

IP DIGITAL
(Intellectual Property in the Global Digital Environment)
Law 178
Syllabus

Prof. Doris Long

Fall 2009

Required Texts:

Long & D'Amato, *2002 Documents Supplement to A Coursebook in International Intellectual Property* (West)

Long, *IP Digital: Protection of Intellectual Property in the Global Digital Age* (Available on the Legal Ease Site Associated with the Course under the "handouts" Heading)

Recommended Supplemental Texts:

Larry Lessig, *Code and Other Laws of Cyberspace* (Basic Books)(paperback)(if you haven't read it yet, the foundation book for the debates over the structure of internet regulation)

Tom Standage, *The Victorian Internet* (Berkley)(paperback)(great comparison to the issues and challenges today raised by Internet communication)

Mark Partridge, *Guiding Rights: Trademarks, Copyright and the Internet* (a clear and concise discussion of some of the most pressing issues facing intellectual property use on the Internet)

Assignments:

Assignments for this course are set forth below. All of the treaty and US statutory provisions, are found in the 2002 Documents Supplement. All of the remaining materials are contained in the IP Digital text by Long which is posted on the Legal Ease site associated with the course under the heading "handouts." All class dates are approximate dates when the material will be covered. I reserve the right to assign additional materials and will announce any such changes during class and by email.

Attendance and Participation in Class:

Regular class attendance is required and is essential to a coherent understanding of the course. Absences in excess of 25% of scheduled class sessions will result in dismissal

from the course with a grade of withdrawn/fail. You are responsible for assuring that you sign the attendance sheet each day you attend class.

The class will rely strongly on student discussion of the topics covered. I will call on students in a random order to discuss the materials and will also ask for volunteers. Meaningful participation requires that students be fully prepared for class. I reserve the right to raise or lower grades one half a grade based on class participation.

Grade

Your grade for the class will be based 45% on a required class presentation (of approximately 15 minutes) of one of the subjects that we will be covering this semester and 55% on a short final examination. For the class presentation, you must go beyond the materials contained on the course outline and syllabus to provide a perspective on the topic to be covered. You must also provide me with a brief written outline or other written format of your presentation prior to the date of your presentation. If you wish the class to read additional materials, for your presentation, please provide me with a copy in advance of the presentation so I can post it. Further information on presentation requirements is contained in the "Presentation Requirements" document posted on the Legal Ease site.

For those students who are taking this course for LLM or MS credit, in addition to the class presentation and final examination, you are also required to submit a short paper at the end of the semester on the topic you have presented in class. The paper must be at least 10 typewritten double spaced pages, and must contain original research regarding the topic in question. Further information on the paper is contained in the "Paper Requirements" document posted on the Legal Ease site.

Class

Assignment

1 CYBERSPACE AND DIGITAL MEDIA: INTRODUCTORY ISSUES

Long, Introduction

The "Borderless" World of the Internet

Long, Chapter One

Lessig, Chapter One (Code is Law), Code and Other Laws of Cyberspace (on reserve)

CONTENT IN CYBERSPACE

Valuing the Creative Act (Originality and the Public Interest)

Long, Chapter Two

Supplement: Copyright Act, 17 USC §§ 101 (definition of useful article), 102

2. **Is the Medium the Message?**

Long, Chapter Three

Supplement: Berne Convention Article 2

Copyright Act, 17 USC § 102

TRIPS, Article 10

WIPO Copyright Treaty, Article 8

Limitations on the Value of the Creative Act (Moral Rights)

Long, Chapter Four

Supplement: Berne Convention Article 6bis

Copyright Act, 17 USC §201, 106A

Tunis Model Code Article 1,4,5,6

WIPO Performances and Phonograms Treaty, Article 5

3. **Fair Use, Free Speech and the Public Domain**

Long, Chapter Five

Supplement: Copyright Act, 17 USC § 107

TRIPS, Article 13

WIPO Copyright Treaty, Article 10

WIPO Performances and Phonograms Treaty, Article 15

Fair Use and the Right of Publicity

Long, Chapter Six

Illinois Right of Publicity Statute

4. **Technological Measures to Protect Content**

Long, Chapter Seven

Supplement: WIPO Copyright Treaty, Articles 11, 12

WIPO Performances and Phonograms Treaty, Articles 18
and 19

Copyright Act, 17 USC § 1201 -1205

Fair Use and Technological “Access”

