapons Systems*](#) (May 12, 2021) (read pp. 2-11) (10 pp.)
- Department of Defense, [*Autonomy in Weapon Systems*](#), DOD Directive 3000.09 (Jan. 25, 2023) (read pp. 3-6, 18) (5 pp.)
- Michael C. Horowitz, [*Autonomous Weapon Systems: No Human-in-the-Loop Required, and Other Myths Dispelled*](#), War on the Rocks (May 22, 2025) (read pp. 1-14) (14 pp.)
- Lucas Ropek, [*The Killer AI That Wasn't*](#), Gizmodo (June 2, 2023) (read pp. 1-7) (7 pp.)
- United Nations, [*'Politically unacceptable, morally repugnant': UN chief calls for global ban on 'killer robots'*](#), UN News (May 14, 2025) (read pp. 1-3) (3 pp.)

Class 10 (3/30/26): Regulating AI in the United States I: Selected State Efforts

Comprehensive Laws

- [*Colorado AI Act*](#), SB 24-205 (read 1-21, 23-26) (25 pp.)
- [*Texas Responsible AI Governance Act*](#), HB-149 (read pp. 1-19) (19 pp.)

Class 11 (4/06/26): Regulating AI in the United States II: State Efforts, continued

Transparency

- [California Transparency in Frontier Artificial Intelligence Act](#), SB 53 (read 1-10, 13-15) (13 pp.)

Sector/Use-Specific Law

Chatbots:

- California, [SB 243](#) (read pp. 2-4) (3 pp.)

Healthcare:

- Arizona, [HB 2175](#) (read p. 1) (1 pp.)

Deepfakes:

- Tennessee, [Ensuring Likeness Voice and Image Security \(ELVIS\) Act](#) (read pp. 1-3) (3 pp.)
- Washington State, [HB 1205](#) (read pp. 1-3) (3 pp.)

Class 12 (4/13/26): Regulating AI in the United States III: Federal Efforts

- The White House, [Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence](#) 88 Fed. Reg. 75191, 75197-99 (Oct. 30, 2023) (on the pages cited above read only Sect. 4.2) (3 pp.)
- The White House, Executive Order, [Removing Barriers to American Leadership in Artificial Intelligence](#), 90 Fed. Reg. 8741, 8741-42 (Jan. 23, 2025) (2 pp.)
- The White House, [Winning the Race: America's AI Action Plan](#) (Jul. 23, 2025) (read pp. 1-6, 8-9, 11-13, 18-23) (17 pp.)
- The White House, [Ensuring a National Policy Framework for Artificial Intelligence](#), 90 Fed. Reg. 58499, 58499-501 (Dec. 11, 2025) (3 pp.)
- P.L. 119-12, [TAKE IT DOWN Act](#) (read pp. 1-8) (8 pp.)

Class 13 (4/20/26): Regulating AI: The EU AI Act

- European Parliament, [*EU AI Act: First Regulation on Artificial Intelligence*](#) (updated Feb. 19, 2025)
- Ernst & Young, [*The European Union Artificial Intelligence Act: Latest Developments and Key Takeaways*](#) (Jul. 12, 2024)
- Thorsten Ammann, et al., [*Latest Wave of Obligations Under the EU AI Act Take Effect: Key Considerations*](#), DLA Piper (Aug 7, 2026)

Note: Spring Semester Ends Wednesday, April 22, 2026.

###