

IT 881F - CURRENT TOPICS Corporate Privacy
SYLLABUS
SPRING 2010

INSTRUCTORS:

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Welcome to Corporate Privacy. This seminar meets for four Saturday sessions (9:00 AM–5:00 PM) during the spring 2010 semester (please note dates listed below). We will explore this ever-changing area of law through discussions, hypotheticals, and student presentations. Your participation is essential. To receive credit for this seminar, you will need to attend and participate in class, do an in-class presentation, and complete written project.

COURSE DESCRIPTION

This seminar considers the challenges of managing privacy in a corporate setting. We will examine a variety of issues concerning the gathering, use, dissemination and protection of information within the corporate setting. Topics include, but are not limited to:

- the use of personal information in hiring, promoting and firing employees,
- the collection, use, and protection of personal information,
- the obligations and ramifications of losing personal information;
- employee monitoring and surveillance,
- confidentiality of personal information and sensitive corporate information; and
- corporate privacy programs.

COURSE MATERIALS

- Additional materials may be distributed in class. Topics and materials may be adjusted according to students' experience with and interests in corporate privacy issues.

GRADES AND COURSE REQUIREMENTS

Grades will be based on class participation, an two in-class presentation, and your paper. Your class participation will be based on your meaningful and substantive participation in the class. At the last class, each student will participate in two presentations. The first presentation is a group project, which will be discussed in greater detail during the class. The second presentation will be a brief presentation about the paper, which is due at the end of the semester. Additional details about each of these will be discussed during class.

Class participation will account for 40% of your grade, the class project will account for 30%, and the paper will account for 30%.

SYLLABUS

Class #1 (Saturday February 27, 2010)

Introduction, Regulatory Framework and Employment Issues - This session will focus on to aspects of corporate privacy. The first part of the class will address the multi-regulatory environments in which a company must operate. The second part of the class will discuss privacy issues that arise in the employer-employee context.

Readings:

- The EU Data Protection Directive, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML>
- EU-US Safe Harbor Overview, http://www.export.gov/safeharbor/eu/eg_main_018476.asp
- Federal Trade Commission Act, 15 U.S.C. §§ 41-58.
- FTC Privacy Cases, http://www.ftc.gov/privacy/privacyinitiatives/promises_enf.html
 - *In Re* Eli Lilly and Co, Complaint and Decision & Order
 - *In Re* Microsoft, Complaint and Decision & Order
 - *In Re* Guess.com, Inc., Complaint and Decision & Order r
 - *In Re* Tower Records, Complaint and Decision & Order
 - *In Re* CardSystems Solutions, Inc., Complaint and Decision & Agreement
- Gramm-Leach-Bliley Act, Financial Privacy Rule, 16 C.F.R. part 313
- Processing Personal Data Across Borders Guidelines, Office of the Privacy Commissioner of Canada, http://www.priv.gc.ca/information/guide/2009/gl_dab_090127_e.pdf
- Fair Credit and Reporting Act, 15 U.S.C. §§ 1681a, 1681b, 1681d, 1681m, 1681n, 1681o, 1681q
- Belgian Data Protection Law, https://www.law.kuleuven.be/icri/publications/499Consolidated_Belgian_Privacylaw_v200310.pdf

Class #2 (Saturday, March 27, 2010)

Customer Information and Data Breaches - The first part of the class will focus on a company's acquisition, collection, use, and protection of customer information. Second, the class will address the unauthorized loss or disclosure of customer information.

Readings:

- The CAN SPAM Act, 15 U.S.C. §§ 7702, 7704, and 7706
- USA v. Kodak Imaging Company, Complaint
<http://www.ftc.gov/os/caselist/0423187/060511cmp0423187.pdf>
- CAN-SPAM Final Rule for Definitions and Implementation, 16 C.F.R. part 316
- Gramm-Leach-Bliley Act, Safeguards Rule, 16 C.F.R. part 314
- Children's Online Privacy Protection Rule, 16 C.F.R. part 312
- USA v. Sony BMG MusicEntertainment, Complaint
<http://www.ftc.gov/os/caselist/0823071/081211cmp0823071.pdf> and Consent Decree, <http://www.ftc.gov/os/caselist/0823071/081211consentp0823071.pdf>
- *In Re* CVS Caremark Corporation
 - Complaint, <http://www.ftc.gov/os/caselist/0723119/090218cvscmpt.pdf>
 - Decision and Order, <http://www.ftc.gov/os/caselist/0723119/090623cvso.pdf>
- *In Re* Genica Corporation
 - Complaint, <http://www.ftc.gov/os/caselist/0723119/090623cvso.pdf>
 - Decision and Order, <http://www.ftc.gov/os/caselist/0823113/090320genicado.pdf>
- FTC's Disposal Rule, 16 C.F.R. part 682
- FTC's Health Breach Notification Rule, 16 C.F.R. Part 318
- HIPAA Privacy Rule, 45 C.F.R. Part 164.304, 164.400-.414

Class #3 (Saturday, April 10, 2010)

Employee Investigations, Monitoring and Surveillance - This class will examine employer monitoring and surveillance of employee behavior and workplace productivity, the various surveillance and monitoring methods and technologies used, and the rights and responsibilities of both employers and employees. In addition, we will focus on finding the appropriate balance between employer and employee interests in collecting, using and disseminating “personal information” about applicants or employees. The class will also touch on the related issue of an employer protecting its information assets.

Readings: handouts.

Class #4 (Saturday, April 17, 2010)

Corporate Privacy Programs and Class Presentations – Although the discussion of this class will focus on the development and implementation of a corporate privacy program, the remainder of the class will be spent on group presentations and each student’s presentation about their paper topic.

Readings: handouts.