# Intellectual property and labour law

## Prof. Michele Faioli; Prof. Giulio Enrico Sironi

Labour Law - I Module: *Prof. Michele Faioli*

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

This is a class in tech and labour law. Topics covered are related to national and transnational impact of tech on labour law, jurisdiction, collective bargaining (CBAs), gig-workers, cyber-security, digital transformation at firm-level. What links such areas of labour law is that in each of them, digital tools and technologies are challenging normal legal understandings in similar ways. We will explore such patterns, focusing on cases and facts regarding the manufacturing/production of the future. Cross-cutting themes will include how law affects the balance of power and responsibility between workers and AI machines, the incorporation of values into AI decision-making frameworks at firm level, the interplay of norms and formal norms (law and CBA’s).

Students who complete this class will be able to (i) know and understand through the likely legal and labour implications of technologies with new ideas and critical thinking; (ii) apply complex reasoning and formulate successful legal and labour strategies, with problem solving method, in relation to artificial intelligence, workplace process transformation, big data, encryption, blockchain, job tasks, vocational training, collective bargaining in tech/firms: (iii) clearly communicate the contents of their research themes, and, on the basis of the acquired knowledge in tech and labour, interlock with experts and not experts.

***COURSE CONTENT***

The areas we will explore are below indicated:

1. *The Robot Labour Law and the Tech Jurisdictions*. Should the law ensure that human-robot interactions occur in ways that are safe at workplace level? What happens when a robot causes an accident at work? What happens when robots interact with workers, at firm level, patrolling and organizing the work to perform? Can we define such workers as cyborg-workers? How will the law respond to such change? Is tech itself a jurisdiction, a place that could have laws of its own, a cyberspace with its own regulation? Tech is a global network, so jurisdictional questions are inevitable. This area is all about conflicts: there is the conflict between (radical) markets and consumers, tech users and the governments who disapprove of what they are doing, conflicts between different governments with different policies, conflicts between unions and corporations dealing with transnational robotics, platforms and digital infrastructures. A tech network brings together people in different places. Its aim is to bridge geographic divisions. When those divisions are transnational, the network raises jurisdictional issues just by being a network. We will explore different facets of jurisdiction. We will also explore the problem of overlapping national laws on a global network and how EU/USA laws deals with the question of jurisdiction over online activity.
2. *The Collective Labour Law and the AI/Robots Regulations in EU/USA Legal Frames*. Collective Labour Law refers to the laws governing unions, employers’ organisations, and collective negotiations, also in the most advanced tech frames. Governments regulate unions and collective negotiations for several reasons, including protecting the right to freedom of association, promoting positive economic development, and avoiding the negative social impact of labour relations problem. All collective labour law systems perform at least two functions. In its constitutive function, collective labour law provides the rules for organizing unions and establishing collective bargaining policies. This includes rules about union membership, internal union activities, policies that obligate employers to recognise union representation. In its power broker function, collective labour law fixes rules that influence the bargaining power of the parties and industrial conflicts. Can we refer to these two functions of the collective labour law to better protect the cyborg-workers? If yes, why? Which are the possible new functions of the collective bargaining at national and decentralised levels in the field of AI/Robot legal frame? To what extent are the forthcoming AI, data, platforms, and digital markets regulations in line with the fundamental rights that the collective labour law intends to protect?

***READING LIST***

Most readings will be taken from these casebooks and from materials I developed during my recent researches (see blackboard):

U. Liukkunen, *Collective Bargaining in Labour Law Regimes*, Springer, 2019 [for the related chapters concerning the USA, France, Germany and Italy]

M. Faioli, *Artificial Intelligence: The Third Element of the Labour* *Relations, in The Future of Work (A. Perulli, T. Treu eds.),* Wolters Kluwer, 2021

A. Bartolini, *Artificial Intelligence and Civil Liability*, 2020, Available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621926/IPOL\_STU(2020)621926\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621926/IPOL_STU%282020%29621926_EN.pdf)

M. E. Kaminski, *Regulating the Risks of AI*, Boston University Law Review, Vol. 103, 2023, U of Colorado Law Legal Studies Research Paper No. 22-21, Available at SSRN: [https://ssrn.com/abstract=4195066](https://ssrn.com/abstract%3D4195066)