Long, Chapter Eight

Supplement: Uniform Trade Secrets Act

Copyright Act, 17 USC § 1201

EU “Internet” Directive, Article 6

5. **Digital Millennium Copyright Act and ISP Liability**
Long, Chapter Nine
Supplement: Copyright, 17 USC §512
 EU E-Commerce Directive, Articles 12 -15
- Privatizing Protection Devices and the Limits of Copyright**
Long, Chapter Ten
Supplement: Copyright Act, 17 USC §§1201-1205
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6. **P2P File Trading and the Challenge of Digital Distribution**
Long, Chapter Eleven
Supplement: WIPO Copyright Treaty, Articles 6 and 8
 WIPO Performances and Phonograms Treaty,
 Articles 12 and 13
- Copyright Protection and Digital Privacy**
Long, Chapter Twelve
Supplement: Copyright Act, § 512 (h)
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7. **You Tube, Personal Use and the Video Performance Challenge**
Long, Chapter Thirteen
Supplement: 17 USC § 1008
 WIPO Performances and Phonograms Treaty, Article 6
- Trademarks and Endorsements**
Long, Chapter Fourteen
Supplement: Trademark (Lanham Act) 15 USC §§ 1125(a), 1127
(definition of trademark)
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8. **False Advertising**
Long, Chapter Fifteen
Supplement: Lanham Act, 15 USC § 1125
- “Slam” Sites and Parodies**
Long, Chapter Sixteen
Supplement: ICANN Dispute Resolution Policy
(UDRP), Paragraph 4
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12. **Standard Setting and Unfair Competition**

Long, Chapter Twenty Three

SOFTWARE

**Creating the Border Between Technology and Expression
(Protection)**

Long, Chapter Twenty Four

Supplement: Copyright Act, 17 USC §101 (definition of computer
program)

Patent Act, 35 USC § 101

13. **Creating the Border (Reverse Engineering)**

Long, Chapter Twenty Five

Supplement: Copyright Act, 17 USC §§501, 107

EC Computer Software Directive, Articles 5 & 6
TRIPS, Article 10

WIPO Copyright Treaty, Article 4

DATABASES

Databases and Other Collections of Information

Long, Chapter Twenty Six

Supplement: TRIPS Article 10

EC Database Directive, Articles 7 to 10

Draft Database Treaty, Articles 1 - 6

EXPLOITATION AND ENFORCEMENT

14. **Licensing Technological Innovations**

Long, Chapter Twenty Six

E-Commerce

Long, Chapter Twenty Eight

15. **Criminal Enforcement on the Internet**

Long, Chapter Twenty Nine

Supplement: Copyright Act, 17 USC § 506 (NET Act)

TRIPS, Article 61

Future Trends and Exam Review

Suggested Outside Readings

There are numerous books and articles that deal with the constantly changing nature of the cyberspace and technology and their changing relationship to intellectual property laws. Among the more intriguing outside sources (which have been placed on reserve in the library) are the following:

Lessig, Free Culture

Lessig, Code and Other Laws of Cyberspace

Lessig, The Future of Ideas

Standage, The Victorian Internet

Wayne, Free For All: How Linux and the Free Software Movement Undercut the High Tech Titans

Menn, All the Rave: The Rise and Fall of Shawn Fanning's Napster

Litman, Digital Copyright

Weber, The Success of Open Source

A Useful (Free) Primer on IP Issues in E-Commerce is:

E-Commerce Primer, <http://ecommerce.wipo.int>. WIPO Doc No. WIPO/OLOA/EC/PRIMER

Office Hours

I am located in Room 424. I have an open door policy. If I am in, my door is usually open. In addition, my office hours are as follows:

Monday 5:00 – 6:00

Tuesday 5:00 – 6:00

and by appointment.

Telephone

I can be reached (312) 360- 2651.

My email address is 7long@jmls.edu. To avoid deletion of any message as unintended spam please be certain to include a subject line.

Final Thoughts

Technology and law are always in a race. I look forward to exploring with you the hits, misses and future problems as the law created to protect intellectual productions collides with modern technology.