



3 June 2024

YPHSL Academic Year 2024-2025 Term 1

COURSE CODE **LAW491****COURSE NAME** **LAW AND DIGITAL COMMERCE****COURSE FORMAT** **SMU-X****COURSE INSTRUCTOR:** **Professor Locknie Hsu**

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COURSE OUTLINE

PREREQUISITES INFORMATIONNone.

COURSE DESCRIPTION

Businesses are increasingly embracing the use of technology in domestic and cross-border operations, such as blockchain and cloud technology, digitalized trade platforms, artificial intelligence and the Internet of Things (IoT). Consumers are also increasingly using technology tools to acquire a variety of goods and services. Legal changes are occurring to reflect such developments. It is necessary for lawyers and policymakers to have an understanding of major digital technologies, their commercial applications and their legal contexts. Students will examine key legal issues arising from such uses, so as to help design forward-looking policies and regulations to deal with such issues.

This unique course aims to provide students with an opportunity to learn about a number of cutting-edge issues relating to commercial uses of digital technologies, and the role of law and other policy tools in the digital environment **in the cross-border trade context**. The issues are selected based on their topicality, feedback from industry, importance to Singapore and ASEAN and a review of academic and business literature. The course will allow students to develop skills to analyze and conduct cross-disciplinary research on selected issues, prepare reports with their research findings and exercise creativity to generate useful recommendations to deal with real-world problems. The real-world context of this course will help prepare students for the digital economy work environment, whether in legal practice, a business entity, a regulatory agency or an international organization.

In the first part of the course, an explanation of relevant legal frameworks will be provided to help students understand the broad context of issues in the digital economy. Students will then further be exposed to major digital technologies, such as distributed ledger technology and blockchain technologies and artificial intelligence applications in the trade context, including basic features,

strengths and risks of such technologies, related data use, transfer and storage policies, and other issues throughout the course. Students will examine a number of topical issues which policymakers and the private sector are grappling with. To promote students' sense of curiosity and continual self-learning, in the latter part of the course, they will be required to work in groups - under the instructor's continual guidance - to select relevant topics, conduct legal research and design group papers pertaining to digital technologies and the law in trade, and to generate meaningful recommendations based on their findings. Industry professionals from the public and private sectors will complement the learning experience by providing feedback on students' ideas. In addition to interactive learning led by the course instructor, students will receive technical, legal and policy insights from professionals who may be from the fields of commerce, banking, information technology, healthcare, law and government regulation. Students will therefore benefit from the views of industry professionals from different disciplinary fields and organizations, allowing them to better appreciate the various issues and legal and policy needs.

(A number of past students from this course have been successfully placed in unique and valuable internship positions and in a prestigious international project, as a result of the course experience.)

COURSE OBJECTIVES

This course aims to provide students with the following learning opportunities:

- Understanding basic features of major digital technologies;
- Understanding emerging and cross-cutting law and policy issues surrounding the uses of such technologies and of data in international trade;
- Analysis of cutting-edge law and policy materials and issues on such uses;
- Promotion of self-learning, group learning and further learning after the course; and
- Exercising creativity in designing useful recommendations.

This course will satisfy the Digital Technology/Data Analytics (D/D) requirements for AY2024-25 students.

RECOMMENDED TEXTS/READING MATERIALS

Given the nature of this course and the topics to be covered, there will not be just one single textbook. Reading materials will include recommended book chapters, journal articles, selected government, private-sector and/or international organization reports and other relevant international documents.

Examples of Possible Types of Reading Materials (subject to change/confirmation):

- Useful general background reading: YPHSL [issue pack 1](#)
- 2021 amendments to Singapore's Electronic Transactions Act, Cap. 88.

Examples of Articles:

- Henry D. Gabriel, "The UNCITRAL Model Law on Electronic Transferable Records", *Unif. L. Rev.*, Vol. 24, 2019, 261–280.

- Zachiaradis, Markos, Hileman, Garrick, and Scott, Susan V, “Governance and Control in Distributed Ledgers: Understanding the Challenges Facing Blockchain Technology in Services”, *Information & Organization*, 2019-06, Vol. 29(2), 105-117.
- OECD Trade Policy Paper No. 260, “Artificial Intelligence and International Trade: Preliminary Implications” (2023).

Examples of Books from which selected chapters may be recommended:

- Michael J. Shaw, “E-Commerce and the Digital Economy”, Routledge (e-book, 2005).
- “The Cambridge Handbook on Smart Contracts, Blockchain Technology and Digital Platforms”, eds. Larry A DiMateo, Michel Cannarsa and Cristina Poncibò, CUP (2020).
- Emmanuelle Ganne, “Can Blockchain Revolutionize Trade?”, World Trade Organization (2018).
- Nishani Vincent and Amy Igou, “Introduction to Artificial Intelligence – Emerging Technologies for Business Professionals”, O’Reillys (2023).

