Law 252-001 | Cryptocurrency | Spring 2025 | 2 credits
Professor(s): Matthew Richardson
Thurs. 4:00 – 6:00 pm EST | Final Exam: N/A

Communication(s):
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Course description:

Cryptocurrency Law and Practice is a 2-credit course which helps to prepare law students to interact with cryptocurrency issues encountered in daily practice. Cryptocurrency is a fast-growing field which has the potential to touch on nearly every aspect of digital commerce. Lawyers play a key role in advising clients on how to navigate overlapping and often contradictory regulatory regimes which govern this fundamentally digitally native and cross-border technology.

This course will help law students understand the core areas of regulation in the United States of which they will need to be aware prior to entry into practice and equip them to deal with these issues in practice.

Please note that given the incredibly fast speed at which the law in this area is evolving, in real time, this syllabus, is subject to change. Reasonable notice of any changes will be communicated to all students.

Learning goals:

After completing this course, students will be able to demonstrate knowledge of basic commercial law issues pertaining to cryptocurrency as encountered in professional practice by actual practitioners. Students will be able to define and distinguish between cryptocurrency consensus mechanisms, business models, products, and transaction formats.

The objective is for students, prior to entering practice, to use the knowledge they gain on the course to contextualize information about cryptocurrency business and make judgments about the validity of that information, particularly with regard to claims about cryptocurrency products' legal status. After admission, the knowledge students learn on this course will be directly applicable in professional situations requiring interaction with cryptocurrency or businesses which offer cryptocurrency services.

Format:

Format will be discursive Socratic method with randomized cold calling. Slides, where used, will be made available for the class. It is expected that students will come to class prepared to discuss the relevant issues, and participate fully in the discussion.

Grading:

Open-note final paper - 85%
Class participation – 15%

Class Discussion Ground Rules:

Students will be held to the standard of conduct expected of attorneys in a professional setting.

In-classroom protests, which should not be necessary, will nonetheless be permitted but only if such protests take the form of a written motion for consideration which complies in all material respects with

the Rules of the D.C. Court of Appeals as promulgated from time to time. Any protest failing to follow this format may, as determined by the sole and absolute discretion of the instructors, result in the deduction of up to 3 points, per instance, on a 15 point scale, from a student's final participation grade for the course.

AI:

AI may be used but **only** if fully disclosed when the AI output is referenced. E.g. if an AI summarizes an issue and the student quotes the output in class, the student must say "According to GPT-4, which I asked the question [question] on [date], [content].

DATE	SUBJECT	REFERENCE MATERIALS
Week 1	**Introduction to cryptocurrency systems and the nature of cryptocurrency as property**	**Case law** *Pierson v. Post,* 3 Cai. R. 175, 2 Am. Dec. 264 *Oxford v. Moss* (1979) 68 Cr App R 183 *Popov v. Hayashi*, WL 31833731 Ca. Sup. Ct. 2002 *Securities and Exchange Commission v. Trendon Shavers and Bitcoin Savings and Trust*, 4:13-CV-416 (E.D. Tex. Aug. 6, 2013) *United States v. Faiella,* 39 F. Supp. 3d 544 (S.D.N.Y. 2014) **Further reading** Bitcoin: A Peer-to-Peer Electronic Cash System https://bitcoin.org/bitcoin.pdf Proof-of-Work explained https://cointelegraph.com/explained/proof-of-work-explained Proof of Stake https://ethereum.org/en/developers/docs/consensus-mechanisms/pos/ Permissioned Blockchain https://developer.oracle.com/learn/technical-articles/permissioned-blockchain A short introduction to krypto-property https://prestonbyrne.com/2018/11/23/krypto_property/ Law reforms proposed for digital assets, including NFTs and other crypto-tokens https://www.lawcom.gov.uk/law-commission-proposes-reforms-for-digital-assets-including-crypto-tokens-and-nfts/

Week 2	**The basic law of the Internet, software development, and open-source licensing**	**Statutes** U.S. Const. Amend. I 47 U.S.C. § 230 18 U.S.C. § 1030 Computer Misuse Act 1990 (c. 18), ss. 1-4 **Case law** *Stratton Oakmont v. Prodigy*, 23 Media L. Rep. 1794 (N.Y. Sup. Ct. 1995) *Force v. Facebook, Inc.*, 934 F.3d 53 (2nd Cir. 2019) *Gonzalez v. Google, LLC*, No. 18-16700 (9th Cir. 2021) *Bernstein v. U.S. Department of State et al.,* 974 F. Supp. 1288 (1997) *R. v. Gold and Schifreen*, [1988] 2 WLR 984 *Van Buren v. United States,* 593 U.S. ___ (2021) **Commercial agreements** The MIT License https://opensource.org/licenses/MIT The MIT License, Line-by-Line https://writing.kemitchell.com/2016/09/21/MIT-License-Line-by-Line.html The Gnu General Purpose License, Version 3 – Sections 4, 5, and 6 https://www.gnu.org/licenses/gpl-3.0.en.html
Week 3	**"Code is law" and smart contracts**	**Statutes** 18 U.S.C. § 1348 (relates to further reading on Avi Eisenberg case) Consumer Rights Act 2015 (2015 c. 15), ss. 9-18 UCC § 2-313, 2-314, 2-315, **Case law** *Thompson v. London, Midland and Scottish Railway Co Ltd,* [1930] 1 KB 41 *L'Estrange v. Graucob* [1934] 2 KB 394

