

Cyberlaw

Spring 2011, Prof. Michael Risch

Prerequisites

There are no prerequisites for this class, nor do you need any special understanding of the internet from a technical point of view. You may wish to look at “The Animated Internet” or “How Stuff Works” sites for background about how the internet works.

<http://www.learnthenet.com/english/animate/animate.htm>

<http://computer.howstuffworks.com/internet-technology-channel.htm>

Class Days and Office Hours

Class will meet Tuesdays and Thursdays from 11:00-12:15.

My office hours are 9:30-11:00 on Tuesdays, plus any other time that we might schedule in advance. Additionally, if I am in my office with the door open, please feel free to come in and talk.

You may contact me anytime at risch@law.villanova.edu

Class Goals

1. You will understand the different ways the internet is regulated
2. You will learn to advise clients about basic issues related to internet presence
3. You will determine when service providers are liable for the wrongdoing of their users
4. You will consider the laws that affect advertising, contracting, and ecommerce
5. You will apply the laws of the internet to new fact patterns

Books and Materials

Unless otherwise noted, all page numbers refer to Radin, *et al.*, INTERNET COMMERCE: THE EMERGING LEGAL FRAMEWORK, 2nd edition. I do not recommend that you buy a used 1st edition; much has changed in internet law in the years since the 1st edition was published.

You should also buy the Latest Supplement for the book.

The course website is:

<http://www.casesofinterest.com/tiki/Cyberlaw+Spring+2011>

You can access the page via the course’s Blackboard page as well. The course page includes this syllabus and associated information, and may contain additional materials in the future.

Finally, we will be using clicker devices during the course. You can get these from the Copy and Distribution Center if you do not have one already. You must register your clicker serial number so that I can keep track of your attendance and participation. Use this site to register your clicker (you can click on it directly from the CasesofInterest.com website):

http://www.casesofinterest.com/tiki/tiki-view_tracker.php?trackerId=9#content2

Writing Requirement

A total of four percent (4%) of your grade will be from short written case briefs. Please see the “Writing Requirement” web page at the CasesofInterest.com website for more discussion.

Class Participation

Three percent (3%) of your grade will be based on class participation, with an emphasis on quality over quantity. Short class exercises may be assigned, and they are mandatory but not graded; instead, they will be included in your class participation grade. Please see the “Class Participation” web page at the CasesofInterest.com website for more discussion.

Grade Bumps

The 7% associated with the writing requirement and class participation are used to consider raising or lowering your grade pursuant to Law School policy. Note, however, that the default is a grade decrease if you do not complete the writing requirement or participation.

Attendance

Your attendance and participation in class is required, and is critical to your learning the material in the assigned readings. Class attendance will not be graded *per se*, but excessive absences may lead to reduction in grades. See the “Class Participation and Policy” document for more information.

Final Exam

Ninety-three percent (93%) of your grade will be the final exam. The form of the final exam is to be decided. The exam will be an open book, open note exam, but you may not confer with any other person about the exam.

Reading Assignments

Readings for each class session are below, with each number signifying one class period. All reading assignments include the applicable statute (available from several free online sources) **and the corresponding readings from the Supplement** unless advised otherwise. Note that some days are heavy reading, followed by some days of light reading; we will likely have many lessons that carry over half-way through the next class, though you should always read for the next class.

1. What is Cyberlaw?/Regulation of the internet: 1-12, 20-27, 30-35, 37-52; Recommended: Appendix A
2. Jurisdiction: 326-356
3. Trademark basics: 64-82
4. Initial interest confusion and fair use: 82-103, 135-139
5. Pop-ups and nominative use: 104-113, 139-156
6. Domains - trademark issues: 156-180; Recommended: 27-30, Appendix B
7. Domains - dilution: 114-115, 180-199, 130-133 (pay special attention to the supplement)
8. Anti-cybersquatting statute: 200-201, 205-213, 219-230
9. More cybersquatting: 243-253, 260-275

10. Consumer protection: 290-316
 11. Privacy: 390-395, 399-430
 12. Copyright basics: 460-464, 467-472, 466-477, 491-492 (just Section 101), 496-499
 13. Limitations on copyright: 478-491, 500-512
 14. Copyright on the internet: 517-522 (optional), Perfect10 v. Amazon/Google case in the supplement (but no need to read parts IV and V yet), 536-541
 15. Digital music: 542-545, 545-551 (optional), 556-559, 565-572
 16. Secondary liability - copyright: 582-604 (note 1)
 17. Secondary liability continued: 605 (bottom)-622, 625-630
 18. Secondary liability continued: 643-655, 655-666 (optional), Perfect10 v. Amazon/Google - Part IV
 19. Secondary liability for non-IP harms: 1091-1092, 1103-1131
 20. SPAM: 1012-1024, 1029-1037, 1039 (bottom), 1050-1051 (notes only); AOL v. LCGM, 1024-1029 is optional, 1037-1039 (top) and 1040 are optional, Hall v. Earthling 1046-1050 is not required, but read the notes after the case
 21. Unauthorized access: 1051-1059, 1072-1083, 1083-1087 (optional)
 22. CFAA: 1059-1071, Supplemental Reading (TBD), 18 USC 1030
- NOTE: The readings for 23-25 may change as new judicial opinions have just issued that are helpful
23. Digital locks: 700-704 (end of page), 711-712, 720-721, 728-752; optional extra explanation 713-720
 24. Digital locks and their limits: 752-772
 25. Contracts in cyberspace: 791-832
 26. Virtual Property/Limits/IP Licenses: Bragg v. Linden Research (on course website), 904-905, 910-920

Bragg case:

http://www.casesofinterest.com/tiki/tiki-download_wiki_attachment.php?attId=76&page=Cyberlaw%20Spring%202008

27. Licensing IP continued: 927-947
28. Catch up and review

Unless otherwise noted or discussed in class, each assignment applies to each class session, even if we haven't finished discussing the last assignment in class. You are, of course, free to read unassigned materials, and those materials may help your understanding of cyberlaw.