M. Almada and N. Petit, *The EU AI Act: Between Product Safety and Fundamental Rights*. Available at SSRN: [https://ssrn.com/abstract=4308072](https://ssrn.com/abstract%3D4308072)

J. Grimmelmann and A. J. Windawi, *Blockchains as Infrastructure and Semicommons*, William & Mary Law Review (2023, Forthcoming), Available at SSRN: [https://ssrn.com/abstract=4152068](https://ssrn.com/abstract%3D4152068)

Intellectual Property Law - II Module: *Prof. Giulio Enrico Sironi*

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The aim of this module is to provide students with theoretical and practical knowledge of the main legal issues regarding the interplay between Intellectual Property Law and New Technologies. During the lessons and through discussion of cases we will study how intellectual property rights - in particular patents, trade secrets, copyright and related rights - can be used to protect and foster the development of new technologies and digital tools, including Artificial Intelligence (with a special focus on Generative AI), Blockchain, NFTs, Data Analytics Systems applied to Big Data. We will also study whether, how and to what extent these technologies and tools make it necessary to rethink and possibly reshape the traditional rules governing the Intellectual Property Rights.

By the end of the course students will have acquired

1. basic legal notions regarding intellectual property protection for new technologies and digital tools;
2. the ability to apply these notions in order to understand whether, how and to what extent intellectual property law can be used to protect the business investments needed to create and develop such technologies and tools;
3. the ability to critically assess whether, how and to what extent it is necessary to adapt and modify the traditional foundations and rules of intellectual property law due to the ongoing development of such technologies and tools.

***COURSE CONTENT***

1. Notion of Intellectual Property Rights (IPRs). Fundamental principles.

2. Rules of Patent Law, Trade Secrets Legislation and Copyright Law.

3. IPRs and New Technologies: issues and challenges.

4. Protection of IPRs on Software and Computer Implemented Inventions.

5. IPRs and Artificial Intelligence.

6. IPRs issues related to Blockchain and NFTs.

7. IPRs and Big Data.

***READING LIST***

All readings, materials and case studies will be published on Blackboard.

For both Modules

***TEACHING METHOD***

Students are requested to: (i) do the assigned readings (see the materials published on blackboard and the related timetable); (ii) participate in class discussions on one or two principal problems that will be listed by means of blackboard; (iii) keep materials in digital folders. Our class discussions will be directed and focused to solve cases and to come up with a collective answer to the problem. Most of the readings consist of excerpts from casebooks, doctrines, judicial opinions, case law, statutes, law, CBAs.

***ASSESSMENT METHOD AND CRITERIA***

Written exam. For each module the grade will be based on the answer to the query related to a legal case (i.e. students will receive a set of facts that have legal implications, and will be required to provide someone - a client, a judge, a legislator, etc. - with good advice on what to do in light of those facts). Students should identify the legal questions those facts raise and do the best to answer those questions based on the law they learned in the course (pursuant to the IRAC Template [- link).](https://web.law.columbia.edu/sites/default/files/microsites/writing-center/files/organizing_a_legal_discussion.pdf) The student’s capacity will be assessed on the basis of the attitudes to (i) synthetize the case, (ii) identify and apply relevant principles, (iii) conduct legal research, (iv) communicate effectively the legal concepts.

The overall grade will be based on the answer to the query related to the Labour Law module (1/2) and on the answer to the query related to the Intellectual Property Law module (1/2).

***NOTES AND PREREQUISITES***

*Office hours for students*

*Prof. Michele Faioli*

In Milan, room 327, at the end of our class sessions; in Rome, on Friday at 12:30pm, room 505 or via Teams. In any case, by appointment. Please write to michele.faioli@unicatt.it.

*Prof. Giulio Enrico Sironi*

On Wednesday at 4.30 p.m., in room 335 (3rd floor Gregorianum), upon appointment by e-mail (giulioenrico.sironi@unicatt.it); or in Teams, on a date and time to be agreed, likewise by e-mail.