

Derek E. Bambauer

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Teaching Experience

University of Arizona, James E. Rogers College of Law, Tucson, AZ. Professor of Law (2013-present).

- Associate Professor of Law (2012-2013).
- Founder and faculty co-director, Intellectual Property & Entrepreneurship Clinic.
- Visiting Professor, Swinburne Law School, Melbourne, Australia. (Summer 2019).
- Courses taught: Copyright Law, Cyberlaw, Introduction to Intellectual Property, Patent Law, Trade Secrets.

Brooklyn Law School, Brooklyn, NY. Associate Professor of Law (2010 – 2012).

- Assistant Professor of Law (2008-2010).
- Voted Professor of the Year by students in 2008-2009.
- Advisor / legal consultant, Brooklyn Law Incubator & Policy Clinic (BLIP).
- Courses taught: Current Controversies in Intellectual Property, Information Privacy Law, Internet Law, Introduction to Intellectual Property, Patent Law, Trademark Law.

Wayne State University Law School, Detroit, MI. Assistant Professor of Law (2006-2008).

- Courses taught: Contracts, Copyright Law, Current Controversies in Intellectual Property, Trademark Law.

Education

Harvard Law School, Cambridge, MA. J.D., *magna cum laude* (2004).

- Student Research Fellow, OpenNet Initiative, Berkman Center for Internet & Society.
- Teaching Assistant, Professor Daniel Meltzer (Criminal Law).

Harvard College, Cambridge, MA. B.A., History and Science, *summa cum laude* (1996).

- Phi Beta Kappa.
- National Science Scholar (National Science Foundation).
- Graduated in 3 years (awarded Advanced Standing).

Fellowships

Berkman Center for Internet & Society, Harvard Law School, Cambridge, MA. Research Fellow (2004-2006).

- Led team researching Internet filtering laws, technology, and practices by states worldwide. Analyzed empirical data from testing of countries' filtering systems. Led drafting and editing of reports on Internet censorship as a member of the OpenNet Initiative.
 - Member, Public-Private Working Group on International Drug Trafficking to Youth on the Internet (2005-2006).
 - Representative to Technical Advisory Committee, Human Rights in China (2004-2005).
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Full-Length Articles

- Paths or Fences: Patents, Copyrights, and the Constitution. 104 IOWA LAW REVIEW 1017 (2019).
 - Reviewed by Michael Risch, *Statute v. Constitution as IP Limiting Doctrine*, WRITTEN DESCRIPTION, at <https://writtendescription.blogspot.com/2018/04/statute-v-constitution-as-ip-limiting.html> (Apr. 10, 2018).
- (with Jane Bambauer) Information Libertarianism. 105 CALIFORNIA LAW REVIEW 335 (2017).
- Against Jawboning. 100 MINNESOTA LAW REVIEW 51 (2015).
- (with Alan Trammell) Personal Jurisdiction and “the Interwebs.” 100 CORNELL LAW REVIEW 1129 (2015).
 - Reviewed by Allan Erbsen, *Personal Jurisdiction Based on Intangible Harm*, JOTWELL, at <http://courtslaw.jotwell.com/personal-jurisdiction-based-on-intangible-harm/> (Nov. 16, 2015).
 - Cited in *Janus v. Freeman*, 2020 U.S. App. LEXIS 40355, at *15-16 (Baylson, J., dissenting) (9th Cir. Dec. 24, 2020).
 - Cited in *Douglas Co. v. My Brittany's LLC*, 2020 U.S. Dist. LEXIS 92876, at *20-21 (D.N.H. May 28, 2020).
 - Cited in Brief of Amicus Curiae Alan B. Morrison, *Bristol-Myers Squibb Company v. Superior Court of California for the County of San Francisco*, 582 U.S. ___ (2017), available at 2017 WL 1229752.
- Schrödinger's Cybersecurity. 48 UC DAVIS LAW REVIEW 791 (2015).
- Ghost in the Network. 162 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1011 (2014).
- Exposed. 98 MINNESOTA LAW REVIEW 2025 (2014).
 - Response by Rebecca Tushnet, *How Many Wrongs Make a Copyright?*, 98 MINNESOTA LAW REVIEW 2346 (2014).
- Censorship v3.1. 18 IEEE INTERNET COMPUTING 26 (May / June 2013) (peer-reviewed journal).
- Orwell's Armchair. 79 UNIVERSITY OF CHICAGO LAW REVIEW 863 (2012).
 - Responses by James Grimmelman, *The Illegal Process: Basic Problems in the Making and Application of Censorship*, 79 UNIVERSITY OF CHICAGO LAW REVIEW DIALOGUE 58 (2013), and David Post, *Orwell's Metaphors*, 79 UNIVERSITY OF CHICAGO LAW REVIEW DIALOGUE 25 (2013).

