Director’s Note
By Catherine Crump

Dear Alumni:

Our big news this year is that the Clinic has added a faculty member. Erik Stallman has joined us as an Assistant Clinical Professor and Associate Director of the Clinic. Before joining the Clinic, Erik was a policy counsel at Google, focusing on copyright and telecommunications policy. He spent the previous 12 years in Washington D.C., working for the Federal Communications Commission, the US House of Representatives, the law firm Steptoe & Johnson LLP, and then serving as General Counsel and Director of the Open Internet Project at the Center for Democracy & Technology.

We are thrilled that Erik has joined the Clinic. Erik’s broad-ranging experience means he has a lot to offer our students, and his subject matter expertise brings with it the exciting possibility of broadening the Clinic’s work into new areas.

Erik will be joining a Samuelson Clinic teaching faculty that already includes two other members in addition to me. Clinical Supervising Attorney Rob Walker specializes in intellectual property law and consumer rights. Clinical Teaching Fellow Megan Graham focuses on the impact of new technologies on civil liberties, particularly in the criminal justice system. And this semester we were also excited to welcome Jennifer Urban back into a teaching and supervision role.

With such a robust staff, we are excited about broadening and deepening our work. This issue of our newsletter showcases just a subset of what we have been up to over the past year. Thanks for your continued support for our work and our students.

Best wishes,
Catherine Crump

Please consider supporting our work by making a gift to the Samuelson Clinic as a part of your year-end giving. Your contributions help us advance the public interest in technology law and policy and train the next generation of legal advocates.

Please click [here](#) to make your donation online, or send a check payable to “UC Regents/Samuelson Law, Technology & Public Policy Clinic” to:

Berkeley Law c/o UC Berkeley Donor Gift Services, Suite 400 1995 University Avenue Berkeley, CA 94704-1070

We appreciate your support!
Associate Director’s Note

By Erik Stallman

Thanks to Catherine Crump for her kind introduction. Coming back to Berkeley Law and joining the Samuelson Clinic has been wonderful and a tad surreal. Other than Café Zeb and the library being in new places, the Berkeley Law of 2018 looks exactly like the one I graduated from 15 years ago. When I meet professors I learned from back then, I have to remind myself that I am their colleague now and, yes, I have done the reading.

Catherine, Jennifer Urban, Rob Walker, and Megan Graham have been beyond generous, sharing their wisdom about the Samuelson Clinic’s mission and operations, and helping to keep surprises to a minimum. Still, I have been regularly and happily amazed by the Clinic students’ tremendous capability, creativity, and dedication to their clients.

Owing to my previous work alongside coworkers and fellow travelers who are Samuelson Clinic alumni, I have been much less surprised by the students’ collaborative approach to navigating obstacles, absorbing setbacks, and celebrating successes. Thanks to all of you who reached out to share their experiences as Clinic students, as well as advice and insights on emerging issues at the intersection of technology, intellectual property, and social justice. This community is a tremendous resource and it’s great to be a part of it.

Hot Off the Press: Guide to Understanding & Negotiating Book Publication Contracts

By Authors Alliance

Announcing the print release of our guide to Understanding and Negotiating Book Publication Contracts! This new book is the latest addition to our growing library of resources for authors, which also includes educational handbooks on rights reversion, open access, and fair use.

Last month, we published the guide online under a Creative Commons license with the goal of putting it in reach of anyone who might need it. More details about the guide, and a free PDF download, can be found on our Publication Contracts resource page.

But digital can’t reach everyone, and many readers find paper resources easier to read and navigate. For those with a preference for printed books, and for those who want to support Authors Alliance’s continuing non-profit mission, Understanding and Negotiating Book Publication Contracts is now available as a handsome softcover book. Along with becoming a member or donating, purchasing a guide from us is one of the best ways to stand behind our organization.

To make your Authors Alliance reference library complete, Understanding Open Access, and Fair Use for Nonfiction Authors, the other three volumes in our series of guidebooks, are still available via free digital download as well as in book format from our store. Buy all four guides as a bundle and save on shipping!

