

## MARGOT E. KAMINSKI

University of Colorado Law School, 401 UCB, Boulder, CO 80309  
margot.kaminski@colorado.edu ◇ @margotkaminski ◇ (303) 735-5218

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### ACADEMIC APPOINTMENTS

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UNIVERSITY OF COLORADO LAW SCHOOL, Boulder, CO

*Professor*, Fall 2023 — present

*Associate Professor*, Fall 2017 — Spring 2023

*Faculty Director, Privacy Initiative, Silicon Flatirons Center*, 2017 — present

Teaching: Information Privacy & Cybersecurity Law, The Law of AI, Intellectual Property Law, Property Law, Advanced Information Privacy (Seminar), Computers & The Law (Seminar)

THE OHIO STATE UNIVERSITY MICHAEL E. MORITZ COLLEGE OF LAW, Columbus, OH

*Assistant Professor*, Fall 2014 — Spring 2017 (pre-tenure)

Teaching: Privacy Law, Intellectual Property Law, Property Law, Cyberlaw

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### EDUCATION

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YALE LAW SCHOOL, J.D. 2010

HARVARD UNIVERSITY, B.A., American History and Literature, *magna cum laude*, 2004

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### AWARDS, FELLOWSHIPS, & AFFILIATIONS

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Fulbright-Schuman Grant (2024)

Fernand Braudel Senior Fellowship at the European University Institute (EUI) (2024)

Faculty Associate of the Berkman Klein Center at Harvard University (2023-2024)

Jules Milstein Scholarship Award: for excellence in legal scholarship (2022)

Future of Privacy Forum (FPF)'s 10<sup>th</sup> Annual Privacy Papers for Policymakers (PPPM) Award (2020)

Advisory Board Member, Electronic Privacy Information Center (EPIC)

Programming Committee Member, Privacy Law Scholars Conference (PLSC) (2020-present)

University of Colorado Provost's Faculty Achievement Award for Pre-Tenure Faculty (2019)

Fulbright-Schuman Innovation Grant (2018)

Junior Scholar Award, Privacy Law Scholars Conference (PLSC) (2016)

Fellow, Center for Democracy and Technology (CDT)

Affiliated Fellow, Information Society Project at Yale Law School

Visiting Professor, Tel Aviv University Buchmann Faculty of Law (May-June Session, 2019)

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### ACADEMIC ARTICLES

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Rebecca Aviel, Margot E. Kaminski, Toni M. Massaro, & Andrew K. Woods, *From Gods to Google*, YALE L. J. (forthcoming).

**MARGOT E. KAMINSKI**

Meg Leta Jones & Margot E. Kaminski, *Constructing AI Speech*, YALE L. J. FORUM (forthcoming 2024).

Margot E. Kaminski, *Regulating the Risks of AI*, 103 B.U. L. REV. 1347-1411 (2023).

Rebecca Crootof, Margot E. Kaminski, & W. Nicholson Price II, *Humans in the Loop*, 76:2 VAND. L. REV. 429-510 (2023).

Margot E. Kaminski, *Technological “Disruption” of the Law’s Imagined Scene: Some Lessons from Lex Informatica*, 36 BERKELEY TECH. L.J. 101-131 (2022).

Margot E. Kaminski & Jennifer M. Urban, *The Right to Contest AI*, 121 COLUM. L. REV. 1957-2048 (2021).

- Recipient of the Milstein Scholarship Award (2022) at Colorado Law

Anupam Chander, Margot E. Kaminski, & William McGeeveran, *Catalyzing Privacy Law*, 105 MINN. L. REV. 1733-1802 (2021).

Meg Leta Jones & Margot E. Kaminski, *An American’s Guide to the GDPR*, 98 DEN. L. REV. 93 (2021).

Margot E. Kaminski & Gianclaudio Malgieri, *Algorithmic impact assessments under the GDPR: producing multi-layered explanations*, 020 INT’L DATA PRIVACY L. 0 (2020).