Derek E. Bambauer

- Conundrum. 96 MINNESOTA LAW REVIEW 584 (2011).
 - Reviewed by Paul Ohm, *Cybersecurity Through Information Theory*, JOTWELL, at <http://cyber.jotwell.com/cybersecurity-through-information-theory/> (May 2011).
- (with Oliver Day) The Hacker's Aegis. 60 EMORY LAW JOURNAL 1051 (2011).
- Cybersieves. 59 DUKE LAW JOURNAL 377 (2009).
 - Excerpted in *CYBERLAW: PROBLEMS OF POLICY AND JURISPRUDENCE IN THE INFORMATION AGE* (Patricia L. Bellia, Paul Schiff Berman, Brett M. Frischmann, & David G. Post, eds., 2010).
 - Discussed in MILTON L. MUELLER, NETWORKS AND STATES 206-08 (2010).
- Faulty Math: The Economics of Legalizing "The Grey Album." 59 UNIVERSITY OF ALABAMA LAW REVIEW 345 (2007).
- Shopping Badly: Cognitive Biases, Communications, and the Fallacy of the Marketplace of Ideas. 77 UNIVERSITY OF COLORADO LAW REVIEW 649 (2006).
- Solving the Inbox Paradox: An Information-Based Policy Approach to Unsolicited E-mail Advertising. 10 VIRGINIA JOURNAL OF LAW & TECHNOLOGY 5 (2005).

Shorter Articles

- (with Mark Verstraete and Jane Bambauer) Identifying and Countering Fake News. ARIZONA JOURNAL OF EMERGING TECHNOLOGIES (forthcoming 2021).
- Trump's Section 230 reform is repudiation in disguise. TECHSTREAM, BROOKINGS (Oct. 8, 2020), <https://www.brookings.edu/techstream/trumps-section-230-reform-is-repudiation-in-disguise/>.
- Information Hacking. 2020 UTAH LAW REVIEW 987 (symposium issue).
- How Section 230 reform endangers free speech. TECHSTREAM, BROOKINGS (July 1, 2020), <https://www.brookings.edu/techstream/how-section-230-reform-endangers-internet-free-speech/>.
- The MacGuffin and the Net: Taking Internet Listeners Seriously. 90 UNIVERSITY OF COLORADO LAW REVIEW 475 (2018) (symposium issue).
- From Platforms to Springboards. 2 GEORGETOWN TECHNOLOGY LAW REVIEW 417 (2018) (symposium issue).
- (with Mark Verstraete) Ecosystem of Distrust. 16 FIRST AMENDMENT LAW REVIEW 129 (2018) (symposium issue).
- Secrecy is Dead – Long Live Trade Secrets. 93 DENVER UNIVERSITY LAW REVIEW 833 (2016) (symposium issue).
- (with Jane R. Bambauer) Cyber-Exploitation and Distributed Enforcement. BOSTON UNIVERSITY LAW REVIEW ANNEX (Nov. 6, 2015), <http://www.bu.edu/bulawreview/bambauer-cyber-exploitation/> (symposium issue).
- Sharing Shortcomings. 47 LOYOLA UNIVERSITY CHICAGO LAW JOURNAL 465 (2015) (symposium issue).
- Copyright = Speech. 65 EMORY LAW JOURNAL 199 (2015) (symposium issue).
- (with Mithun Paul and Christian Collberg) A Possible Solution for Privacy Preserving Cloud Data Storage, 2015 IEEE INTERNATIONAL CONFERENCE ON CLOUD ENGINEERING (IC2E) 397-403, doi:10.1109/IC2E.2015.103.

