

NIKOLAS GUGGENBERGER

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EXPERIENCE

University of Houston Law Center , Assistant Professor of Law Courtesy Appointment at Cullen College of Engineering	2022–present
Yale Information Society Project , Affiliated Fellow	2022–present
Yale Information Society Project , Executive Director & Yale Law School , Lecturer in Law	2019–2022
Yale Law School , Research Scholar	2018–2022
Berkman Klein Center for Internet & Society , Harvard University, Affiliate	2017–2021
University of Münster School of Law , Germany, Lecturer in Law	2019–2020
University of Münster School of Law , Germany, RWTHÜV Foundation Assistant Professor of Law	2016–2019
University of Virginia School of Law , Visiting Professor	2018
European Parliament , Belgium, Policy Advisor to Jakob von Weizsäcker, MEP, Committee for Economic and Monetary Affairs	2014–2016
University of Freiburg School of Law , Research Associate & Teaching Assistant	2010–2013
Higher Regional Court Karlsruhe/District Court Freiburg , Germany, Law Clerk	2010–2012
University of Constance School of Law , Germany, Research Assistant	2007–2008

EDUCATION

Stanford Law School , LL.M. Commencement Speaker German Academic Exchange Service Scholarship; Freshfields LL.M. Scholarship Co-President Advanced Degree Student Association; Stanford Law Association	2013–2014
University of Freiburg School of Law , Germany, Dr. jur. (Ph.D.-equivalent), <i>summa cum laude</i> Dissertation: <i>Network Neutrality: General Principles and Antitrust Abuse Control</i> Jacques Lassier Prize; Rudolf-Haufe-Junior Scholars Dissertation Prize	2010–2014
University of Freiburg School of Law , Germany, First Examination in Law (JD-equivalent), State Examination top 2 % nationwide Klaus Murmann Fellowship Program Harvard World Model United Nations	2008–2010
University of Constance School of Law , Germany, Intermediate Law Exam	2006–2008

BAR ADMISSION

California (inactive)

TEACHING

University of Houston Law Center, Privacy & Data Protection (lecture course, spring 2023); Digital Markets & Competition Policy (seminar, spring 2023)

Yale Law School, Information Society (lecture course, spring 2021, fall 2022); Advanced Media Freedom and Information Access Clinic (lecture course fall 2019–2021)

University of Münster School of Law, Germany, Contract and Consumer Protection Law (lecture course, fall 2017, spring 2018); Copyright Law (lecture course, spring 2017); Information Law (lecture course, fall 2017, 2018; seminar, spring & fall 2017-2019)

University of Virginia School of Law, European Union Law: Antitrust, Privacy, and Private Law (lecture course, fall 2018)

University of São Paulo, Data Protection and Privacy (summer school, summer 2018)

University of Freiburg School of Law, General Introduction to Private Law (small group, fall 2012); Obligations Law (small group, fall 2010)

PUBLICATIONS

Books

- | NETZDG: IM ZWEIFEL GEGEN DIE MEINUNGSFREIHEIT [THE NETWORK ENFORCEMENT ACT: IN DOUBT, CONTRA FREE SPEECH] (2020) (editor and co-author with Nico Gielen et al.).
- | NETZNEUTRALITÄT: LEITBILD UND MISSBRAUCHSAUFSICHT [NETWORK NEUTRALITY: GENERAL PRINCIPLES AND ABUSE CONTROL] (2015).

