HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 38, NUMBER 4 SPRING 2025

CONTENTS

ARTICLES

THE DIGITAL PRISON PANOPTICON
Zina Makar 961

NOVEL CORPORATE GOVERNANCE STRUCTURES
Jennifer S. Fan & Xuan-Thao Nguyen 1027

THE CONTRACTUAL DEATH AND REBIRTH OF PRIVACY: HOW CONTRACT INTERPRETATION CAN BE USED TO ADDRESS MODERN PRIVACY AND SURVEILLANCE CONCERNS
Robin Bradley Kar & Xiaowei Yu 1103

NOTES

FORESEEABLY DISCRIMINATORY: MODERNIZING THE EQUAL PROTECTION DOCTRINE FOR AI SYSTEMS
Justin Curl & Emily Hua.....1165

SECTION 230'S CHARACTERIZATION PROBLEM
Peter W. Johnston 1197

HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 38 2024–2025

EDITORIAL BOARD

Editors-in-Chief
Nathan Choe
Cindy (JJ) Zeng

Executive Editor
Anirudh Jonnavithula

Symposium Editor
Matthew Clauss

Submissions Editor
Irene Kim

Notes and Comments Editor
Pedro R. M. Silva

Submissions Managers
Molly Cinnamon
Bettina Edelstein
Alexander D. Goldberg
Andrew Li
Rhea Singh
Bobby Stroup
Aviva Wang
Kevin L. Wei

Article Editors
Armin Ameri
Jane Boettcher
Adam Druckman
Wesley Hardin
Alexander D. Goldberg
Joon Ho Kim
Claire Lee
Linda Liu
Ethan Thai
Kevin L. Wei

Technology Editors
James Atlas
Jami Park
Juvaria Shahid
Pedro R. M. Silva

Symposium Article Editors
Sravya Chary
Eliza Davis
Adam Druckman
Alexander D. Goldberg
Stephen Carrol Guth
Cindy Kuang
Ethan Morales
Rupa Palanki
Vinayak Parthasarathy

Digest Executive Editor
Pantho Sayed

Managing Editors
Aditya Kumar
Esther Pomerantz

Operations Editor
Heeu Millie Kim

Communications Editor
Emily Hua

Outreach Editors
Ella Han
Jesse Lin

Speakers Editors
Varun Aggarwal
Alinnah Qiao

Citations Managers
Armin Ameri
Claire Lee
Justin Curl
Emily Hua
Peter W. Johnston
Pantho Sayed

PRODUCTION EDITORS

Alexandra Colby
Rebecca Isaacson
Ashil Jhaveri
Sejal Krishnan
Evelyn Shiang
Anna Wilinsky
Rachel Yan

LINE EDITORS

Ebun Ajayi
Hunter Callaway
Samantha Chavez-Salinas
Aditya Desai
Harper Didlake
Michelle Gao
Benjamin Hurley
Hyun Jo (Joe) Kim
Kevin Kim
Rose Kuo
Jacob Leder
Jacob Levine
Jacob Meech
Rachel Yan
Marie Zhang
Patricia Zhang

PRINT AND DIGEST STAFF

Meha Ahluwalia*
Jordyn Allen*
Mia Anastasio
James Atlas*
Subin Bae
Abigail Baldauf
Sravya Chary
Stephanie Choi
Matthew Clauss
Justin Curl*
Zachari J. Curtis
Alexander L. Curylo*
Stephen Dai
Christine A. Dong*
Carlee Goldberg*
Tiago de Almeida Graff*
Elizabeth Guo*
Anika Gururaj*
Stephen Carrol Guth*
Billy Hasley
Helen Heaton*
Nate Henry*
Byron Hurlbut*
Benjamin Hurley
Sonam Jhalani
William Johnson
Priya Kaur*
Min Su Kim*
Joshua (Harrison) Koegel*
William Krag*
Sejal Krishnan*
Matt Kristoffersen
Emma Lester*
Joseph Leung*
Andrew Li*
Jesse Lin
Alvin Liu*
Kaitlyn Long*
Sonia Mahajan*
Sydney Malin*
Calvin Manahan
Senniah Mason*
Carissma McGee
Piper Meloche
Mark Milian*
Eden Miller
Aditi Mishra*
Benjamin Murphy*
Jacob Nash
Devanshi Nishar*
Jami Park*
Vinayak Parthasarathy*
Katelyn Pasierb*
Kasey Pataki*
Amber M. T. Patrick*
Alex Peile*
Alinnah Qiao*
Kusuma Raditya
Blaise Rebman*
Yasemin Reis*
Eamon Rogan*
Pedro R. M. Silva
Shriya Srikanth*
Katherine Stecher
Mark Sterling
Bobby Stroup*
Ethan Thai
Aviva Wang*
Rosemary Wang*
Kevin L. Wei*
Anna Wilinsky*
Ajayan Williamson
Gian-Luca Wittwer
Zhida Xu
Aries Zander*
Cindy (JJ) Zeng
Jiange Zhang
Alex Zhao*

---

* Staff Editor

SPONSORS

COVINGTON & BURLING LLP

DAVIS, POLK & WARDWELL LLP

FENWICK & WEST LLP

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP

FISH & RICHARDSON P.C.

GOODWIN PROCTER LLP

IRELL & MANELLA LLP

KILPATRICK, TOWNSEND & STOCKTON LLP

KIRKLAND & ELLIS LLP

KNOBBE, MARTENS, OLSON & BEAR LLP

MORRISON & FOERSTER LLP

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

QUINN, EMANUEL, URQUHART & SULLIVAN LLP

WILMER, CUTLER, PICKERING, HALE & DORR LLP

WILSON, SONSINI, GOODRICH & ROSATI P.C.

WOLF, GREENFIELD & SACKS P.C.

HARVARD JOURNAL OF LAW & TECHNOLOGY

VOLUME 38, NUMBER 4 SPRING 2025

Harvard Journal of Law & Technology
1585 Massachusetts Avenue
Harvard Law School
Cambridge, MA 02138

Email: jolt@mail.law.harvard.edu
Website: http://jolt.law.harvard.edu

Copyright © 2025 by the President and Fellows of Harvard College.

The *Harvard Journal of Law & Technology* is published by Harvard Law School students and is an official publication of Harvard Law School.

The *Journal* publishes two to four issues each year. Previous issues are also available. Orders for subscriptions or back issues should be addressed to:

William S. Hein & Co., Inc.
Attn: New Orders
2350 North Forest Rd.
Getzville, NY 14068

Toll-Free: (800) 828-7571
Main Line: (716) 882-2600
Fax: (716) 883-8100
Email: order@wshein.com

The *Journal* welcomes the submission of articles and comments addressing the intersection of law and technology. Please see our website for more submissions information.

Individuals and organizations interested in sponsoring the *Journal* should contact the Managing Editors at the above address at Harvard Law School.

The views expressed in the *Journal* do not necessarily reflect the views of the Editorial Board or the sponsors of the *Journal*.

Cite as: 38 HARV. J.L. & TECH. ___ (2025)

***JOLT* Digest:** The online companion to the *Harvard Journal of Law & Technology*, featuring coverage of and commentary on developments in law and technology.
http://jolt.law.harvard.edu/digest