Derek E. Bambauer

- Foxes and Hedgehogs in Transition. 13 JOURNAL ON TELECOMMUNICATIONS & HIGH TECHNOLOGY LAW 1 (2014) (symposium issue).
- (with Jane Bambauer) Vanished. 18 VIRGINIA JOURNAL OF LAW & TECHNOLOGY 137 (2013).
- Middlemen. 65 FLORIDA LAW REVIEW FORUM 1 (2013) (invited essay).
- Privacy Versus Security. 103 JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY 667 (2013) (symposium issue).
- Chutzpah. 6 JOURNAL OF NATIONAL SECURITY LAW AND POLICY 549 (2013) (peer-reviewed journal).
- The New American Way of Censorship. 49 ARIZONA ATTORNEY 32 (2013).
- The Myth of Perfection. 2 WAKE FOREST LAW REVIEW ONLINE 22 (2012).
- Pangloss's Copyright. 30 CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL 265 (2012) (symposium issue).
- Consider the Censor. 1 WAKE FOREST JOURNAL OF LAW & POLICY 31 (2011) (invited article).
- Rules, Standards, and Geeks. 5 BROOKLYN JOURNAL OF CORPORATE, FINANCIAL & COMMERCIAL LAW 49 (2011) (symposium issue).
 - Cited in *Presidential Executive Order (EO) 13800: Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure - Supporting Transparency in the Marketplace*, DEPARTMENT OF HOMELAND SECURITY (May 8, 2018), <https://www.dhs.gov/sites/default/files/publications/EO-13800-Market-Transparency-Report-Summary-20180508-508.pdf>.
- Comparing Cybersieves. MEASURES OF PRESS FREEDOM AND MEDIA CONTRIBUTIONS TO DEVELOPMENT 171 (Monroe E. Price, Susan Abbott, & Libby Morgan, eds., 2011), based on 59 DUKE L.J. 377 (2009).
- Cybersieves. LEGAL WORKSHOP (May 3, 2010), based on 59 DUKE L.J. 377 (2009).
- Filtering in Oz: Australia's Foray into Internet Censorship. 31 UNIVERSITY OF PENNSYLVANIA JOURNAL OF INTERNATIONAL LAW 493 (2009).
- Cool Tools for Tyrants. LEGAL AFFAIRS (January / February 2006).
- (Co-author) Letters to the Editor. Nonstroke Treatment: Reply [Letter]. 63 ARCHIVES OF NEUROLOGY 1506 (2006).
- (Co-author) Why are so few acute stroke patients receiving tissue plasminogen activator therapy? 63 ARCHIVES OF NEUROLOGY 661 (2006).
- Legal Responses to the Challenges of Sports Patents. 18 HARVARD JOURNAL OF LAW & TECHNOLOGY 401 (2005).
- Why Intellectual Property Rights Matter to Less-Developed Countries. INFORMATION TECHNOLOGY AND INTERNATIONAL DEVELOPMENT 1:3-4 (2005).
- (Co-author) A Comparative Analysis of Spam Laws: The Quest for Model Law (2005). (Prepared for International Telecommunication Union World Summit on the Information Society Cybersecurity Meeting on Countering Spam).
- (Co-author) Internet Filtering in China in 2004-2005: A Country Study. BERKMAN CENTER FOR INTERNET & SOCIETY AT HARVARD LAW SCHOOL RESEARCH PUBLICATION NO. 2005-10.
- (Co-author) Content and Control: Assessing the Impact of Policy Choices on Potential Online Business Models in the Music and Film Industries. BERKMAN CENTER FOR INTERNET & SOCIETY AT HARVARD LAW SCHOOL RESEARCH PUBLICATION NO. 2005-10 (2005).

