

Thinking About Launching a Career in Space Law?

THE NEW FRONTIERS

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With all the hype surrounding recent ‘Billionaire Blast-offs’, law students are eager to get on board the new opportunities unfolding in the field of Space Law.

Much like the rush to integrate a law career with the burgeoning Age of Information Technology spawned in the 1980s, law students, as well as newly-minted lawyers, want to be a part of this Next Big Thing in law.

Law and Space in Education

The University of Nebraska College of Law was one of the first law schools to create a Space, Cyber, and Telecommunications Law Program with a curriculum designed to teach numerous laws, treaties, and regulations governing space exploration, exploitation, and organized sharing of the ‘great beyond’ that lies above our atmosphere. The program, open to the law school’s J.D. candidates, is based on an Individualized Program of Concentrated Study, which allows students to focus on a specific interest within the field.

For those looking to pursue a more advanced degree, the law school also offers a Doctorate of the Science of Law (J.S.D.) in Space Law, which provides experienced lawyers and legal scholars the opportunity to delve into complex issues pertaining to the regulation of outer space activities. Globally, Master’s Degrees in air and space law are gaining prominence, with many universities outside the US offering extensive LL.M. courses in the field. A well-known event in the air and space law educational circles is the Leiden – Sarin International Air Law Moot Court Competition, hosted by the International Institute of Air & Space Law at Leiden University in the Netherlands. At this event, diverse issues in the field have been debated by students over the past 13 years.

The Woomera Manual

Project

A joint project of space and military law experts from the US, UK, and Australia has been working on a definitive document addressing Military Law as it applies to space, with the goal of publishing *The Woomera Manual on International Law of Military Space Operations*, in early 2022. The project has benefited from the input of both diplomatic and military officials of several countries, who recognize that the scenario of armed conflict in outer space is a real possibility. One founder of The Woomera Project, Professor Melissa de Zwart, summed up the likelihood of space conflict by noting, “Conflict in outer space is not a case of ‘if’ but ‘when’.” However, the legal regime that governs the use of force and actual armed conflict in outer space is currently very unclear, which is why the Woomera Manual is needed. The few international treaties that deal with outer space provide very little regulation of modern space activities, including both military and commercial uses of space.”

Regulating Peaceful Uses of Outer Space

As far back as 1959, the UN formed the *Committee on the Peaceful Uses of Outer Space* (COPUOS), which resulted in five international treaties governing the activities of states in the exploration and use of outer space. The international ‘Space Race’, which was sparked by the Cold War, necessitated more international treaties to govern the

The Field

- › “Space Law” often relates to the legal rights and obligations of States and their nationals in relation to their activities in outer space. The field often implicates the practice of “Air Law” which – as the name suggests – relates to private and public use of aerospace, both domestically and internationally.
- › The aerospace industry has grown significantly over the past decade as more and more private actors enter into the ‘space race’ which was dominated by governmental and intergovernmental organizations up until this point.
- › Emerging space law issues surround space tourism, asteroid and meteor mining, and deep space exploration – along with the governmental compliance initiatives needed for ‘take off’.

peaceful use of outer space, such as the Partial Test Ban Treaty (1963), The Astronaut Rescue Agreement (1967), The Liability Convention (1972), The Registration Convention (1976), and The Moon Treaty (1984). These treaties deal with issues such as liability arising when space activities result in damage; the registration of objects launched into space; appropriating discovered resources; and even the rescue of astronauts.

Common among all treaties is the principle that no one nation can claim sovereignty over any celestial body - a far cry from the conduct of 15th and 16th century discoverers who proudly planted their flags proclaiming territorial sovereignty for Spain, France, and England. But lest these stellar 'pre-nuptials' be taken too seriously, it should be pointed out that the adoption of these treaties has been inconsistent - with some of them signed by only 17 countries, while others have up to 104 state signatories. In addition, the language drafted is oftentimes vague, open to interpretation, and of questionable binding authority—all hallmarks of the lawyers' playground.

Space Law Jobs

Government agencies certainly require Space Law practitioners who not only draft treaties and regulations but also play a key role in negotiating their terms and provisions. Then there are the advisors to the President and Congress and various executive and legislative bodies working with both, who are called upon to provide subject matter expertise to guide them. And, of course, no field of law would be complete without the lawyer-lobbyists sent to 'promote the public interest',

and obtain millions of dollars in funding. Among Space Law lobbyists are the Space Science Institute and the National Space Society. Once the legislation and regulations are in place, lawyers are called upon, as with any other regulatory agency, to assure compliance and enforcement.

But what about the private sector? Notably, in 2015, the US Congress passed the *Commercial Space Launch Competitiveness Act* with the objective of spurring private sector interest in space exploration. The legislation expressly permits private sector participants to engage in the exploration and *exploitation of* space resources. This law sparked the growth of two growing sectors in the space exploration market - space mining and space tourism. Both industries present an opportunity to make large profits, with some estimates of asteroid mining profits hitting trillions. With this much money on the table, competition is fierce, and the need for specialized legal talent on space law issues is inevitable. Late last summer, lawyers for Jeff Bezos' Blue Origin filed suit against NASA, challenging the agency's decision to award a lunar lander contract to Blue Origin's competitor, SpaceX—the federal contract being worth a reported \$2.9 billion. After a judge ruled against Blue Origin, SpaceX's founder, Elon Musk, remarked, "You can't sue your way to the moon, no matter how good your *lawyers* are."