- Peer-reviewed publication
- Future of Privacy Forum (FPF)’s 10<sup>th</sup> Annual Privacy Papers for Policymakers (PPPM) Award (2020).

Margot E. Kaminski, *Binary Governance*, 92 S. CAL. L. REV. 1529-1616 (2019).

- University of Colorado Provost’s Faculty Achievement Award (2019).

Margot E. Kaminski, *The Right to Explanation, Explained*, 34 BERKELEY TECH. L.J. 189-218 (2019).

Margot E. Kaminski, *Privacy and the Right to Record*, 97 B.U. L. REV. 167-243 (2017).

- Junior Scholar Award at 2016 Privacy Law Scholars Conference (PLSC).

Margot E. Kaminski, *Authorship, Disrupted: AI Authors in Copyright and First Amendment Law*, 51 UC DAVIS L. REV. 589-616 (2017).

Margot E. Kaminski, Cindy Grimm, Matthew Rueben, William D. Smart, *Averting Robot Eyes*, 76 MD. L. REV. 983-1025 (2017).

Toni M. Massaro, Helen L. Norton, Margot E. Kaminski, *Siri-ously 2.0: What Free Speech Rights for Artificial Intelligence Reveal about the First Amendment*, 101 MINN. L. REV. 2481-2525 (2017).

Margot E. Kaminski & Guy Rub, *Copyright’s Framing Problem*, 64 UCLA L. REV. 1102-1181 (2017).

Margot E. Kaminski, *Regulating Real-World Surveillance*, 90 WASH. L. REV. 1113-1165 (2015).

## MARGOT E. KAMINSKI

Margot E. Kaminski & Shane Witnov, *The Conforming Effect: First Amendment Implications of Surveillance, Beyond Chilling Speech*, 49 U. RICH. L. REV. 465-518 (2015).

Margot E. Kaminski, *The Capture of International Intellectual Property Law through the U.S. Trade Regime*, 87 S. CAL. L. REV. 977-1052 (2014).

Margot Kaminski, *Copyright Crime and Punishment: The First Amendment's Proportionality Puzzle*, 73 MD. L. REV. 587-634 (2014).

Margot E. Kaminski & Dr. Shlomit Yanisky Ravid, *The Marrakesh Treaty for Visually Impaired Persons: Why a Treaty was Preferable to Soft Law*, 75 U. PITT. L. REV. 255-300 (2014).

Margot E. Kaminski, *Real Masks and Real Name Policies: Applying Anti-Mask Case Law to Anonymous Online Speech*, 23 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 815-896 (2013).

Margot E. Kaminski, *Incitement to Riot in the Age of Flash Mobs*, 81 U. CIN. L. REV. 1-84 (2013).

Margot E. Kaminski, *An Overview and the Evolution of the Anti-Counterfeiting Trade Agreement*, 21 ALB. L.J. SCI. & TECH. 385-444 (2011).

## ESSAYS & BOOK CHAPTERS

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Margot E. Kaminski, *Voices in, Voices out: Impacted Stakeholders and the Governance of AI* (part of invited essay series at the UCLA Institute for Technology, Law & Policy, on AI governance, international standards, and regulatory diffusion)(forthcoming 2024).

Margot E. Kaminski, *The Developing Law of AI: A Turn to Risk Regulation*, LAWFARE (part of “The Digital Social Contract” paper series), THE DIGITAL SOCIAL CONTRACT: A LAWFARE PAPER SERIES 1-26 (Apr. 2023).

Margot E. Kaminski, Kristina Irion, & Svetlana Yakovleva, *Privacy Peg, Trade Hole: Why We (Still) Shouldn't Put Data Privacy in Trade Law*, U. CHI. L. REV. ONLINE 1-20 (Mar. 27 2023), available at <https://lawreviewblog.uchicago.edu/2023/03/27/irion-kaminski-yakovleva/>.

Margot E. Kaminski, *The Case for Data Privacy Rights (Or 'Please, a Little Optimism')*, 98 NOTRE DAME L. REV. REFLECTION 385-399 (2022).

