An Open Letter to Law School Deans about Privacy Law Education in Law Schools

November 11, 2019

Dear Dean,

We are a group of privacy law academics and practitioners who are writing to you and other law school deans to raise awareness about the importance of privacy law in modern legal practice and the need to educate students in this rapidly growing field.

Privacy law is this century’s IP law. In the 1980s and 1990s, many law schools that offered only general survey courses in intellectual property law began to recognize the field’s growing economic importance—and its increasing importance in the job market for both new law graduates and more seasoned lawyers. They adjusted their curricula and their hiring practices accordingly. Today, most law schools offer not just one general survey course in IP but also core courses in copyright, patent, and trademark law and advanced courses in international IP, IP transactions and other topics. Most have at least one full-time faculty member specializing in IP, and many have more than one.

Today, the rapid expansion of privacy law demands a similar realignment. Privacy has become one of the principal frames that the law (and legal practice) have used to grapple with the digital revolution and the opportunities and threats it has presented for every consumer of legal services in the world. The field of privacy law has been growing at a staggering rate over the past two decades. For many years, privacy has been one of the most active areas of legislation and regulation in the U.S. and worldwide. Privacy is also a vast body of law. Domestically, it encompasses constitutional and tort law, more than 30 federal laws, and thousands of state laws. Internationally, 57% of countries have comprehensive privacy laws, and many countries have numerous narrower privacy laws. Yet many law schools offer only the most basic coverage of privacy law, and most offer only occasional courses taught by adjuncts. Dozens of law schools evidently have no curricular offerings in privacy. Fewer than a quarter of law schools have a full-time faculty member who focuses heavily on privacy law.

Privacy law is a large and rapidly growing field with nearly boundless job opportunities. Even during the legal market slowdown, jobs in privacy expanded at an astounding pace. There are plentiful career opportunities for law graduates in law firms, consulting firms, government agencies, public interest organizations, and in-house legal departments. For example:

• 96 of the AmLaw top 100 firms have privacy and cybersecurity practices. Many have 30+ attorneys. There are entire boutique law firms that specialize in privacy.

• Most large organizations employ many full-time privacy professionals, including many lawyers. In many private sector companies, the Chief Privacy Officer has become a C-level position and part of upper management.
• Most executive branch agencies have a Chief Privacy Officer as well as a team of lawyers working on privacy. There are numerous lawyers in regulatory agencies who focus on privacy enforcement and rulemaking.

• The International Association of Privacy Professionals has 50,000 members, and it is growing by 25-30% or more each year.

• Privacy law is one of just 15 specialty areas accredited by the ABA.

Law schools that offer real and deep education in privacy law are reaping important competitive advantages. Although many law schools are not offering enough education about privacy law and related subjects—and their students and recent graduates are missing out on opportunities in one of the most rapidly-growing legal fields—those that do offer such education have seen clear gains.

Many law schools that offer a regular 3- or 4- unit privacy law survey course—for example, Berkeley, Chicago, GW, Penn, and Washington University in St. Louis, among others—routinely have class enrollments of between 50-80 students. Those that offer experiential education in privacy law—for example, BU, Georgetown, Minnesota, and New York Law School, among others—find those courses oversubscribed. Those that offer concentrations or other special programs in information technology-related law—for example, Fordham, Georgetown, Northeastern, Ohio State, Penn, and Santa Clara, among others—have seen student interest in privacy-related concentrations and careers grow exponentially. Those that offer non-JD programs focusing on such topics as compliance—for example, Colorado, Fordham, Northwestern, and the University of Washington, among others—also have seen skyrocketing interest in privacy. Students at all levels benefit from interdisciplinary, cross-campus research initiatives, such as those at Berkeley, NYU, and the University of Washington, among others.

Prospective law students are seeking out schools that are prominent in privacy law teaching and privacy law research, and students graduating with backgrounds in privacy law are in high demand. Santa Clara Law School, which offers a certificate in privacy law, had 100% of its students from the program employed within 4 months of graduating. New York Law School, which also offers a privacy certificate, has placed its graduates in both top 20 law firms and corporations like Nielsen, Moody’s, and various financial services firms.

There is a clear path forward. At minimum, every law school should offer at least one 3+ credit privacy law survey course. Privacy is too vast a field to be covered in just one course, however. A deeper curriculum might include courses such as those listed below:

- Cybersecurity Law
- Consumer Privacy Law
- Health Privacy Law
- Financial Privacy Law
- International/Comparative Privacy Law
- Computer Crime
- Privacy Compliance Counseling
- Data Breach Response

At minimum, a law school should have at least one full-time faculty member who writes a majority of their scholarship on privacy topics. There is a talented pool from which to recruit
such faculty. The Privacy Law Scholars Conference (PLSC), now in its 13th year, has about 300 participants, many entry-level scholars, and workshops 80 papers each year.

It’s worth noting also that, as privacy has moved to the forefront of the news, many foundations and large companies are eager to fund scholarship, conferences, and student education in privacy law, and there are a significant number of NSF and private foundation grants for research on privacy issues. Law schools that have developed strong privacy programs that include events, speakers, internship opportunities in the local community, academic centers, and formal certificates or concentrations in privacy law, have found many eager sources of support. Legal scholars who focus on privacy have begun cross-campus collaborations with their colleagues in departments and schools of computer science, engineering, communications, information, psychology, philosophy, economics, and business, creating rich opportunities for interdisciplinary research.

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We hope that you will consider these factors in determining your hiring priorities in the next several years.

If you have any questions, many of us would be delighted to answer them and discuss the field with you.

Sincerely,

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