Staking a claim to gold in the American West was simple compared to panning for the abundant minerals in outer space. The mines may be on asteroids, but, alas, the contracts are much more down-to-earth. In August,

Career Prospects

1 Governmental Agencies and Aerospace Contractors

Of the many sectors currently existing in space law, Government-sponsored exploration initiatives are by far the oldest. This is because state agencies like NASA were the first 'trailblazers' in space exploration, in partnership with companies that make the spacecraft (and its various parts) on contract. Attorneys can hold central roles within the space law ecosystem by positioning themselves in a government agency or with an aerospace manufacturer-contractor or entity that works on space projects.

2 Private Space Tourism Companies

Space tourism can relate to a quick 'joyride' in the exosphere or an extended hotel visit in outer space. In either scenario, the company is responsible for the lives and wellbeing of private citizens across different nationalities in their exploration of a completely foreign realm. Problematic endeavors like these always require talented legal professionals to navigate the risk.

NASA signed a contract with Colorado-based space start-up Lunar Outpost, accepting Lunar Outpost's \$1 bid to collect lunar dust—essentially serving as a regolith excavator for NASA. Remember those international treaties? Surely some observant space lawyers will dust off those agreements and litigate their implications. The practical mechanisms of international space law treaties are facilitated by a nuanced network of private agreements between companies, vendors, domestic and foreign agencies, and inter-governmental organizations. Private space expeditions are also massive legal undertakings in all aspects - manufacturing, licensing, research and development, governmental clearances, crew employment agreements, and in-flight liability management - all of which require Space Lawyers to facilitate the entire process until 'touchdown' back on earth.

Rocks and Rules

The flurry of recent space-based commercial activity has also renewed the debate as to *'what rules govern outer space?'* The

global space scramble has included China's Change 5 Mission, which landed a craft on the moon to collect rock samples, the Japan Aerospace Exploration Agency (JAXA) craft that mined rocks from an asteroid, and the SpaceX launch of its Crew Dragon Resilience (Dragon C207) spacecraft as part of an International Space Station mission. In its nascency, space law careers resided exclusively in the public sector – with government agencies and the respective lawyers who advise them. However, as private companies begin their own exploration into deep space for mining and tourism, a new home has been created within the corporate in-house department for aspiring space lawyers.

Between the commercial activities increasingly engaged in by competing states and such military activities as the launching of the United States Space Force (USSF), along with the anti-satellite warfare technology being developed by China, Russia, and India, it is clear that opportunities in Space Law stretch from here to the moon, and beyond.

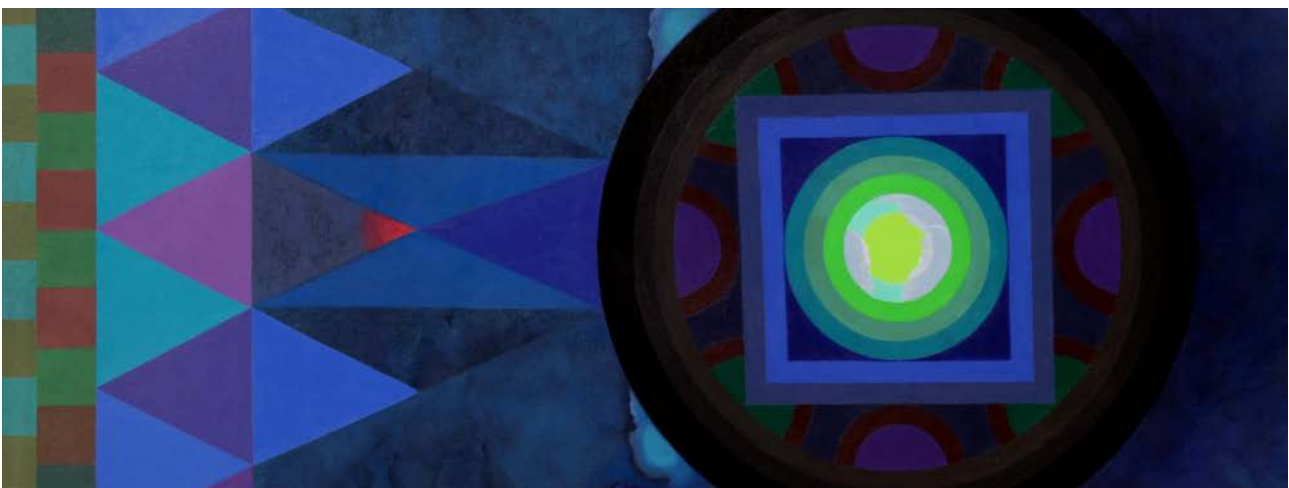
Career Prospects

3 Private Space Mining Companies

Asteroid and meteor mining companies similarly require 'forward-facing' attorneys to help navigate their risk. As an industry in its nascency, space mining companies will likely have to manage unforeseen legal issues relating to mining highly valuable materials and making possible discoveries that hold a public benefit.

4 Deep Space Exploration

A journey to Mars or deep into the galaxy implicates many of the issues that can exist in tourism or mining initiatives and may also require collaboration with governmental agencies. Once again, lawyers will be required to help companies and governments to navigate through unfamiliar legal territories.



Further Reading

1. <https://law.adelaide.edu.au/woomera/>
2. <https://theconversation.com/space-law-hasnt-been-changed-since-1967-but-the-un-aims-to-update-laws-and-keep-space-peaceful-171351>
3. <https://www.nbcnews.com/science/space/bezos-blue-origin-loses-lawsuit-nasa-spacex-lunar-lander-contract-rcna4561>
4. <https://www.milkenreview.org/articles/mining-in-space-is-coming>
5. <https://www.nationaldefensemagazine.org/articles/2022/1/18/space-force-submitting-bold-budget-request>
6. <https://legalcareerpath.com/space-law/>
7. <https://www.airlawmootcourt.com/competition>





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After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions.

Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



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William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



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