Law Review Articles and Essays

- | *Moderating Monopolies*, 38 Berkeley Tech. L.J. (forthcoming 2023)
- | *The Essential Facilities Doctrine in the Digital Economy: Dispelling Persistent Myths*, 23 YALE J.L. & TECH. 301 (2021)
- | *Essential Platforms*, 24 STAN. TECH. L. REV. 237 (2021)
- | *Die Musterfeststellungsklage – Staat oder privat? Ein verfehltes Gesetz und bessere Alternativen* [Public or Private Enforcement? The Declaratory Class Action – a Flawed Approach and Better Alternatives], 22 MMR 8 (2019) (with Leonid Guggenberger).
- | *Datenverarbeitung Durch Banken Im Endkundengeschäft: Grundsätze, Forderungsabtretung Und Scoring* [Data Processing by Banks in B2C Relationships: Principles, Assignment of Receivables and Scoring], 31 J. BANKING L. & BANKING 254 (2019).
- | *Umkehr der Durchsetzungslast beim PayPal-Käuferschutz* [Reversal of the Burden of Enforcement and PayPal Buyers' Protection], 71 NJW 1057 (2018).
- | *Das Netzwerkdurchsetzungsgesetz in der Anwendung* [The Network Enforcement Act in Practice], 70 NJW 2577 (2017).
- | *Das Netzwerkdurchsetzungsgesetz – schön gedacht, schlecht gemacht* [The Network Enforcement Act – Well Intended, Poorly Done], 50 ZRP 98 (2017).
- | *Rechtsklarheit vs. Rechtswahrheit - Widerrufsbelehrung, Gesetzmäßigkeitsfiktion und die Lehre von der fehlerhaften Gesellschaft* [Information concerning the Exercise of Consumers' Right of Withdrawal, the Fiction of Legality, and the Doctrine of De Facto Corporation], 9 ZGS 397 (2011) (cited by Federal Court of Justice of Germany).
- | *Pressegrosso: Einer Für Alle, Alle Für Monopole*, [Press-Wholesale: One for All, All for Monopolies], 45 AFP 303 (2014) (with Ludwig Ulmer).
- | *Presse-Grosso: Vielfaltsicherung durch Artenschutz!?* [Press-Wholesale: Ensuring Press-Diversity by Protecting Business Models of Competitors?!], 44 AFP 183 (2013) (with Ludwig Ulmer).
- | *Falschparken, Parkekrallen Und Private Rechtsdurchsetzung* [Illegal Parking, Parking Clamps, and Private Enforcement] 64 NJW 1036 (2011) (with Boris P. Paal), (cited by Federal Court of Justice of Germany).

Book Chapters and Reports

- | *US Data Strategy*, in GLOBAL DATA STRATEGIES (Moritz Hennemann ed., forthcoming 2022).
- | § 30 *Verbraucher Kredite* [Consumer Loans], in DSGVO MIT BDSG: HANDKOMMENTAR [GDPR AND GERMAN DATA PROTECTION ACT: TREATISE] (Gernot Sydow & Nikolaus Marsch eds., 2022).
- | § 31 *Schutz des Wirtschaftsverkehrs bei Scoring und Bonitätsauskünften* [Protection of Commercial Transactions in the Case of Scoring and Credit Reports], in DSGVO MIT BDSG: HANDKOMMENTAR [GDPR AND GERMAN DATA PROTECTION ACT: TREATISE] (Gernot Sydow & Nikolaus Marsch eds., 2022).
- | *Algorithmic Decisions Between Process and Fairness: A Transatlantic Perspective*, in KÜNSTLICHE INTELLIGENZ – ETHIK UND RECHT [ARTIFICIAL INTELLIGENCE – ETHICS AND LAW] (Thomas Hoeren & Stefan Pinelli eds., 2022).
- | *The Essential Facilities Doctrine: Dispelling Persistent Myths*, in FESTSCHRIFT FÜR WERNER F. EBKE [FESTSCHRIFT IN HONOR OF WERNER F. EBKE] (Oliver Fehrenbacher et al. eds., 2021).

- | *Digitale Transformation in der Industrie: Blockchains* [*Digital Transformation in Industry: Blockchains*], in IT-RECHT [IT Law] 1419 (Andreas Leupold et al. eds., 2021).
- | *Smart Contracts, ICOs und Datenschutz* [*Smart Contracts, ICOs, and Data Protection*], in HANDBUCH MULTIMEDIA-RECHT [HANDBOOK MULTIMEDIA LAW] (Thomas Hoeren et al. eds., 2020).
- | § 30 BDSG *Verbraucher Kredite* [*Consumer Loans*], in BUNDESDATENSCHUTZGESETZ: HANDKOMMENTAR [GERMAN DATA PROTECTION ACT: TREATISE] (Gernot Sydow ed., Nomos 2019).
- | § 31 *Schutz des Wirtschaftsverkehrs bei Scoring und Bonitätsauskünften* [*Protection of Commercial Transactions in the Case of Scoring and Credit Reports*], in BUNDESDATENSCHUTZGESETZ: HANDKOMMENTAR [GERMAN DATA PROTECTION ACT: TREATISE] (Gernot Sydow ed., Nomos 2019).
- | *International Report on Copyright Law*, in LIABILITY FOR ANITRUST LAW INFRINGEMENTS & PROTECTION OF IP RIGHTS IN DISTRIBUTION 574 (Pranvera Këllezi et al. eds., 2019).
- | *The Potential of Blockchain Technology for the Conclusion of Contracts*, in CONTRACTS FOR THE SUPPLY OF DIGITAL CONTENT: REGULATORY CHALLENGES AND GAPS 83 (2017).