Examples of International and Other Documents

- The UNCITRAL Model Law on Electronic Transferable Records and commentary..
- Free Trade Agreements and Digital Economy Partnership Agreements (MTI web resources).
- UNESCAP, Framework Agreement on the Facilitation of Cross-border Paperless Trade in Asia and the Pacific.
- WTO documents relating to electronic commerce..
- OECD, “Initial Policy Considerations for Generative Artificial Intelligence” (September 2023).
- AI Verify Foundation and IMDA, [Model AI Governance Framework for Generative AI](#) (30 May 2024).

ASSESSMENT METHODS

The following assessment components will apply to this course.

Individual Class Participation*:	20% (Individual grade)
Industry interaction**	20% (Individual grade)
Group Oral Presentation on Final Paper	10% (Individual grade)
Final Written Paper***	<u>50%</u> (Group grade)
Total:	<u>100%</u>

* Class participation assessment will take into account factors such as contributions to class discussions, quality of comments and questions raised during seminars, and efforts to respond to issues raised by fellow students.

** Each group will be required to submit to the instructor a faithful and true record of each group member’s interaction with industry participants during the course outside seminar time.

*** Each group may also be required to submit to the instructor a faithful and true record of group collaborative work leading to the Final Written Paper.

More information and instructions regarding the assessment components will be provided during the course.

Note: In light of the possibility of use of artificial intelligence tools in future careers, this course may incorporate learning opportunities on such tools. This may include requiring students to **record transparently any such permitted usage** in the preparation of the group research paper and **an analysis** of the efficacy of such usage by the group. This will allow students both to gain familiarity with such technology, as well as allow for **student analysis of accuracy and efficacy of information generated by such technology**, as young professionals may be required to do this in their future jobs. Students may be required to submit periodic records of their group work to demonstrate their own thinking and group discussion efforts. (Please see also the information regarding Academic Integrity on the next page.)

No questions from past year papers or published test banks will be used verbatim for the graded continuous assessments and examinations in this course.

INSTRUCTIONAL METHODS

Seminars will generally be held in 3-hour slots with a 15-minute break. Where suitable, blended learning, comprising a combination of online/digital materials and in-person instruction, may be used. To the extent permitted by prevailing protocols and where suitable, in-person seminars and consultations will be held on campus.

ACADEMIC INTEGRITY

All acts of academic dishonesty (including, but not limited to, plagiarism, cheating, fabrication, facilitation of acts of academic dishonesty by others, unauthorized possession of exam questions, or tampering with the academic work of other students) are serious offences.

All work (whether oral or written) submitted for purposes of assessment must be the student's own work. Penalties for violation of the policy range from zero marks for the component assessment to expulsion, depending on the nature of the offence.

Note: any use of artificial intelligence tools – if and where permitted in this course – shall be subject to the strict instructions on use, recording of use, analysis, assessment and other requirements which the instructor will provide during the course. Failure to comply with such instructions may lead to penalties such as those mentioned above.

As a reminder on how to avoid plagiarism, students are encouraged to refer to this Library guide at: <https://library.smu.edu.sg/elearn>.

When in doubt, students should consult the instructors of the course. Details on the SMU Code of Academic Integrity may be accessed at <https://smu.sharepoint.com/sites/oasis/SitePages/DOS-WKLSWC/UCSC.aspx> or *OASIS -> CAMPUS LIFE & EXCHANGE -> CONDUCT & DISCIPLINE -> UNIVERSITY COUNCIL OF STUDENT DISCIPLINE -> SMU CODES OF CONDUCT*.

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DIGITAL READINESS FOR TEACHING AND LEARNING (DRTL)

As part of emergency preparedness, instructors may conduct lessons online via the Zoom platform during the term, to prepare students for online learning. During an actual emergency, students will be notified to access the Zoom platform for their online lessons. The class schedule will mirror the current face-to-face class timetable unless otherwise stated.

CONSULTATIONS

Consultation and clarifications may be conducted via email, telephone or by meeting. If a meeting is preferable, please arrange for an appointment via email. There will also be opportunities for in-class group consultations regarding Group topics during some of the later seminars.

ACCESSIBILITY

SMU strives to make learning experiences accessible for all. If you anticipate or experience physical or academic barriers due to disability, please let the Professor know immediately. You are also welcome to contact the university's disability services team if you have questions or concerns about academic provisions: DSS@smu.edu.sg. Please be aware that the accessible tables in our seminar room should remain available for students who require them (in case there are face-to-face seminars).

