

PRELIMINARY COURSE SYLLABUS — 9/16/2006
Computers and the Law (2 Credits) IT-803
The John Marshall Law School-Chicago
Fall Semester, 2006

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OBJECTIVE: This seminar seeks to bridge the gap between common and statutory law concepts and problems introduced by the digital computer. Students have an opportunity in this seminar to examine various disciplines in the law from the perspective of modern day computer technology-oriented problems. Subjects include an introduction to computer systems, hardware and software; legal aspects of sale or lease of computer goods and services; issues of contract and tort liability relative to marketing and use of computers; special problems in commercial, intellectual property and information law arising from computer use.

CLASS DATES: We have 7 meetings. Meetings are Saturdays from 1:00pm – 5:00pm. Meeting dates are: 9/16, 9/30, 10/14, 10/28, 11/4, 11/18, 12/2

ATTENDANCE: In accordance with ABA requirements for accredited law schools as adhered to by The John Marshall Law School, students may not be absent from more than 25% of class time if they are to receive a passing grade. If you are unable to attend class, for whatever reason, please let me know (preferably in advance) so that we can make special arrangements as may be necessary and appropriate. Failure to abide by this policy may result in the withholding of course credit or a failing grade, subject to the determination of the Professor and school administration.

GRADING: Students will be graded both on their class participation and upon their completion of two written exercises. Active contributions are key to the

learning process of this course which is designed to provide fundamental core concepts that are an essential foundation to the study of IT law and professional success in an active IT practice. Accordingly, the class participation component will make up 30% of the grade. The remaining 70% will be divided between the two written assignments, the first of which will be worth 30% and the final assignment that will be worth 40%. Student work will be evaluated for a demonstration of effort, resourcefulness and presentation. J.D., LL.M., and M.S. students' relative experience and expertise will be taken into account.

An appropriate rule of thumb when completing an assignment is to think about whether the work product that you are handing in is something you would feel comfortable giving to the managing partner of a law firm for review. If you would not turn it in to your supervisor at work, please do not give it to me. In addition, I prefer depth over breadth. Please do not simply summarize the current state of the law or technology. Instead, pick an area within each assignment that interests you and investigate it in depth.

ASSIGNMENTS: The syllabus below contains the general outline of the course. This outline may change as the course proceeds. There are three primary books you should purchase and read during the course:

"[What Just Happened](#)," James Gleick, ISBN: 0375713913
(please finish by Sept. 30th)
"[The Cuckoo's Egg](#)," Clifford Stoll, ISBN: 0743411463
(please finish by Nov. 18th)
"[Crypto](#)," Steven Levy, ISBN: 0140244328
(please finish by Dec. 2th)

All three are available in paperback editions via popular bookstores both online and off (e.g., amazon.com or bn.com). I hope you will find them all relatively light, enjoyable reading that will introduce some of the technical and legal concepts we will discuss in the course. In addition to these three books, there will be additional readings of cases and other supplemental materials for each class. I will email you links to the supplemental materials approximately a week before each class meeting so as to give you sufficient time to complete the reading before class.

I also strongly suggest that you subscribe to and read the BNA Internet Law eNewsletter. It is free and sent daily during the week. Sign up to receive it at: <http://ecommercecenter.bna.com/>.

**OFFICE
HOURS:**

Unspam's primary office is in Park City, Utah. As a result, I will typically be out of town. I am happy to make time when I'm in town for class to answer questions or meet with students. I usually will fly into town Friday evening before class and return to Utah on Sunday. If you can make it out to

Utah, I'm happy to meet with you there too.

In addition, I am always accessible via e-mail or by telephone to address any questions or concerns you may have. I will make a diligent effort to respond to any inquiries within 24 hours. Please understand that at times, however, due to my own pressing matters, it may take me longer to address your issue. I will be out of the country with limited access to communications media between from approximately November 6th – 12th. Email is likely to be the best way to reach me during this period and even that may be spotty.

I am looking forward to having each of you in my class this semester and hope, above anything, that our course will provide you with a solid foundation on which to build an understanding of this exciting area of the law.

CLASS I (Sept. 16) "TECHNOLOGY & TECHNOLOGY LAW 101"

NARRATIVE: Merriam-Webster defines a computer as "a programmable electronic device that can store, retrieve, and process data." What exactly does that mean? And how has it changed the practice of law? In addition to understanding the basics of the technology, the first class will introduce the basics of intellectual property law. We'll discuss traditional copyright, trademark, patent, and trade secret law. Throughout the course we'll look at how these traditional bodies of law have changed in the digital world. In this class we'll begin looking at copyright. When is a copy a violation of copyright law and when is it just a necessary part of running a computer?

QUESTIONS: What is a "computer"?
What is "data"?
What is source code? What is object code?
What is a network? What is the Internet?
How have computers impacted the practice of law?
Do we need cyberlaw?
How have client demands changed in a digital world?
What ethical considerations are necessary for attorneys using computers in their practice?
Lawyers marketing online?
Client demands?
Speed of practice?
Electronic discovery?
Power Point presentations at trial?
Document management?