Editorials, Blog Posts and Other Writing

- | *Good Times for Antitrust in the U.S.*, 70 WUW 633 (2020).
- | *Essential Platform Monopolies: Open Up. Then Undo*, PRO MARKET (Dec. 7, 2020).
- | *The Epic Battle for the Soul of Antitrust*, VERFASSUNGSBLOG (Sep. 2, 2020).
- | *Should We Really Have Relied on Cost-Benefit Analysis? A Response to Ian Ayres, Yair Listokin, Robert Schonberger, and Zachary Shelby*, BALKANIZATION (Jun. 10, 2020).
- | *KI Und Recht: Neue Methodik, billige Entscheidungen und Ergebnisvorgaben* [*AI and Law: New Methods, Cheap Decisions, and Quotas*] 22 MMR 777 (2019).
- | *Dynamische Standards: Durchsetzung nach Datenlage* [*Dynamic Defaults: Automated Enforcement based on Probabilistic Assessments*] FAZ EINSPRUCH MAGAZIN [FRANKFURTER ALLGEMEINE ZEITUNG OBJECTION MAGAZIN] (May 05, 2018).
- | *Diese Steuer könnte Facebook & Co. zähmen* [*This Tax Could Tame Facebook & Co.*], SÜDDEUTSCHE ZEITUNG (Aug. 20, 2018).
- | *Datenschutz durch Blockchain – eine große Chance* [*Privacy through Blockchain – a Significant Opportunity*], 8 ZD 49 (2017).
- | *Blockchain and Smart Contracts: Technologies, Research Issues and Applications* (Apr. 2018) (with Julian Schütte et al.).
- | *Blockchain und Smart Contracts: Technologien, Forschungsfragen und Anwendungen* [*Blockchain and Smart Contracts – Technologies, Research Issues and Applications*] (Wolfgang Prinz & Axel T. Schulte eds., 2017) (with Julian Schütte et al.).

SELECTED PRESENTATIONS & INVITED LECTURES

- | *The Barons and the Mob*, Workshop, Cornell Tech Research Lab in Applied Law + Technology, Jul./Aug. 2022
- | *Reallocating Network Effects: An Industrial Policy for Digital Pluralism*, 2022 Law and Society Association Annual Meeting, Jul. 2022
- | *Allocating Network Effects*, Cyber Alliance Speaker Series, Boston University School of Law, Jun. 2022
- | *Protecting Attention Commons*, Lastowka Colloquium, Villanova University Charles Widger School of Law, Apr. 2022
- | *Comments*, Consumer Law Scholars Conference, Boston University, Mar. 2022
- | *Reallocating Network Effects: An Industrial Policy for Digital Pluralism*, Works-in-Progress Intellectual Property, St. Louis University Law School, Feb. 2022
- | *Reframing the Digital Public Sphere: Industrial Policy for Pluralism*, Big Tech and Antitrust Conference, Seton Hall University School of Law, Feb. 2022
- | *Panel: Governance Through Public-Private AI Partnerships*, Automating the Administrative State, Duke Law Journal 52nd Annual Administrative Law Symposium, Feb. 2022
- | *Algorithmic Content Moderation*, Workshop, University of Münster, Feb. 2022
- | *Competition and Equality*, Online Seminar, Competition Law in the Digital Era, Oxford University/Fordham University, Nov. 2021
- | *Privatrecht, Regulierung und digitale Transformation: Einführung und Grundsatzfragen*, Max-Planck-Institut für ausländisches und internationales Privatrecht, Nov. 2021
- | *Breaking (Up) Bad: The Opportunities and Limits of Antitrust for Online Platforms*, Panel, New York University, Nov. 2021