		Lochner v. New York, **198 U.S. 45 (1905)** *Cavendish Square Holding BV v Talal El Makdessi,* [2015] UKSC 67 **Further reading** Szabo, Nick. Formalizing and Securing Relationships on Public Networks. https://journals.uic.edu/ojs/index.php/fm/article/view/548/469 Grigg, Ian. On the Intersection of Ricardian and Smart Contracts. https://iang.org/papers/intersection_ricardian_smart.html Wood, Gavin et al. The Ethereum Yellow Paper. https://ethereum.github.io/yellowpaper/paper.pdf Buterin, Vitalik. Ethereum and Oracles. https://blog.ethereum.org/2014/07/22/ethereum-and-oracles Reuters - U.S. Charges Fraud in Crypto Manipulation Case https://www.reuters.com/legal/us-charges-accused-mango-crypto-manipulator-with-fraud-2022-12-27/ CFTC Files for its First Ever Oracle Manipulation Case https://www.natlawreview.com/article/defi-regulatory-alert-cftc-files-its-first-ever-oracle-manipulation-case CFTC v. Avraham Eisenberg https://www.cftc.gov/PressRoom/PressReleases/8647-23
Week 4	**Distributed Autonomous Organizations**	**Case law** Hillman, Robert W. *Limited Liability in Historical Perspective*, 54 Wash. & Lee L. Rev. 613 (1997) *Attorney-General v. Davy,* (1741) 26 ER 531 *Dartmouth College v. Woodward*, 17 U.S. 518 (1819) *Meinhard v. Salmon*, 164 N.E. 545 (N.Y. 1928) *Malik v. Hussain and others,* [2020] EWHC 2334 (Ch) **Further reading** Larimer, Stan – Bitcoin and the Three Laws of Robotics (Sep 2013) https://letstalkbitcoin.com/bitcoin-and-the-three-laws-of-robotics

		Buterin, Vitalik. Boostrapping a Distributed Autonomous Corporation, Part 1 https://bitcoinmagazine.com/technical/bootstrapping-a-decentralized-autonomous-corporation-part-i-1379644274 (Sep 2013) Byrne, Preston; Kuhlman, Casey; McKinnon, Dennis. Eris: The Dawn of Distributed Autonomous Organizations and The Future of Governance (June 2014) https://web.archive.org/web/20141024043445/http://hplusmagazine.com/2014/06/17/eris-the-dawn-of-distributed-autonomous-organizations-and-the-future-of-governance/ Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO https://www.sec.gov/litigation/investreport/34-81207.pdf Wyoming DAO LLC Law FAQ https://sos.wyo.gov/Business/Docs/DAOs_FAQs.pdf
Week 5	**Securities and Commodities law considerations: from *GAW Miners* to *Ripple Labs* and back again**	**Statutes** 15 U.S.C. § 77d, 77e; 17 C.F.R. § 506 7 U.S.C. §§ 1–26, 17 C.F.R. §§ 32.2, 37.3, 166.3, 42.2, 1.6, 48.3 (2023) **Case law** *Securities and Exchange Commission v. W.J. Howey Co., 328 U.S. 293 (1946)* *Silver Hills Country Club v. Sobieski*, 55 Ca.2d 811 (1961) *Reves v. Ernst & Young,* 494 U.S. 56 (1990) *Securities and Exchange Commission v. Telegram Inc. et al.,* (1:19-cv-09439) (S.D.N.Y. 2020), Doc. 227 Complaint, *CFTC v. Binance Holdings Limited et al.* (2023) **Further reading** Complaint in SEC v. Homero Joshua Garza https://www.sec.gov/litigation/complaints/2015/comp23415.pdf With Kik and Telegram Cases, SEC tries to kill the SAFT https://www.coindesk.com/markets/2020/04/28/with-kik-and-telegram-cases-the-sec-tries-to-kill-the-saft/ Economic Unreality: What the SEC ICO precedents mean for Ripple Labs https://www.coindesk.com/consensus-magazine/2022/12/06/economic-unreality-what-sec-ico-precedents-mean-for-ripple/