For those who have pre-ordered the guide, or who donated to our Kickstarter in support of the guide and opted to receive a copy, we will ship your packages this week. We look forward to sharing the guide with you!
Clinic Presses Government to Release Documents About Prison Email Monitoring

By Michael Bazeley

The Samuelson Law, Technology and Public Policy Clinic filed a lawsuit today in federal court to compel the Federal Bureau of Prisons and Department of Justice to release records related to the monitoring of email messages between federal inmates and their attorneys.

The complaint, filed on behalf of the National Association of Criminal Defense Lawyers, follows on three Freedom of Information Act requests that NACDL submitted in early August. To date, the government has not released any of the requested records.

At issue are policies and guidance that allow Bureau of Prisons employees to monitor the contents of inmate email messages—including those to or from their attorneys. Inmates are required to agree to this monitoring if they want to use the BOP email system, called TRULINCS. Under some circumstances, prosecutors have asked that BOP employees share the contents of the messages so they can be used in court.

Inmates and attorneys can still communicate with each other by postal mail, at in-person meetings, or by unmonitored phone calls. But exchanging letters can take weeks, meeting in person can involve hours of travel and processing time at the prison, and phone calls can take weeks to arrange.

“If federal monitoring of email messages makes it excessively difficult for inmates to communicate confidentially with their lawyers,” said Megan Graham, a teaching fellow with the Samuelson Clinic, “it places these inmates at an unfair disadvantage if their lawyers must rely on more costly or time-consuming methods of communications, while federal prosecutors face no such obstacles.”

In its FOIA requests, NACDL requested records from the BOP regarding the technical features of the inmate email system and policies and guidance from the Department of Justice regarding the circumstances under which prosecutors may access inmate-attorney emails.

NACDL—which has many thousands of direct members, including private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges—wants access to the documents, in part, to raise the visibility of the issue among the public and federal lawmakers.

Catherine Crump, director of the Clinic, contends that the federal government’s policy raises constitutional and policy concerns, and notes that courts have already held that the government cannot read postal correspondence between inmates and their attorneys. “If the Constitutional rights already established by the courts are going to carry forward into the 21st century, then they must apply equally to email communications,” Crump said.

The email monitoring practice has met resistance in recent years from both lawyers and judges.

But in 2014, a judge in the Eastern District of New York stopped prosecutors from accessing e-mail communications between an inmate and his lawyer.

In 2016, the American Bar Association House of Delegates passed a resolution saying the practice ‘raises serious constitutional concerns.’ A bill to forbid the process was introduced in Congress in 2016, but stalled.

Ten Clinic students have worked on parts of the Clinic’s inmate email project with NACDL, including drafting the FOIA requests. This semester, second-year students Nomi Conway and Diane Aguirre-Dominguez helped draft the follow-up lawsuit to compel the records’ release. Conway said NACDL and the Clinic hope that access to the records will help plot a way forward on this issue.

“We’re trying to understand the whole landscape so we can develop a strategy to grapple with the problem,” Conway said.

Before coming to law school, Aguirre-Dominguez worked with the legal team at a financial services technology company, which piqued her interest in technology law. She called the experience of drafting a lawsuit with far-reaching ramifications both “exciting and scary.”

“It’s something I didn’t really expect to be able to do,” she said. “But I’m really glad I did.”

View a copy of the lawsuit here.

NACDL press release.
Samuelson Clinic Students Win Copyright Exemption that Will Help Preserve Video Games

By Rob Walker

Samuelson Clinic Students successfully petitioned the U.S. Copyright Office for an exemption to the Digital Millennium Copyright Act (“DMCA”) on behalf of the Museum of Art and Digital Entertainment (“the MADE”), a video game history museum in Oakland, California. Students Derek Chipman (’18), Thao Thai (’18), Michael Deamer (’18), and Brookes Degen (’19) represented the MADE in its efforts to secure an exemption that would facilitate the lawful preservation of online video games and supporting technologies.