Books

- (with Justin Hurwitz, David Thaw, and Charlotte Tschider) *CYBERSECURITY: AN INTERDISCIPLINARY PROBLEM* (forthcoming 2021, West Academic Publishing).
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Technical Articles

- A Guide to Transaction Logging in Domino R5. *THE VIEW* (January / February 2001).
 - (Co-author) Upgrading from R4 to R5. *GROUP COMPUTING MAGAZINE* (September 2000).
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Bar Memberships

- Admitted to practice in Massachusetts (2004 – present).
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Work Experience

- **Bingham McCutchen LLP**. Boston, MA. Summer Associate (2003).
 - **Wolf, Greenfield & Sacks, P.C.** Boston, MA. Summer Associate (2002).
 - **Lotus Development Corp. (IBM)**. Cambridge, MA. (1996-2001).
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Volunteer Work

- Member, Board of Directors, **Securing Change Corporation** (2012-present). See <http://securingchange.org/#about>.
 - Member, Board of Directors, **The Free Internet Project** (2014-present). See <http://thefreeinternetproject.org/board-members>.
 - Chair, AALS Internet and Computer Law section (2016-2017).
 - Executive Committee, AALS Defamation and Privacy Law section (2021).
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Pro Bono Litigation

- *ACLU Foundation of Arizona v. Department of Homeland Security*, No. CV-14-02052-TUC-RM (D. Ariz. 2017) (co-plaintiff).
 - *Soghoian v. Office of Management and Budget*, 932 F. Supp. 2d 167 (D.D.C. 2013) (lead counsel).
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Presentations / Conferences / Testimony (2014-present)

- Invited speaker, *Legislative Threats to Section 230*, Media Law Resource Center (online panel discussion). (Dec. 16, 2020).
- Invited speaker, *Cybersecurity for Idiots*, Law and Biomedicine Colloquium, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT. (Jan. 29, 2020).
- Invited speaker, *Trends in First Amendment Deregulation*, American Constitution Society / Federalist Society Panel Discussion, University of Pennsylvania Law School, Philadelphia, PA. (Nov. 7, 2019).