Toni M. Massaro, Helen L. Norton, Margot E. Kaminski, *Siri-ously 2.0: What Free Speech Rights for Artificial Intelligence Reveal about the First Amendment*, forthcoming in ROBOT LAW II (eds. Ryan Calo, A. Michael Froomkin & Kristen Thomasen).

Margot E. Kaminski, *Understanding Transparency in Algorithmic Accountability*, in THE CAMBRIDGE HANDBOOK OF THE LAW OF ALGORITHMS (ed. Woodrow Barfield 2020).

W. Nicholson Price, Kayte Spector-Bagdady, Timo Minssen & Margot E. Kaminski, *Shadow Health Records Meet New Data Privacy Laws*, 363:6426 SCIENCE 448-450 (2019).

## MARGOT E. KAMINSKI

Margot E. Kaminski, *Standing after Snowden*, 66 DEPAUL L. REV. 413-438 (2017).

Margot E. Kaminski, *Intellectual and Social Freedom*, in the CAMBRIDGE HANDBOOK OF SURVEILLANCE LAW 470-490 (eds. David Gray & Stephen E. Henderson 2017).

Margot E. Kaminski, *When the Default is No Penalty: Negotiating Privacy at the NTIA*, 94 DEN. L. REV. 923-949 (2016-17).

Margot E. Kaminski, *Robots in the Home: What Will We Have Agreed To?*, 51 IDAHO L. REV. 661-677 (2015).

Margot E. Kaminski, *Drone Federalism: Civilian Drones and the Things They Carry*, 4 CALIF. L. REV. CIR. 57-74 (2013).

Margot E. Kaminski, *The U.S. Trade Representative's (USTR's) Democracy Problem*, 35 SUFFOLK TRANSNAT'L L. REV. 519-551 (2012)

Margot E. Kaminski, *Positive Proposals for Treatment of Online Intermediaries*, 28 AM. U. INT'L L. REV. 203-222 (2012).

Sean M. Flynn, Brook Baker, Margot Kaminski, Jimmy Koo, *The U.S. Proposal for an Intellectual Property Chapter in the Trans-Pacific Partnership Agreement*, 28 AM. U. INT'L L. REV. 105-200 (2012).

Margot E. Kaminski, *Reading Over Your Shoulder: Social Readers and Privacy Law*, 2 WAKE FOREST L. REV. ONLINE 13 (2012).

Margot E. Kaminski, *Flash Mob or Protest Movement: The First Amendment and Regulating Online Calls to Action*, PUBLIC INTEREST AND PRIVATE RIGHTS IN SOCIAL MEDIA 25-44 (ed. Cornelis Reiman 2012).

Margot Kaminski, *Recent Development: The Origins and Potential Impact of the Anti-Counterfeiting Trade Agreement (ACTA)*, 34 YALE J. INT'L L. 247-256 (2009) (student comment).

Margot E. Kaminski, *Cultural Products and the World Trade Organization by Tanya Voon*, 33 YALE J. INT'L L. 530 (2008) (book review).

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## WORKS-IN-PROGRESS

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Margot E. Kaminski & Gianclaudio Malgieri, *New Rights of the Collective: The Turn to Impacted Stakeholder Participation in AI and Data Privacy Law* (draft on file with authors)

Margot E. Kaminski, Paul Ohm, & Andrew Selbst, ARTIFICIAL INTELLIGENCE LAW (casebook, work in progress).

Margot E. Kaminski, *Data as Speech Infrastructure* (work in progress).

**SELECTED SERVICE TO PROFESSION & COMMUNITY**

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Member, Task Force for the Consideration of Facial Recognition Services, Colorado (2022-present).

Co-Editor, Technology Law Section, JOTWELL (2016-present).

Member, Program Committee, ACM Fairness, Accountability, and Transparency Conference (FAccT)(2020-present).

Research Director, Developments in Privacy Law Monitoring Committee, Uniform Law Commission (ULC) (2020-22).

Working Group Member, IEEE P2863, Recommended Practice for Organizational Governance of Artificial Intelligence (2020-2023).

