

IT 808: Cyberspace Law
The John Marshall Law School
Professor David E. Sorkin
Fall 2006

SYLLABUS

Overview

This seminar addresses the wide range of legal problems related to the Internet. Seminar participants are expected to read the assigned materials before each class, participate actively in class, prepare and deliver an in-class presentation, and write and defend a thesis paper of publishable quality. The course meets on Monday evenings from 6:00 to 9:00 pm.

The website for the seminar is located at www.informationtechnologylaw.com.

Instructor

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Textbook

Patricia L. Bellia, Paul Schiff Berman & David G. Post, *Cyberlaw: Problems of Policy and Jurisprudence in the Information Age* (2d ed., West 2004) (ISBN 0-314-15512-0, publisher's list price \$109). (The Fall 2005 supplement is available in electronic form on the seminar website.)

Course requirements and grading

(1) Attendance and participation: Regular attendance at and active participation in seminar meetings is required. Since the course is being taught in an interactive seminar format, notes and videotapes are not an adequate substitute for in-person attendance and participation. Students who miss more than two sessions will not be eligible to receive credit for the course unless alternative arrangements have been made in advance. Class participation will constitute 10% of the final course grade.

(2) In-class presentation: Each student will be assigned to prepare and deliver a presentation on a particular case or development during the course. This presentation should explain the significance of the case or development, offer additional information beyond that provided by the assigned readings, and include a critical assessment or substantive recommendations rather than merely descriptive information. The time allocated for these presentations may vary, but likely will be approximately 30 minutes.

Students may submit one or more proposed topics for these presentations on or before the second class meeting (August 28), and will be notified of their assigned topics and presentation dates before the third class meeting (September 11). (Note that the same topic may not be used for both the in-class presentation and the thesis paper.) The in-class presentation will constitute 15% of the final course grade.

(3) Thesis paper and oral defense: Each student must write and defend a thesis paper of a style and quality suitable for publication. The length should fall in the range of 4,000 to 8,000 words, not including citations. Students may select a topic of their choice (within the scope of the course), subject to approval by the instructor. A proposed topic and thesis statement should be submitted on or before September 25. The topic for the thesis paper cannot be substantially the same as the topic of the student's in-class presentation.

A draft of the thesis paper must be completed, submitted to the instructor, and distributed to other seminar participants no later than October 30. The draft need not be polished or even complete, but it should provide seminar participants with a sufficient basis to understand the subject matter and the author's thesis. It should reflect substantial research and thought; a bare outline or research plan is not adequate, nor is a paper that includes only descriptive background material and little or no analysis. The draft will not be graded, although its adequacy may affect the grade assigned to the completed paper.

Each student will prepare and present an oral defense of his or her paper during one of the last three seminar meetings. The oral defense is analogous to that required for a master's thesis or doctoral dissertation, although it will not be as formal or intensive. The final draft of the paper is due on November 30.

Drafts and final papers submitted after the above deadlines will be subject to the following late penalties:

- By 12:00 noon on the day after the due date: no penalty
- Up to one week late: One full letter grade deduction from thesis paper grade
- More than one week late: Two full letter grade deduction

Electronic submission of drafts and completed papers is encouraged. Absent exceptional circumstances, no papers will be accepted after December 19.

Thesis papers will be evaluated based primarily upon three factors: depth and clarity of analysis; originality and difficulty of the problem; and persuasiveness of argument.

Proper use of authority is required. Citations should be rendered in a standard form, and should appear in footnotes or endnotes.

The thesis paper will constitute 60% of the final course grade, and the oral defense of the paper will constitute 15% of the course grade.

Semester schedule

- August 21 Introduction. Read pages 1-23 and 199-202 in the casebook.
- August 28 Trademarks, domain names, and ICANN. Casebook pp. 48-65, 198-231, 312-333, and 358-371. Also read *Playboy Enterprises, Inc. v. Netscape Communications Corp.*, 354 F.3d 1020 (9th Cir. 2004), *Lamparello v. Falwell*, 420 F.3d 309 (4th Cir. 2005), and *1-800 Contacts, Inc. v. WhenU.Com, Inc.*, 414 F.3d 400 (2d Cir. 2005).
- Proposed topic for in-class presentation due August 28.***
- Class will not meet on September 4.*
- September 11 Jurisdiction and enforcement. Casebook pp. 73-198 and 241-249. Also read or skim *Yahoo! Inc. v. La Ligue Contre le Racisme et l'Antisémitisme*, 433 F.3d 1199 (9th Cir. 2006).
- September 18 Trespass to chattels, computer crime, and spam. Casebook pp. 25-48, 371-392, and 633-657.
- September 25 Privacy and E-commerce. Casebook pp. 595-633. Also read *Snow v. DirecTV, Inc.*, 450 F.3d 1314 (11th Cir. 2006).
- Proposed thesis paper topic and thesis statement due September 25.***
- Class will not meet on October 2.*
- October 9 or 16 (*Date to be announced; class will meet on either Oct. 9 or Oct. 16.*)
Online contracting. Casebook pp. 657-681.
Anonymity. Casebook pp. 555-571.
Government surveillance. Casebook pp. 249-269 and 571-595; also read *United States v. Councilman*, 418 F.3d 67 (1st Cir. 2005).
- October 23 Copyright protection. Casebook pp. 269-312. Also read *BMG Music v. Gonzalez*, 430 F.3d 888 (7th Cir. 2005), and *Perfect 10 v. Google, Inc.*, 416 F. Supp. 2d 828 (C.D. Cal. 2006).

October 30 Liability of service providers. Casebook pp. 498-540; *MGM Studios Inc. v. Grokster, Ltd.*, 125 S. Ct. 2764 (2005) (supplement pp. 21-38); and casebook pp. 550-554.

Draft of thesis paper due October 30 (to instructor and class).

November 6 Filtering speech. Casebook pp. 66-71, 392-459.

November 13 Additional in-class presentations and/or oral defenses of thesis papers.

November 20)

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November 27) Oral defenses of thesis papers.

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Thurs., Nov. 30)

(if necessary))

Completed thesis paper due November 30.