Derek E. Bambauer

- Invited speaker, *Social Media and the Threats of Disinformation*, News, Disinformation, and Social Media Responsibility, Lee E. Teitelbaum Utah Law Review Symposium, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT. (Oct. 18, 2019).
- Invited speaker, *Cybersecurity for Idiots*, Governing Innovation and Emerging Technology in Finance Writing Workshop and Roundtable, National Business Law Scholars Conference, University of California, Berkeley School of Law, Berkeley, CA. (June 19, 2019).
- Speaker, *Private Lessons for Public Censors* (Jack Balkin, commentator), Seventh Annual Freedom of Expression Scholars Conference, Yale Law School, New Haven, CT. (Apr. 26, 2019).
- Invited speaker, *Privacy and Data Security CLE*, Cardozo Society of the Jewish Federation of Greater Phoenix, Perkins Coie, Phoenix, AZ. (Mar. 28, 2019).
- Invited speaker, *Privacy and Data Security in the Age of Data Breaches*, Greater Phoenix Economic Council / Perkins Coie, Phoenix, AZ. (Mar. 27, 2019).
- Speaker, *Cybersecurity for Idiots*, Internet Law Works-In-Progress Conference 2019, Santa Clara University School of Law, Santa Clara, CA. (Mar. 2, 2019).
- Invited speaker, *Satire in the Age of "Fake News,"* University of Arizona Chapter – Society of Professional Journalists, University of Arizona, Tucson, AZ. (Nov. 14, 2018).
- Invited speaker, *Liabilities Associated With Having an Online Presence*, State Bar of Arizona Convention 2018, Phoenix, AZ. (June 28, 2018).
- Invited speaker, *Taking Internet Listeners Seriously*, Listeners and the First Amendment, Ira C. Rothgerber, Jr. Constitutional Law Conference, University of Colorado Law Review, University of Colorado School of Law, Boulder, CO. (Apr. 13, 2018).
- Invited speaker, *From Platforms to Springboards*, The Governance & Regulation of Information Platforms, Georgetown Technology Law Review Symposium, Georgetown University Law Center, Washington, DC. (Feb. 23, 2018).
- Invited speaker, *Won't Get Fooled Again?*, Distorting the Truth: Fake News and Free Speech, First Amendment Law Review Symposium, University of North Carolina School of Law, Chapel Hill, NC. (Oct. 27, 2017).
- Guest blogger, *Backward and Forwards*, in FAN 156 (First Amendment News) Special Post: The Espionage Act at the 100 Year Mark: Commentaries by Bambauer, Chemerinsky, Stone & Vladeck, Concurring Opinions, <https://concurringopinions.com/archives/2017/06/fan-156-first-amendment-news-special-post-the-espionage-act-at-the-100-year-mark-commentaries-by-bambauer-chemerinsky-stone-vladeck.html> (June 15, 2017).
- Speaker, *Uncrunched: Algorithms, Decisionmaking, and Privacy*, Second Annual Digital Information Policy Scholars Conference, George Mason University Antonin Scalia Law School, Arlington, VA. (Apr. 28, 2017).
- Speaker, *Uncrunched: Algorithms, Decisionmaking, and Privacy*, Internet Law Works-In-Progress Conference 2017, Santa Clara University School of Law, Santa Clara, CA. (Mar. 4, 2017).
- Speaker, *Uncrunched: Algorithms, Decisionmaking, and Privacy*, Program on Economics & Privacy Research Roundtable for Privacy Fellows, Antonin Scalia Law School, George Mason University, Arlington, VA. (Dec. 8, 2016).
- Speaker, *Information Libertarianism*, TPRC 44, Antonin Scalia Law School, George Mason University, Arlington, VA. (Oct. 1, 2016).
- Speaker, *Does Cybersecurity Need More Law?*, IEEE ISI 2016 Cybersecurity & Big Data, Eller College of Management, University of Arizona, Tucson, AZ. (Sept. 28, 2016).

Derek E. Bambauer

- Speaker, *Top Secret(s)*, Intellectual Property Scholars Conference 2016, Stanford Law School, Palo Alto, CA. (Aug. 11, 2016).
- Commenter, Global Legal Technology Laboratory Event, Massachusetts Institute of Technology, Cambridge, MA. (May 5-6, 2016).
- Commenter, Enrique Armijo, *Town of Gilbert: Relax Everybody*, Freedom of Expression Scholars Conference 4, Yale Law School, New Haven, CT. (April 30, 2016).
- Speaker, *Information Libertarianism* (plenary session), Freedom of Expression Scholars Conference 4, Yale Law School, New Haven, CT. (April 30, 2016).
- Invited speaker, *Top Secret(s)*, University of Haifa Law Department, Haifa, Israel. (Mar. 17, 2016).
- Invited speaker, *Cybersecurity for Idiots*, Cyberforum, University of Haifa Law Department, Haifa, Israel. (Mar. 16, 2016).
- Speaker, *Information Libertarianism*, Internet Law Works-In-Progress 2016, New York Law School, New York, NY. (Mar. 5, 2016).
- Panelist, *Privacy, Apple, and the FBI*, Center for Digital Society and Data Studies, University of Arizona, Tucson, AZ. (Mar. 3, 2016).
- Speaker, *The Governance of Innovation*, Competition Policy, Innovation, and Procurement, Institute for Advanced Study in Toulouse / Program on Law and Market Behavior, University of Toulouse Capitole / University of Notre Dame Law School, Toulouse, France. (Dec. 16, 2015).
- Commenter, LEC Research Roundtable for Privacy Fellows, George Mason University School of Law, Arlington, VA. (Dec. 10-11, 2015).
- Invited speaker, *Cybersecurity and Privacy in the Internet of Things*, National Association of Hearing Officials 2015 Annual Conference, Scottsdale, AZ. (Oct. 28, 2015).
- Speaker, *Against Jawboning*, TPRC 43, George Mason University School of Law, Arlington, VA. (Sept. 27, 2015).
- Moderator, *Legal Frameworks for Data Privacy and Security*, Third Annual LEC Public Policy Conference on Privacy and Data Security, George Mason University School of Law, Arlington, VA. (June 17, 2015).
- Commenter, Ryan Calo, *Hiding the Invisible Hand: On The Interdependence of Privacy and Markets*, Eighth Annual Privacy Law Scholars Conference, Berkeley, CA. (June 4, 2015).
- Speaker, *U.S. Cybersecurity and the Hazards of Information Sharing*, Privacy in a Data Collection Society, Loyola University Chicago School of Law, Chicago, IL. (Apr. 10, 2015).
- Speaker, *History's Warped Mirror*, Fifth Annual Internet Law Works-in-Progress Conference, Santa Clara University School of Law, Santa Clara, CA. (Mar. 7, 2015).
- Invited speaker, *Cyberlaw and the Health Care Sector*, Law and Biomedicine Colloquium, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT. (Mar. 2, 2015).
- Invited speaker, *Copyright = Speech*, The New Age of Communication: Freedom of Speech in the 21st Century, 2015 Randolph W. Thrower Symposium, Emory University School of Law, Atlanta, GA. (Feb. 5, 2015).
- Speaker, *Personal Jurisdiction and "teh Interwebs,"* University of Arizona James E. Rogers College of Law Faculty Workshop, Tucson, AZ. (Dec. 11, 2014).