Every three years, the U.S. Copyright Office considers temporary exemptions to the anti-circumvention provisions of DMCA. These exemptions allow groups to bypass digital locks and other protections placed on copyright works by their owners, and are an important tool for archivists and researchers who cannot otherwise lawfully use, preserve, or restore these works.

In 2015, the Copyright Office granted libraries, archives, museums, and the public a limited right to bypass digital locks that required a video game to “phone home” to an authenticating online server before it was playable. But the 2015 exemptions were explicitly limited to “local” games that did not require further access to an online server during gameplay. Because of this limitation, research institutions were not able to preserve many online video games in a fully playable form.

Working with Clinical Supervising Attorney Rob Walker, Samuelson Clinic students argued that an expansion of the 2015 exemption was necessary for libraries, museums, and video game archives to adequately—and lawfully—preserve game history. Without an expanded DMCA exemption, many video games—including well-known titles like Star Wars Galaxies, The Matrix Online, and Neverwinter Nights—are at risk of being lost forever. The students further argued that reproducing and modifying video games and necessary, related technologies (like online servers and console firmware) to preserve them constituted a fair use of these works under 17 U.S.C. § 107.

In the final rule published on October 25, 2018, the Librarian of Congress largely agreed with the students’ arguments, granting the exemption in part. The Librarian’s new exemption allows research institutions to preserve video games as well as necessary online server components, subject to a number of legal and technical caveats. A full discussion of the scope of the exemption and its limitations is available on Ars Technica.

Thanks to the Clinical Program Staff!

Clinical Program Staff: Amy Utstein, Olivia Layug Balbarin, Dominique DeBerry

The Samuelson Clinic is extremely thankful for the help and support of the Clinical Program staff: Director of Administration Amy Utstein, Legal Case Manager Olivia Layug Balbarin, and Office Manager Dominique DeBerry. They keep us on track and make sure the faculty and students have the tools they need to do their best work.

Thanks for everything you do, Amy, Olivia, and Dominique!
Class of 2002

Katie Race Brin
In February 2018, Katie left the Federal Trade Commission where she had spent almost 11 years, first bringing enforcement actions in the privacy and security area and then three years as the Commission’s Chief Privacy Officer. Katie has assumed a new role as the Chief Privacy Officer at 2U Inc., an education technology company that partners with the world’s best universities to provide online graduate degrees and short courses (including Berkeley’s School of Information Master of Information and Data Science). She is enjoying the challenge of running a privacy program for a global company that is growing by leaps and bounds.

Catherine Jasserand
Catherine is finishing her PhD research on EU data protection rules and biometrics at the University of Groningen (the Netherlands). Since 2014, she has been working with (computer) scientists in the field of biometric recognition to understand the technologies and the use of algorithms. Her areas of expertise are EU data protection, privacy, human rights, IP law, and media law. After her PhD, she plans to pursue an academic career and would like to specialize in facial recognition. She lives in Amsterdam with her husband and their two children.

Class of 2003

Will DeVries
Will is closing on a decade at Google, working on privacy and data protection. Keeping him busy this year is GDPR compliance, emerging US State and Federal privacy laws, and planning the future of the online advertising business model. He lives in Rockridge with his family and is always happy to talk to current Clinic students!

Class of 2005

Sherwin Siy
Sherwin Siy has just left his position as Special Counsel at the Federal Communications Commission to work on public policy at the Wikimedia Foundation. He will be based in Washington, DC, which despite its many faults, remains the home of the Stanley Cup-winning Washington Capitals.

Class of 2006

Brian Carver
After three years as Product Counsel at YouTube, Brian changed roles this last summer and joined the central Google Copyright Legal team. He still lives in the East Bay, but now only has to commute to San Francisco.

Olga V. Mack
Olga V. Mack is Vice President of Strategy at Quantstamp, the first decentralized security auditing blockchain platform. She has recently spoke at TEDxSanFrancisco about smart contracts and educated California legislators about blockchain technologies to pass California AB 2658 and SB 838 that, among other things, define blockchain technology. She will publish a book about blockchain security in 2019.