CLASS II (Sept. 30) “PRIVACY AND DATABASES”

BOOK DUE: *What Just Happened*, James Gleick

NARRATIVE: Computers have had massive effects on our society and our lives. On a day-to-day basis, a number of these changes have come as the result of databases which easily store and sort massive amounts of data. Does interconnecting the data from these databases threaten our privacy? Should we care?

QUESTIONS: What is a database?
Do databases threaten privacy?
How does datamining work?
What is a cookie?
Employee monitoring?

CLASS III (Oct. 14): “TRADEMARKS, DOMAINS, AND AN INTRODUCTION TO DIGITAL IP”

NARRATIVE: Offline trademark law is established and stems from the common law, state law, and Federal law. It is established that you can establish a trademark in a word or phrase you use to promote your trade. Multiple users can hold rights in the same mark if they are in different industries (e.g., Delta Airlines, Delta Tools, Delta Faucets). However, online you can only have one delta.com, so who should get it? How are domain disputes resolved?

QUESTIONS: What is a trademark?
What is a domain name?
What is a meta tag?
Can you trademark a domain name?
How do trademarks affect search engines?
What is “domain squatting”?
What is ICANN?
How does the DNS system work?

CLASS IV (Oct. 28): “A BIT OF A BYTE OF COPYRIGHT”

NARRATIVE: We have discussed how computers can represent a virtually unlimited set of things using nothing more than bits (1s and 0s). In addition to the flexibility this allows, it also allows very efficient conveying of information from one

computer to another. This potentially poses a threat to copyright holders. Or does it? Today one of the issues that brings this clearly to light is P2P transfer of music through Napster, KaZaA, and other similar services. While these services may demonstrate the treat computers pose to copyright holders, they also potentially open entirely new and efficient distribution channels. Whose interests should prevail?

QUESTIONS: What is a copyright?
How do you obtain a copyright?
How do you protect a copyright?
Does digital content deserve more protection? Less?
How long should a copyright last?
What is a Peer-to-Peer network?
What is distributed computing?
How is KaZaA different from Napster?
How does iTunes work?
Why is iTunes different? Is it?

CLASS V (Nov. 4): “DIGITAL OWNERSHIP: LICENSING”
[Assignment #1 Due At The Beginning Of Class V]

NARRATIVE: Licenses are the contracts of the digital world. Whenever you install a piece of software you need to click to “accept” a contract and its terms. Why do you need to do this when installing software, but you don’t when you buy a pair of pants? Are these licenses enforceable? When they’re on a seal you must break when you open a box? A screen you must click-through in order to install the software? A terms of service agreement linked to at the bottom a a website you visit?

QUESTIONS: Why do you buy a sweater but license software?
What is a “shrinkwrap” license?
What is a “click-thru” license?
Are these licenses binding?
Acceptable use policies? Privacy policies?
What is “Open Source” software?
What is the GNU Public License?

CLASS VI (Nov. 18): “SPAM, VIRUSES, HACKERS AND OTHER ONLINE NASTINESS”

BOOK DUE: *The Cuckoo's Egg*, Clifford Stoll

NARRATIVE: Computers open our homes and businesses to a new route of attack by malevolent actors. Computer viruses, trojan horses, hackers, and spam are all now concerns to every computer user. How can we protect our computers from these threats? And what liability do the authors of these attackers face? Other risks present themselves by the use of computers. For example, what responsibility does a business have to filter email before it arrives in an employee's inbox? If a pornographic spam message arrives, and an employer has made no attempt to stop it, does the employer effectively create a hostile work environment? These thorny issues must be addressed by the next generation of attorneys.

QUESTIONS: How does a computer virus work?
What is a worm? A trojan horse?
How can you protect yourself: firewalls, virus checkers, etc?
Do businesses have a duty to install such systems?
What is the impact of computers on criminal law?
Impact on tort law?
Stalking online?
Defamation online?
What is spyware?
What are the consequences of spam?
What is wi-fi? What additional security concerns does it present?
What are CDMA? GSM? GPS? Bluetooth?

CLASS VII (Dec. 2): "PROTECTING SECRETS AND INVENTIONS IN A DIGITAL WORLD"

READINGS: *Crypto*, Steven Levy

NARRATIVE: The ease with which things can be copied and transferred in the digital world poses a threat to anyone trying to keep a secret today. What advice do you need to provide clients to protect their trade secrets? Their patents? In addition, computers have created a whole new area of invention, to what extent should inventors be allowed to patent innovations they use software to create? Is there something different between making a better algorithm and making a better mousetrap?

QUESTIONS: What is a patent?
Can you patent software?
What is a "business method" patent?
Are these patents enforceable?
How does cryptography work?
What is a trade secret?
How do digital signatures work?

What is a public key? A private key?
What is SSL?

[Assignment #2 Due Last Day of Finals]