

**Internet Law
Spring 2018
Final Examination**

This examination consists of **two questions** and **five pages**, including this cover page. Your answer has a limit of 3,000 words, which will be strictly enforced. Submit your answer by email to [Christina Ko](#) by the deadline of **5:00 PM on May 10**. Please make sure that your answer contains **no identifying information**.

This is an **open-book** examination. You should not need to consult anything beyond the coursepack and your notes, but you can if you wish. You are free to discuss the general legal principles we covered this semester with anyone, including each other. But **you may not discuss the examination questions** with anyone else until after the examination period. Your work on this examination is subject to the Cornell Code of Academic Integrity, the Law School Code of Academic Integrity, and the Campus Code of Conduct.

The question puts you in a role, but the genre for your answer should be **"law school examination."** Use **simple citations** (e.g. *"see Zeran"*) where appropriate. I include **spelling, grammar, clarity, and organization** in my grading. I appreciate the use of headings to organize your answer, but they're not required. If you find the question **ambiguous** or need to **assume additional facts**, state your assumptions explain how they affect your answer. No reasonable resolution of an ambiguity will be penalized.

To help ensure uniformity in my grading, please use the following **formatting**: 13-point Palatino, 1-inch margins, double-spaced, bold for any major headings and italics for any minor headings.

Test Case

On March 20, 2018, science fiction author Charlie Stross [posted](#) the following to his blog:

... Secondly, sooner or later there will be a real test case on the limits of machine competence. I expect to see a question like this show up in an exam for law students in a decade or so:

A child below the age of criminal responsibility plays chicken with a self-driving taxi, is struck, and is injured or killed. . . .

The driver is doing badly (predatory pricing competition by the likes of Uber is to blame for this) and is unable to pay for certain advanced features, such as a "gold package" that improves the accuracy of pedestrian/obstacle detection from 90% to 99.9%. Two months ago, because they'd never hit anyone, the driver downgraded from the "gold package" to a less-effective "silver package".

The manufacturer of the vehicle, who has a contract with the [driver] for ongoing maintenance, disabled the enhanced pedestrian avoidance feature for which the driver was no longer paying. . . .

At the moment of the impact the taxi has no passenger, but has received a pickup request from a passenger ... and is proceeding to that location on autopilot control.

The driver is not physically present in the vehicle at the time of the accident.

The driver is monitoring their vehicle remotely from their phone, using a dash cam and an app provided by the vehicle manufacturer but subject to an EULA that disclaims responsibility and commits the driver to binding arbitration administered by a private tribunal based in Pyongyang acting in accordance with the legal code of the Republic of South Sudan.

Immediately before the accident the dash cam view was obscured by a pop-up message from the taxi despatch app that the driver uses, notifying them of the passenger pickup request. The despatch app is written and supported by a Belgian company and is subject to an EULA that disclaims responsibility and doesn't im-

pose private arbitration but requires any claims to be heard in a Belgian court.

The accident took place in [New York]; the Taxi despatch firm is based in Edinburgh, Scotland.

Discuss!

A decade? Ha! You're ready for this one *today*. Assume that your law firm has been retained by the child's parents and is considering filing a multi-million-dollar lawsuit against the driver, car manufacturer, and app company in a New York court. You have been asked to provide your advice on the Internet-law issues such a lawsuit would raise.

Write a 1,500 word memorandum to your supervisor laying out the Internet-specific issues in the case, and how you expect a court to resolve them. You can assume that your readers are familiar with the facts of the case. It is fine to point out that you don't have enough information to answer some issues; you don't. Do your best to explain what additional facts would matter, why, and how. There are obviously jurisdiction, contract, and software-defect issues. But what else is likely to come up during the litigation?

You are welcome to read the comments to Stross's blog post if you like, but be careful! Many people fancy themselves Internet lawyers but don't know what they're talking about. You do. Prove it.

Even If It's Fake, It's Real

A “deepfake” is a video created using advanced artificial intelligence and computer graphics techniques to make it appear that a person is doing or saying something someone else actually did. The most famous initial examples involved pornography, as described in [this story](#) from *Vice*:

There's a video of Gal Gadot having sex with her stepbrother on the internet. But it's not really Gadot's body, and it's barely her own face. It's an approximation, face-swapped to look like she's performing in an existing incest-themed porn video.

Journalists have also noted the potential for mischief. To illustrate the potential problems, *BuzzFeed* produced a [striking video](#) featuring former President Obama speaking to the camera:

“We're entering an era in which our enemies can make it look like anyone is saying anything at any point in time — even if they would never say those things,” says “Obama,” his lips moving in perfect sync with his words as they become increasingly bizarre. “So, for instance, they could have me say things like, I don't know, [Black Panther's] Killmonger was right! Or Ben Carson is in the sunken place! Or, how 'bout this: Simply, President Trump is a total and complete dipshit.”

As the video soon reveals, the man speaking is not the former commander-in-chief, but rather Oscar-winning filmmaker Jordan Peele with a warning for viewers about trusting material they encounter online.

In one sense, this is nothing new: [forged documents](#) have been around for a long time, and so have [Photoshopped images](#). But there is a belief, shared by many in technology today, that this time may be different, for two reasons. One is that the technology is better: video deepfakes are more convincing and harder to detect. Another is that the technology is widely available: it requires relatively little skill or time to make a reasonably good deepfake.

How will the arrival of deepfake technology change law? ***Pick THREE topics we have discussed this semester and write a 1,500-word essay de-***

scribing how you think the legal system may adapt to a world where anyone with the time and motivation can create a deepfake. A good answer will have examples that show both recurring patterns and interesting differences. Be as specific as you can: I want to hear about cases that should come out the other way, doctrines that no longer make sense, and statutes that need revision. Of course, it's also fine to explain why a legal rule might seem like it needs to change but actually doesn't.