Member, Programming Committee, Privacy Law Scholars Conference (PLSC) (2020-2023).

Co-Chair, Law Track of the ACM Fairness Accountability and Transparency Conference (2019-2020).

Member, Programming Committee, European Privacy Law Scholars Conference (PLSC Europe) (2019).

Member, Evaluation Panel of the Swiss National Science Foundation's National Research Programme on Digital Transformation (2018-2020).

Chair, American Association of Law Schools (AALS) Section on Internet & Computers Law (2017-2018).

Co-Editor, Technology Law Section, JOTWELL (2016-present).

Member, Programming Committee, We Robot (2015-2020).

Board Member, Free Internet Project (2014-2023).

Co-supervised & Co-authored Comments of Privacy Law Scholars before the National Telecommunications and Information Administration (NTIA) at the Department of Commerce (2019).

Authored First Amendment Law Professors Brief in *Fields v. Philadelphia* in the Third Circuit Court of Appeals, supporting a "right to record" law enforcement officials in public places (2016).

Authored First Amendment Legal Scholars Brief in *Wikimedia v. NSA* in the Fourth Circuit Court of Appeals, challenging "Upstream" NSA internet surveillance (2016).

- Named "lower court amicus brief of the year" by First Amendment News (FAN).

Served by appointment, Mayoral Committee on Police Body-Worn Cameras, Columbus, OH, (2015-2016).

## MARGOT E. KAMINSKI

Co-authored comments on drones and privacy to the National Telecommunication and Information Administration (2015).

Co-authored Amicus Brief in *ABC v. Aereo* in Supreme Court, counseling the Court on free trade agreements and their relationship to domestic U.S. copyright law (2014).

Co-authored letter to California Governor Jerry Brown on bill requiring warrant for law enforcement drone use, with 41 law professor signatures (2014).

### GOVERNMENT TESTIMONY

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Presented on Automated Decision-Making: A Comparative Perspective, at the California Privacy Protection Agency's Pre-Rulemaking Informational Session (Mar. 2022).

Testified on Senate Bill 22-113 Artificial Intelligence Facial Recognition, before the Colorado Senate Committee for Business, Labor, & Technology (Feb. 2022).

Presented at Federal Trade Commission (FTC) (Feb. 6, 2020); Senate (Feb. 6, 2020), Future of Privacy Forum 10<sup>th</sup> Annual Privacy Papers for Policymakers (PPPM) Award.

Presented at Federal Trade Commission (FTC), The FTC's Approach to Consumer Privacy (Apr. 9-10, 2019).

Presented at Federal Trade Commission (FTC), Fall Technology Series: Drones (Oct. 13, 2016).

Testified at House Subcommittee on Commerce, Manufacturing, and Trade, The Fast-Evolving Uses and Economic Impacts of Drones (Nov. 19, 2015).

Presented at National Telecommunications and Information Administration (NTIA) at Department of Commerce, Multistakeholder Process on Unmanned Aircraft Systems (Sep. 24, 2015).

### TEACHING EXPERIENCE

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*Advanced Information Privacy Law*, University of Colorado Law School.

*Computers & the Law*, University of Colorado Law School.

*Information Privacy & Cybersecurity Law*, University of Colorado Law School, Ohio State University Moritz College of Law.

*Introduction to Intellectual Property Law*, University of Colorado Law School, Ohio State University Moritz College of Law.

*Property Law*, University of Colorado Law School, Ohio State University Moritz College of Law.

*Law of Robotics & Artificial Intelligence*, Tel Aviv University Buchmann Faculty of Law (May-June 2019).

*Artificial Intelligence, Robotics, and the Law*; Yale Law School (Spring 2014) (co-taught with Jack Balkin).

*Access to Knowledge Seminar*, Yale Law School (Spring 2013, Fall 2012) (co-taught with Christina Mulligan)(Spring 2012) (co-taught with Nicholas Bramble).

