

Cyberlaw
Spring 2008, Prof. Michael Risch

Prerequisites

There are no prerequisites for this class. 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-channel.htm>

Class Days and Office Hours

Class will meet Mondays and Wednesdays from 2:00-3:15. We will not meet on 1/21.

My office hours are 1:00-2:00 on Mondays and Wednesdays, 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 at michael.risch@mail.wvu.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 four years since the 1st edition was published.

You should also buy the 2007 Supplement for the book.

The course website is:

<http://www.casesofinterest.com/tiki/tiki-index.php?page=Cyberlaw+Spring+2008>

You can access the page via the course’s TWEN 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 PRS devices (“clickers”) during the course. Please see Keith Walton in the Library or Room 225 to obtain and register your clicker.

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 (copy attached) 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 (copy attached) for more discussion.

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

The final exam may be in-class or take home (to be determined).

Reading Assignments

All reading assignments include the applicable statute (available from several free online sources) and the corresponding readings from the 2007 Supplement.

1. What is Cyberlaw?/Regulation of the internet: 1-12, 20-27, 30-35, 37-53; Recommended: Appendix A
2. Jurisdiction: 326-356
3. Consumer protection: 290-316
4. Privacy: 390-395, 399-430
5. Trademark basics: 64-82
6. Initial interest confusion: 82-114
7. Trademark defenses: 135-156
8. Domains - trademark issues: 156-180; Recommended: 27-30, Appendix B
9. Domains - dilution: 114-117, 180-199, 130-133
10. Anti-cybersquatting statute: 200-201, 205-230
11. More cybersquatting: 243-253, 260-275, 281-282, 286-289
12. Copyright basics: 460-464, 467-472, 476-477, 478-492, 496-499
13. Limitations on copyright: 500-516
14. Copyright on the internet: 517-522, 525-542, Field v. Google, Perfect10 v. Google

http://w2.eff.org/IP/blake_v_google/google_nevada_order.pdf
<http://caselaw.findlaw.com/data2/circs/9th/0655405p.pdf>

15. Digital music: 542-551, 556-559, 565-582
16. Secondary liability - copyright: 582-612
17. Secondary liability continued: 612-622, 625-628, 643-666, Perfect10 v. ccBill

<http://caselaw.findlaw.com/data2/circs/9th/0457143pv2.pdf>

18. Secondary liability for non-IP harms: 1091-1131
19. SPAM: 1012-1051
20. Unauthorized access: 1051-1087, 18 U.S.C. 1030
21. Digital locks: 700-704, 711-712, 720-721, 728-752; Optional extra explanation 713-720
22. Digital locks and their limits: 722-727, 752-778
23. Contracts in cyberspace: 791-832
24. Virtual property: Handouts to be determined
25. Limits on contracting/Licensing IP: 889-920
26. Licensing IP continued: 920-955
27. E-Payments: 1163-1201

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.

Social Justice Statement

West Virginia University is committed to social justice. I concur with that commitment and expect to maintain a positive learning environment based upon open communication, mutual respect, and non-discrimination. Our University does not discriminate on the basis of race, sex, age, disability, veterans status, religion, sexual orientation, color or national origin. Any suggestions as to how to further such a positive and open environment in this class will be appreciated and given serious consideration.

If you are a person with a disability and anticipate needing any type of accommodation in order to participate in this class, please advise me and make appropriate arrangements with the Office of Disability Services (293-6700).

Sat 29 of Dec., 2007 08:32 CST

Writing Requirement

[WVU Classes](#)



Backlinks...

The following is a description of the course writing requirement. I include the course writing requirement because it is critical that students learn to:

- read new cases
- understand the issues and holdings
- critique the analysis
- explain the reasoning to others (either clients or colleagues)
- prepare for the performance section of the bar exam
- see how the issues discussed in class apply in new cases

The requirement is graded on a "complete, partially complete, incomplete" policy. Because the assignment is never more than four percent of the final grade, one can still obtain an A in the course without writing anything. I am hopeful that you will find the exercise both fun and illuminating.

There are four total points available for writing submissions, but there are different points available for different categories. You can fulfill the requirement with as few as two and as many as ten submissions.