Katie Oyama
Katie is senior policy counsel for copyright, trademark, and intermediary liability issues at Google DC where she has worked since departing her role in the Obama Administration as Deputy Counsel to VP Joe Biden. Earlier this year, she took a four-month break from Washington to work on internet law and policy issues from Google’s Sydney, Australia and Singapore offices. She’s always happy to grab coffee with any Clinic students or alumn who make their way to DC!

Class of 2006 (continued)

David Yang
David Yang and his spouse Yungsuhn Park ’05 have been flying by the seat of their pants with work and family. Their son is in 1st grade and their daughter is in preschool. Inspired by his kids, David recently took up biking as a hobby even though he lacks both finesse and aerodynamics. In June 2018, David and a former WilmerHale colleague formed a boutique firm called Hawkinson Yang LLP, primarily representing technology companies in California and Asia as to IP, commercial, privacy, and litigation matters.

Class of 2008

David E. Snyder
David Snyder is finishing up his second year as Executive Director of the First Amendment Coalition, a San Rafael-based nonprofit that advocates and litigates to protect free speech, government transparency and the people’s right to know.

Alyssa N. Lawson
Alyssa is an associate in Robins Kaplan’s Intellectual Property & Technology Litigation Group in Minneapolis, where she focuses her practice on complex technology, patent, and trade secret litigation. Alyssa has been named an “Up & Coming Attorney” by Minnesota Lawyer and was recently elected to the Board of Women Leading in Technology (WLiT), a program of the Minnesota High Tech Association that works to promote, educate and empower women in technology across Minnesota.

Kathleen Lu
Kathleen is enjoying her two-year anniversary as in house counsel at Mapbox, a mapping and location platform startup in San Francisco, where she manages the IP portfolios and advises on various quasi-IP matters.
Class of 2011
Liz Eraker Palley
Liz is a privacy lawyer at Google and lucky to work with a few other Samuelson alumni! She works on children’s privacy, transparency, and EU compliance issues, and has taught a privacy compliance seminar at UC Hastings the last couple of years. She’s otherwise keeping busy with her daughter (2 yo) and new son (6 mo).

Class of 2012
Dena Chen
Dena is entering her seventh year as a patent-litigation associate at Cooley LLP in Palo Alto. She is currently living in Menlo Park, and is always happy to connect with Clinic students and Berkeley alums!

Sam Edwards
Sam Edwards is product counsel for AI/ML group at Salesforce.

Heather Patterson
Heather Patterson is a Sr. Research Scientist at Intel Labs, where she specializes in developing the privacy and ethics of artificial intelligence systems. In 2018 she became a Commissioner with the City of Oakland’s Privacy Advisory Commission, a member of San Jose’s Privacy Advisory Taskforce, and the social impacts editor of IEEE Pervasive Computing magazine. She lives near Lake Merritt with her husband Matt, daughter Amelia (age 4), and cat, EmmyBlu.

Class of 2013
Marion Bergeret
Last winter, Marion took a break from corporate law to learn to code and visit a few “desirable future” initiatives in New Zealand, then joined French start-up Snips as GC. Snips make private-by-design voice assistants that process all voice data on device and do not collect, store, let alone monetize any user data in the process - so she’s been tackling all the fascinating privacy & AI issues there since, as well as happily supporting operations/sales, and all other departments of this super ethical and fast-growing company!

Jarad Brown
Jarad has continued his work as an attorney in the Federal Trade Commission’s Division of Privacy and Identity Protection, part of the Bureau of Consumer Protection. Though still in DC, he is currently representing the FTC in an upcoming trial in the Northern District of California in San Francisco, on the FTC’s allegations that IoT device manufacturer D-Link misrepresented the security of its routers and IP cameras.