Derek E. Bambauer

- Speaker, *Against Jawboning*, Rocky Mountain Junior Scholars Forum 2014, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT. (Nov. 11, 2014).
- Invited speaker, *Sixth Annual Aspiring Law Professors Conference*, Sandra Day O'Connor College of Law, Arizona State University, Tempe, AZ. (Sept. 27, 2014).
- Speaker, *Personal Jurisdiction and Teh Interwebs*, University of Arizona James E. Rogers College of Law Summer Workshop Series, Tucson, AZ. (July 22, 2014).
- Commenter, Lior Jacob Strahilevitz & Adam M. Samaha, *Don't Ask, Must Tell – And Other Combinations*, Seventh Annual Privacy Law Scholars Conference, The George Washington University School of Law, Washington, DC. (June 5, 2014).
- Invited speaker, *Schrödinger's Cybersecurity*, LEC Public Policy Conference on the Future of Privacy and Data Security Regulation, George Mason University School of Law, Arlington, VA. (May 14, 2014).
- Invited speaker, *Against Jawboning*, Freedom of Expression Scholars Conference 2, Yale Law School, New Haven, CT. (May 3, 2014).
- Invited speaker, *Revenge Porn*, IP Speaker Series, University of Washington School of Law, Seattle, WA. (May 1, 2014).
- Keynote speaker, *Ghost in the Network*, Crimes, Criminals, and the New Criminal Codes: Assessing the Effectiveness of the Legal Response, Babes-Bolyai University, Cluj-Napoca, Romania. (Mar. 28, 2014).
- Invited speaker, *Schrödinger's Cybersecurity*, Elon University School of Law, Greensboro, NC. (Mar. 10, 2014).
- Speaker, *Schrödinger's Cybersecurity*, Fourth Internet Law Scholars Works-In-Progress, New York Law School, New York, NY. (Mar. 8, 2014).
- Commenter, LEC Research Roundtable on the Future of Privacy & Data Security Regulation, George Mason University School of Law, Arlington, VA. (Mar. 7, 2014).
- Invited speaker, *Foxes and Hedgehogs In Transition*, Digital Broadband Migration: After the Internet Protocol Revolution, Silicon Flatirons Center, University of Colorado Law School, Boulder, CO. (Feb. 10, 2014).
- Invited speaker, *Exposed*, Rutgers University School of Law – Camden, Camden, NJ. (Jan. 13, 2014).
- Panelist, *Hacking Revenge Porn*, New York Legal Hackers, Brooklyn, NY. (Jan. 2, 2014).