- | *Reforming Social Media, Law and Change: Social Media*, British Institute for International and Comparative Law (BIICL)/Center for AI and Data Governance (CAIDG), Singapore Management University, Oct. 2021
- | *US Data Strategy*, Global Data Law Conference Series: Part 1: Global Data Strategies, University of Passau, Sept. 2021
- | *Essential Platforms*, Evening Lecture, Universität Innsbruck, Austria, May 2021; Law in the Algorithmic Society, Digital Ideas Lunch Series, Humboldt University, Apr. 2021; Consumer Law Scholars Conference 2021, Mar. 2021; Inframarginalism & Internet, University of Kentucky Rosenberg College of Law, Feb. 2021; 18th Annual Works-in-Progress Intellectual Property Colloquium (WIPIP), Feb. 2021; AALS Annual Meeting, The Power of Words, Jan. 2021; Third Conference on Law and Macroeconomics, Yale Law School, Oct. 2020; Big Tech & Antitrust—Competition Policy in the Digital Age Conference, Yale Law School, Oct. 2020
- | *Public Assistance*, Boston University Journal of Science and Technology Law Symposium on Technology and the Law: Examining and Addressing Bias, Feb. 2021; Discrimination by Algorithms?, Artificial Intelligence and Law, Münster, Germany, Nov. 2019
- | *Online Speech and the Attention Tragedy*, Media Law and Policy Scholars Conference, University of Texas at Austin & University of Florida, Jan. 2021; Online Tragedies, Center for Applied Cybersecurity Research, Maurer Law School, Indiana University, Bloomington, IN, Oct. 2019; Resolving the Attention Tragedy, 2nd Annual Postdoc Symposium, Yale University, New Haven, CT, June 2019 (Outstanding Oral Presentation Award); 7th Annual Governance of Emerging Technologies and Science Conference, Sandra Day O'Connor College of Law, Phoenix, AZ, May 2019
- | *Capitalism—an Idea that Lacks Competition*, Law and Political Economy Conference, Yale Law School, Dec. 2020
- | *Consequences for Legal Research*, Symposium on Legal Tech—Artificial Intelligence in Law and Jurisprudence, Chances and Challenges, Tokyo, Japan, Oct. 2019
- | *Legal Automation, Keynote, Presentation of “Festschrift” in Honor of Professor Bernhard Großfeld*, University of Münster, Germany, Apr. 2019
- | *GDPR, Harvard Law School, Comparative Digital Privacy Seminar*, Cambridge, MA, Apr. 2019
- | *Panel: Economic Impact of the Power of Tech Giants, Saving the Internet for the Many not the Few*, European Parliament, Brussels, Belgium, Jan. 2019
- | *Data-driven Enforcement of Consumer Rights via Smart Contracts?*, Digital Society – Innovation – Regulation, University of Osnabrück, Germany, Dec. 2018; Enforcement without Civil Procedure, Munich Dispute Resolution Day 2018, Ludwig Maximilian University of Munich, Germany, Nov. 2018
- | *Copyright (Intern. Report)*, International League of Competition Law, Budapest, Hungary, Oct. 2018
- | *Crypto-Asset Regulation in Europe*, P2P Financial Systems 2018, Federal Reserve Bank Cleveland, Cleveland, July 2018; Regulatory issues in ICOs—A European Perspective, Conference on Governance Issues in the Use of Blockchain Technology, New York University, New York City, Apr. 2018; Crypto-tokens as an Emerging Asset Class—Investor Protection and Market Integrity, High-Level Roundtable on Cryptocurrencies, European Commission, Brussels, Belgium, Feb. 2018; Blockchain and Smart Contracts, Young Scientists’ Meeting on Legal Rules for the Digital Economy, German-Israeli Foundation for Scientific Research and Development, Potsdam, Germany, Feb. 2018; Fundamental Legal Questions of Blockchain, Series of Lectures on Blockchain Technology and Smart Contracts, University of Bayreuth, Germany, June 2017
- | *The New German Law—the Network Enforcement Act*, The Legal Framework for Countering Terrorist and Violent Extremist Content Online, Swiss Institute of Comparative Law, Lausanne, Switzerland, Dec. 2017
- | *Trust by Technology—a Legal Perspective*, Keynote, European University Information Systems 2017 Annual Conference, Münster, Germany, June 2017
- | *Parliamentary Hearing, Cable/Satellite Regulation and Copyright*, Committee on Legal Affairs, European Parliament, Brussels, Belgium, May 2017
- | *The EU Regulatory Approach to Blockchain Technology*, Lunchtime Seminar, Université du Luxembourg, Luxembourg, Jan. 2017; Blockchain, Smart Contracts, and Security, Cyber Studies Programme, European Cybersecurity: Future Trends and Policy Challenges, St Hugh’s College, University of Oxford, U.K., Jan. 2017