Class of 2015
Mark Gray
Mark recently started working at the Copyright Office after spending several years at Quinn Emanuel. At the Copyright Office his duties have included working on the Section 1201 rulemaking, the topic of his student note at Boalt, but in Mark’s personal time he recently adopted a dog named Link. Link is a chihuahua mix and likes curling up beside humans on the couch and other nap-related activities.

Class of 2016
Jaideep Reddy
After graduating, Jaideep spent a year at the Silicon Valley office of the India-focused global law firm Nishith Desai Associates, and now practices at the firm’s Bengaluru, India office. He focuses on regulatory issues surrounding crypto-assets, payments, and privacy. He is currently appearing in an Indian Supreme Court case about a major restriction on virtual currencies. He is qualified in India and California and would love to continue to engage with the Cal community.

Kelly Vargas
Kelly is an Associate Legal Counsel at Adobe. She recently transitioned to the World Wide Sales Legal Support team to work on enterprise licensing agreements, strategic transactions, and other sales matters. Kelly also provides legal support to Adobe’s Open Source Office on issues surrounding open-source licensing compliance. She will gladly speak with any clinic students!
Jason Schultz (Former Director)

Jason says his only update is that he’s looking for a new Teaching Fellow. More information and application details here!

Lila Bailey (Former Teaching Fellow)

Lila is in-house Policy Counsel for a long-time Samuelson Clinic client, the Internet Archive, where she supports the non-profit digital library’s mission of providing Universal Access to All Knowledge. She lives in SF with her husband (who is also a Clinic alum) and her sweet dog, Zelda.

Babak Siavoshy (Former Teaching Fellow)

Babak is the General Counsel of Anduril Industries, a startup focused on applications of artificial intelligence and sensor technology to the defense space. Previously, Babak spent five years at Palantir Technologies, most recently as Data Protection Officer and head of the data protection team. He lives in Orange County, CA, with his wife and three daughters, and is always happy to connect with the Clinic community.

Jen King (Former Clinic Researcher)

After graduating from the School of Information with her Ph.D in May 2018, former Clinic Researcher Jen King is now the Director of Consumer Privacy at the Center for Internet and Society at Stanford Law School. In this role Jen is continuing her research into information privacy and how it impacts consumers, currently focusing on genetic privacy, artificial intelligence, the Internet of things, and reimagining privacy policies and notice and consent.

Getting Involved

We are extremely grateful for your support of the Samuelson Clinic over the years. You have helped us as students, alumni, faculty members, and friends. The Samuelson Clinic has a large and welcoming community because of all of you. Thank you!

If you’re looking for new ways to continue your involvement (or to get involved again), we’ve got a few ideas:

Take Students Out for Coffee

Our students really appreciate meeting and talking to our alumni about their careers. If you’re up for taking a student or two out for coffee, email Megan Graham, our Clinical Teaching Fellow. If you live away from the Bay Area, she can connect you with students who are working in your neck of the woods over the summer.

Consider Becoming a Client or Send Us Project Ideas

As you know, we value our clients a great deal and strive to do excellent work for them. What you may not know is that we’re always on the lookout for awesome new clients and project ideas. If you come across an issue or organization you think is ripe for a Clinic project, please let us know!

Consider Being a Pro Bono Partner on a Project

From time to time, the Clinic needs outside support on a project. Whether that’s getting something filed in court, preparing for argument, conducting research, or connecting with others who may be able to lend a hand (or knowledge) to a project, let us know if you’d like to help out in this way.

Financial Support

We’d be remiss if we didn’t pitch you one more time for financial support. If you’d like to make a donation, you can click here to make your donation online, or send a check payable to “UC Regents/Samuelson Law, Technology & Public Policy Clinic” to:

Berkeley Law c/o UC Berkeley
Donor Gift Services, Suite 400
1995 University Avenue
Berkeley, CA 94704-1070

We genuinely appreciate all of the contributions you have made to the success of the Samuelson Clinic over the years and we look forward to many more exciting opportunities in the future. If you’re ever on campus, be sure to stop by to say hello!