Note: you should check to make sure your case is not already summarized, as you will not receive credit for a duplicate submission.

- 1/2 point: cases from your casebook
- 1 point: any case you are interested in (any topic area)
- 2 points: any case related to class (e.g. patent law)

About

[Cases of Interest](#)

[About Me](#)

[Blog](#)

[Firm Profile](#)

[Firm Web Site](#)

[Articles at SSRN](#)

[Michael's CV](#)

[WVU Course Pages](#)

Login

Login as...

User:

Password:

Remember me

[[Register](#) | [I forgot my pass](#)]

[Standard](#) | [Secure](#)

Last Page Changes

- 1) [KSR v Teleflex](#)
- 2) [state v holland](#)
- 3) [Everything is Patentable](#)
- 4) [Case Summary Tips](#)
- 5) [Cases of Interest](#)

Search

in:

Recently visited pages

[Writing Requirement](#)

- 1/2 point bonus: any case submission posted within two weeks of the decision's issuance.

Cases may be state, federal, administrative, or any other interesting precedent.

[Adding to the Wiki](#)

See the following pages for ideas and tips about how to find cases and write about them:

[Discovering Cases](#)

[Case Summary Format and Substance](#)

[Registering With the Site](#)

Created by: [admin](#). Last Modification: Thursday 20 of December, 2007 13:00:49 CST by [admin](#).

The content on this page is licensed under the terms of the [Copyright License](#).

[Similar](#) [Add Comment](#)



Portions © 2006 by Michael Risch, Some Rights Reserved [Copyright Notice](#) [Legal Disclaimer](#)

Sat 29 of Dec., 2007 08:33 CST

Class Participation and Policy

Class Participation and [WVU Classes](#)
Policy



Backlinks...

Attendance

Requirements

Your attendance and participation in class is required. Class attendance will not be graded *per se*, but excessive absences may lead to reduction in grades.

Aside from being required by the ABA, class attendance is critical to your learning the material in the assigned readings as well as other aspects of the course.

Preparation

You should be prepared for class. Preparation is important for at least five reasons:

1. Preparation will help you learn the materials
2. Preparation will make class time and learning more productive for everyone
3. Preparation will help class run more smoothly
4. Preparation is more fair to your classmates who have prepared
5. Preparation is necessary to fulfill the class participation requirement

However, there may be times when you are unprepared, and you should notify me of such times. The first two "clicker" questions each class period will be:

About

[Cases of Interest](#)
[About Me](#)
[Blog](#)
[Firm Profile](#)
[Firm Web Site](#)
[Articles at SSRN](#)
[Michael's CV](#)
[WVU Course Pages](#)

Login

Login as...

User:

Password:

Remember me

[[Register](#) | [I forgot my pass](#)]

[Standard](#) | [Secure](#)

Last Page Changes

- 1) [KSR v Teleflex](#)
- 2) [state v holland](#)
- 3) [Everything is Patentable](#)
- 4) [Case Summary Tips](#)
- 5) [Cases of Interest](#)

Search

in:

Entire Site

Recently visited pages

[Class Participation and Policy](#)
[Writing Requirement](#)

- A. I am not prepared to discuss the readings
- B. I am not prepared to discuss *anything*

I will respect your notification regarding preparation, but excessive lack of preparedness will affect your grade.

Class Presentation

Most classes will be conducted using the Socratic method, though some material will be better learned through lecture. We will be discussing the cases in your case book, as well as problems that arise from those cases.

I will usually select which students to call on during class, though I may occasionally ask for volunteers.

Email

Feel free to [email](#) me with any questions or concerns you have about class. I will usually not answer questions via email, but will instead address them (anonymously) in class.

Laptop Policy

You may use your laptop in class so long as it does not distract any fellow students, and so long as it does not hinder your ability to participate in class. In all events, please position your laptop so that I can see your face during class.

Created by: [admin](#). Last Modification: Wednesday 18 of July, 2007 11:21:44 CDT by [admin](#).
The content on this page is licensed under the terms of the [Copyright License](#).

[Similar](#) [Add Comment](#)



Portions © 2006 by Michael Risch, Some Rights Reserved [Copyright Notice](#) [Legal Disclaimer](#)