DROPPING A COURSE

Students are reminded to follow the dates and procedures of add/drop modules found in <https://smu.sharepoint.com/sites/oasis/SitePages/RO/All-About-BOSS.aspx#parentHorizontalTab5>.

UG and JD students need to drop the electives via BOSS unless otherwise instructed by the School for specific electives (e.g. Moots).

Students who fail to follow the correct procedures and stipulated timelines for dropping their modules will obtain a “W” or “F” grades as indicated on OASIS.

Do note that a “W” and ‘F’ grade is reflected **permanently** on a student’s transcript.

LAW 491 LAW AND DIGITAL COMMERCE

AY 2024-2025 TERM 1

LESSON PLAN

Week No.	Topic	Reading and Activities
1	International to Law and Digital Commerce – Themes, Issues, Frameworks <ul style="list-style-type: none"> ▪ Introduction: overview of the course, key frameworks and issues ▪ The ‘Fourth Industrial Revolution’ and international trade ▪ Role of the COVID-19 pandemic ▪ Key themes and stakeholders shaping digital commerce, e.g., paperless trading, disintermediation, decentralisation, inclusion, data regulation, innovation, standard-setting, sustainability ▪ Overview of global and regional regulatory frameworks; the role of law and ‘soft law’ tools 	Reading lists for all weeks to be announced later.
2	International trade law and technology (part 1) <ul style="list-style-type: none"> ▪ Introduction to digitalization applications in the context of paperless trade and sustainability: legal and technological challenges, including interoperability ▪ Data privacy, storage and transfers in cross-border trade; compliance, cybersecurity issues ▪ Digitalization and dispute resolution issues [Guest speaker – TBA]	
3	International trade law and technology (part 2) <ul style="list-style-type: none"> ▪ Digitalization tools for paperless trade, trade facilitation and trade finance ▪ Introduction to DLT/blockchain technology in international trade – basic features, strengths and risks ▪ Introduction to the UNCITRAL Model Law on Electronic Transferable Records and Singapore’s 2021 amendments to the Electronic Transactions Act (Cap. 88) [Guest speaker – TBA]	
	International trade law and technology (part 3)	

4	<p>Issues in cross-border digital financial services</p> <ul style="list-style-type: none"> ▪ ‘Fintech’ services and their uses in cross-border trade finance, including stablecoins – basic features and risks ▪ Data localization and the transfer of financial and other data in cross-border trade ▪ Trade and compliance with national and international obligations (e.g., KYC and AML requirements and international sanctions) <p>[Guest speaker – TBA]</p>	
5	<p>Industry Roundtable (moderated by Professor) Technical, legal and policy insights discussion with Roundtable Guests – (Guest list TBA)</p> <p>Introduction to legal and policy advocacy: research and writing, rubrics for assessment (including research methods and record-keeping)</p>	
6	<p>Artificial intelligence and cross-border trade – basic features, strengths, risks, law and policy issues</p> <p>[Guest speaker(s) – TBA]</p>	
7	<p>Artificial intelligence and cross-border trade (continued)</p> <p>International agreements and instruments affecting digital commerce (part 1)</p> <ul style="list-style-type: none"> ▪ The nexus between digital technologies and trade agreements ▪ Introduction to free trade agreements and treaty provisions on e-commerce ▪ Digital Economy Partnership Agreements and other arrangements <p>Preliminary selection and brief discussion of Group topics relating to digital technologies, data and law in the cross-border trade context</p> <p>[Guest speaker -TBA]</p>	
8	<p>Mid-term Break</p>	
9	<p>International agreements and instruments affecting digital commerce (part 2)</p> <ul style="list-style-type: none"> ▪ Analysis of key FTA and DEPA provisions including data and source code provisions 	

	<ul style="list-style-type: none"> ▪ WTO developments [Guest speaker - TBA] Discussion of topics selected by groups	
10	Informal explanation of group topics relating to the application of digital technologies and their legal context, draft findings and recommendation papers by groups and consultations with Professor (all groups) [Guest speaker -TBA]	
11	Updates on developments in digital commerce regulation Group discussions on topics and consultations with Professor (all groups)	
12	Oral Presentations (assessed component): key findings and recommendations. (All groups)	
13	Final review discussion and emerging developments and/or group consultations regarding final papers	
14	Submission of Final Papers (assessed component) (All groups) Criteria for assessment will include framing of the issue(s), research quality, clarity and organization, appropriate consideration of industry input/views, and quality and usefulness of recommendations.	

Note: The reading materials, topics, activities and schedule indicated in this Outline are only indicative and are subject to amendment.

Guest speaker slots indicated above are tentative and are subject to guests' availability and schedules. (A small number of guests may address the class from overseas, via Zoom or by in-class videoconference.)