		Blockstack SAFT https://www.sec.gov/Archives/edgar/data/1693656/000110465919039476/a18-15736_1ex1a3hldrsrtsd1.htm Complaint in SEC v. Gemini Trust Company and Genesis Global Capital https://www.sec.gov/litigation/complaints/2023/comp-pr2023-7.pdf
Week 6	**Data protection considerations**	General Data Protection Regulation https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN Brief overview of Data Protection Rights Privacy by Design https://gdpr-info.eu/issues/privacy-by-design/ https://iab.org/wp-content/IAB-uploads/2011/03/fred_carter.pdf Rights Relevant to Blockchains Right to Access https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e2513-1-1 Right to Correction https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e2599-1-1 Right to be Forgotten https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e2606-1-1 https://gdpr-info.eu/issues/right-to-be-forgotten/ Right to Restrict Processing https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e2700-1-1 Identifying Controllers and Processors https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e3022-1-1 Enforcement https://gdpr-info.eu/issues/fines-penalties/
Week 7	**Cryptocurrency crimes: money laundering, money**	18 U.S.C. § 1960 18 U.S.C. § 1962

	transmission and other issues	18 U.S.C. § 1956
		50 U.S.C. § 1702
		Case law
		Reves v. Ernst & Young, 507 U.S. 170 (1993)
		United States v. Harmon, 474 F. Supp. 3d 76 (2020)
		United States vs. Shrem & Faiella https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/Faiella%2C%20Robert%20and%20Shrem%20Charle%20Indictment.pdf
		United States v. Virgil Griffith https://www.justice.gov/opa/pr/us-citizen-who-conspired-assist-north-korea-evading-sanctions-sentenced-over-five-years-and
		United States v. Carl Mark Force https://www.justice.gov/opa/pr/former-dea-agent-sentenced-extortion-money-laundering-and-obstruction-related-silk-road
		United States v. Lichtenstein and Morgan https://www.justice.gov/opa/pr/two-arrested-alleged-conspiracy-launder-45-billion-stolen-cryptocurrency
		GUEST CLASS NEXT WEEK AND PAPER REVIEW SUBMIT ANY MATERIAL YOU WOULD LIKE REVIEWED AND DISCUSSED BY MONDAY
Week 8	Guest – Chris Giancarlo	CFTC Regulation and Paper Review
Week 9	**Law enforcement investigations**	**Statutes**
		U.S. Const. Amend. IV
		47 U.S.C. § 230(e)(1), (3), (5)
		18 U.S.C. § 2702, 2703, 2704
		18 U.S.C. § 2258A
		Cases
		Katz v. United States, 389 U.S. 347 (1967)
		United States v. Miller, 425 U.S. 435 (1976)

		United States v. Graham, 846 F. Supp. 2d. 384 (D. Md. 2012) *Carpenter v. United States,* 138 S.Ct. 2206 (2018) Microsoft Corp. v. United States, 584 U.S. ___, 138 S. Ct. 1186 (2018)
Week 10	Crypto and Bankruptcy – Guest, Robert Stark	• Yesha Yadav & Robert J. Stark, *The Bankruptcy Court as Crypto Market Regulator*, 96 S. Cal. L. Rev. 1479 (2024), https://southerncalifornialawreview.com/2024/04/16/the-bankruptcy-court-as-crypto-market-regulator/ • *Report of Robert J. Stark, Examiner*, In re Cred, Inc. (attached). • *Preliminary Report Addressing Question Posed by the Official Committee of Unsecured Creditors: Why Did BlockFi Fail?* In re BlockFi, Inc. (attached)
Week 11	**Legal ethics for the crypto-lawyer**	**ABA Model Rules** ABA Model Rule 1.2(d) ABA Model Rule 1.6 ABA Model Rule 1.16 Mueller, Christopher B. and Kirkpatrick, Laird C. and Richter, Liesa; *§5.22 Crime-Fraud Exception*. GWU Law School Public Law Research Paper No. 2018-63 **Case law** *McCoy v. Louisiana, 584 U.S. ____ (2018)* *Werme's Case*, No. 2002-719 (New Hampshire) *Christenbury v. Locke Lord,* 285 F.R.d. 675 (N.D. Ga. 2012) **Further reading** The Missing Cryptoqueen https://podcasts.apple.com/us/podcast/the-missing-cryptoqueen/id1480370173 Reuters: in $4 billion OneCoin fraud, jurisdiction dooms claims against ex-Big Law Partner https://www.reuters.com/legal/litigation/4-billion-onecoin-fraud-jurisdiction-dooms-claims-against-ex-big-law-partner-2021-09-22/ Jay Clayton's Opening Remarks at the Securities Regulation Institute, Jan. 22 2018

		https://www.sec.gov/news/speech/speech-clayton-012218
Week 12	**Intellectual Property and NFTs**	**Statutes** *15 U.S.C. § 1111, 1114* *17 U.S.C. § 102, 103, 106, 107, 501, 502, 503, 506, 512* *47 U.S.C. § 230(e)(2)* **Cases** *Hustler Magazine, Inc. v. Moral Majority, Inc.,* 606 F.Supp. 1526 (C.D. Cal., 1985) *TCA Television Corp. v. McCollum,* No. 15 Civ. 4325 (S.D. N.Y. Dec. 17, 2105) *Salinger v. Random House,* 811 F.2d 90 (2d Cir. 1987) *Goldman v. Breitbart News Network, LLC*, case 1:17-cv-03144-KBF (S.D.N.Y. Feb. 15th, 2018) Complaint, *Cerveceria Modelo De Mexico v. CB Brand Strategies, LLC*, No. 1:21-CV-01317-LAK (S.D.N.Y. filed Feb. 15, 2021) (Unreported) *Complaint, Yuga Labs, Inc. v. Ryder Ripps (2023) (Unreported)*
Week 13	**Recap**	Recap of all material Final Paper Review.