*CPSC 183 Introduction to Law and Technology*, Yale University (Fall 2009) (graduate teaching assistant)

**SELECTED POPULAR PUBLICATIONS & ONLINE POSTS**

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**THE NEW YORK TIMES**

*The Legislation that Targets the Racist Impacts of Tech* (May 7, 2019)(with Andrew D. Selbst).  
*Facebook, Free Expression, and the Power of a Leak* (June 27, 2017)(with Kate Klonick).  
*Don't Keep the Trans-Pacific Partnership Talks Secret* (Apr. 14, 2015).

**SLATE**

*Free Speech isn't a Free Pass for Privacy Violations* (with Scott Skinner-Thompson, March 9, 2020).  
*Brett Kavanaugh has Some Alarming Outdated Views about Privacy* (July 12, 2018).  
*Enough with the Sunbathing Teenager Gambit* (May 17, 2016).  
*What the Scarlett Johansson Robot Says about the Future* (Apr. 7, 2016).  
*Privacy is Not a Barrier to Trade* (June 4, 2015).  
*Up in the Air: The free-speech problems raised by regulating drones* (Nov. 25, 2014).  
*Up in the Air: States shouldn't wait until courts weigh in to place limits on drone surveillance* (Sep. 5, 2014).

**THE ECONOMIST**

*Toward defining privacy expectations in an age of oversharing* (Aug. 16, 2018).

**THE NEW REPUBLIC**

*The Supreme Court's Cloud-Computing Confusion* (June 26, 2014).

**THE ATLANTIC**

*PRISM's Legal Basis: How We Got Here, and What We Can Do to Get Back* (June 7, 2013).

**JOTWELL**

*Lessons from Literal Crashes for Code* (Oct. 3, 2019).  
*Remembering Ian Kerr: The Devil is in the Defaults & Soft Surveillance, Hard Consent* (Sep. 26, 2019).  
*The GDPR's Version of Algorithmic Accountability* (Aug. 16, 2018).  
*Disruptive Platforms* (Jul 19, 2017).  
*Who Regulates the Robots?* (Sep. 29, 2015).  
*From Google to Tolstoy Bot: Should the First Amendment Protect Speech Generated by Algorithms?* (Sep. 2, 2014).

**SELECTED RADIO & PODCAST APPEARANCES**

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**NPR**

*Privacy Concerns Abound As Coloradans Continue To See 'Mystery Drones'*, KUNC (Jan. 16, 2020).  
*A New Threat to Cell Phone Videos*, Science Friday (July 8, 2016).  
*Drone Law, On the Media* (Feb. 21, 2014).  
*The Implications of Drones in U.S. Airspace*, All Things Considered (June 16, 2013).

**AMERICAN BAR ASSOCIATION**

Webinar panelist, *Legal Issues and Litigation Relating to the Use of Unmanned Aircraft Systems/Drones* (June 29, 2016).

**MARGOT E. KAMINSKI**

**OTHER EMPLOYMENT & WORK**

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<b>YALE INFORMATION SOCIETY PROJECT</b> , Yale Law School <i>Executive Director, Research Scholar, &amp; Lecturer in Law</i>	2011-2014
<b>U.S. COURT OF APPEALS, NINTH CIRCUIT</b> <i>Law Clerk to the Honorable Andrew J. Kleinfeld</i>	2010-2011
<b>MEDIA FREEDOM AND INFORMATION ACCESS CLINIC</b> , Yale Law School <i>Co-founder</i>	2009-2010
<b>ELECTRONIC FRONTIER FOUNDATION</b> , San Francisco, California <i>Google Policy Fellow</i>	Summer 2008
<b>ZOETROPE: ALL-STORY</b> , San Francisco, California <i>Reader (2008), Editorial Assistant (2006)</i>	Fall 2006, Summer 2008
<b>CREATIVE COMMONS</b> , San Francisco, California <i>Intern</i>	Summer 2006
<b>THE WYLIE AGENCY</b> , New York, New York <i>Contract Manager and Assistant Literary Agent</i>	2004-2005

**BAR ADMISSIONS**

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California  
United States Court of Appeals for the Ninth Circuit