

IT 808: Cyberspace Law
The John Marshall Law School
Professor David E. Sorkin
Fall 2008

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* (3d ed., West 2007) (ISBN 978-0-314-16687-6, list \$131).

You may also find one or both of the following supplemental (recommended) textbooks helpful, particularly if you do not have much experience with scholarly legal writing:

- Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers* (3d ed., West 2005) (ISBN 978-0-314-14631-1, list \$42)
- Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on Law Review* (3d ed., Foundation Press 2007) (ISBN 978-1-59941-195-8, list \$31)

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 three 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 to 45 minutes.

Students may submit one or more proposed topics for these presentations on or before the September 2, and will be notified of their assigned topics and presentation dates on or before September 8. (Note that the same or related topics may not be used for both the in-class presentation and the thesis paper.) The in-class presentation will constitute 20% 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 generally should fall in the range of 4,000 to 8,000 words, not including citations.¹ 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 29. The topic for the thesis paper cannot be substantially similar to the topic of the student's in-class presentation. Depth of analysis is much more important for the thesis paper than breadth, so you should generally choose as narrow a topic as possible.

A research plan, including a review of the existing literature on the chosen topic, should be submitted by October 13. A draft of the thesis paper must be submitted to the instructor no later than November 3. Copies of each student's draft will be circulated to the class. The draft need not be polished, but it should provide readers 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 at this stage, nor is a paper that includes only descriptive background material and little or no analysis.

¹ There is no strict minimum or maximum length for the draft or the final paper. However, if your paper is shorter than about 4,000 words (excluding footnotes), or if the substantive analysis components of the paper (excluding any background or primarily descriptive material) comprise fewer than about 2,500 words, it is very unlikely that the paper has addressed its topic in adequate depth for purposes of this seminar. If your topic is not especially narrow, it will likely require considerably more analysis than suggested by the above guidelines. An early draft that is shorter than these guidelines may serve as a useful starting point, but do not try to add padding to a short draft in order to reach a particular arbitrary length. Your paper will be much more effective if you start with a much longer draft and then revise and edit it for brevity and clarity.

Each student will prepare and present an oral defense of his or her thesis paper in class. 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 December 4.

Electronic submission of drafts and completed papers is encouraged. Absent exceptional circumstances, no papers will be accepted after December 20.

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 40% of the final course grade. The research plan and literature review, the draft paper, and the oral defense are each worth 10%.

Assignments (including the final paper) submitted after the stated deadlines will be subject to the following late penalties:

By 12:00 noon on the first weekday after the due date: no penalty

Up to one week late: One full letter grade deduction

Up to two weeks late: Two full letter grade deduction

More than two weeks late: No grade will be assigned

Semester schedule

August 25	Introduction. Read pages 1-62 in the casebook. <i>Class will not meet on September 1 (Labor Day). Proposed topic for in-class presentation due September 2.</i>
September 8	Geography and Sovereignty. Read pp. 63-136.
September 15	Law versus Technology. Read pp. 137-210.
September 22	Regulation and Innovation. Read pp. 211-294.
September 29	Private Regulation. Read pp. 295-388. <i>Proposed thesis paper topic and thesis statement due September 29.</i>
October 6	Speech Regulation. Read pp. 389-480.
October 13	Intermediaries. Read pp. 481-560. <i>Research plan and literature review due October 13.</i>

October 20 Privacy and Surveillance. Read pp. 561-678.

October 27 Information Enclosure. Read pp. 679-732.

November 3 [Reserved for makeup class or topic to be determined.]
Draft of thesis paper due November 3.

November 10)
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November 17) Oral defenses of thesis papers.
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November 24)

December 1 Cultural Change. Read pp. 733-798.

Completed thesis paper due December 4.