



Cyberlaw (Law 434)

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Marquette University Law School
Spring 2003

1. **SESSIONS.** The course meets every Monday and Wednesday from 2:30 to 3:45 from January 6 to April 30, except January 20 (MLK Holiday) and March 10 and 12 (Spring Break).
2. **PREREQUISITES.** You should have some basic familiarity with the Internet, but a technical background is not otherwise required.
3. **FINAL EXAM.** The final exam will be held May 3 at 8:30 am. The course is graded 100% based on the final exam. I intend to follow the standard law school curve. The final exam probably will be 2½ hours long with 3-4 essay questions. The exam is very practice-oriented and will emphasize your problem-solving skills. I strongly encourage you to review prior exams to understand the exam style. You can find prior exams and sample answers at my website (note that the law may have changed in the interim).
4. **CASEBOOK.** The course reader is the only required reading (except for any materials I distribute during the semester).
5. **EMAIL LIST.** I will create and maintain a course email list, which I will use to send administrative emails and other emails of interest. Therefore, I need an email address for you that you actually check. **YOU MUST GET ME A WORKING EMAIL ADDRESS NO LATER THAN JANUARY 17 OR I MAY DROP YOU FROM THE COURSE.** I would prefer if you email me a note from the email account you'd like me to use with the subject line "Cyberlaw—Use this Email Address." Please include your name with the email and make sure I know you're in this course as opposed to Copyright.
6. **OFFICE HOURS.** I don't have regularly scheduled office hours, but I am on campus most days (usually between 9:30-6:30) and I invite you stop by my office (Room 110E) at your convenience. Or, email me to arrange a scheduled time to talk. I use email extensively, so I am also happy to answer questions by email.
7. **ACADEMIC FREEDOM.** The course necessarily requires us to discuss the full range of human behavior. If you have any concerns about topic coverage, you should see me ASAP.

8. SCHEDULE AND READING LIST.

Introduction to Cyberspace (Weeks 1 and 2)

Topics: Internet technologies, Internet business models, the Commerce Clause and state action

ACLU v. Reno (CDA I District Ct. facts only)	page 5
La Ligue Contre le Racisme et l'Antisemitisme v. Yahoo (Paris County Ct. Nov. 2000)	24
Yahoo v. La Ligue Contre le Racisme et l'Antisemitisme (US Nov. 2001)	45
Access Now v. Southwest Airlines (S.D. Fla.)	56
State v. Heckel (Wash. Sup. Ct.)	67

Jurisdiction and Venue (Week 3)

Millennium Enterprises v. Millennium Music (Jan. 1999)	76
ALS Scan v. Digital Service Consultants (4 th Cir)	93
Griffis v. Luban (Minn. Sup. Ct.)	100

Contracts (Week 4)

Topics: Clickthrough Agreements, UCITA, UETA/E-Sign

15 USC §§7001-7006 (exclude §7005)	111
Handout on Online Contracts	127
Hill v. Gateway 2000 (7 th Cir.)	130
Forrest v. Verizon Communications, Inc. (D.C. App. Ct.)	135
Specht v. Netscape Communications (2d Cir.)	151
Comb v. PayPal (Aug. 2002)	179

Copyrights, Trespass and Protecting Factual Data (Weeks 5 and 6)

Topics: Linking, Framing, Scraping, Caching, Circumvention

17 USC §512	197
18 USC §1030	209
eBay v. Bidder's Edge (May 2000)	215
Ticketmaster v. Tickets.com (Aug. 2000)	229
Register.com v. Verio (Dec. 2000)	234
Intel v. Hamidi (Cal. Ct. App.)	253
Kelly v. Arriba Software (9 th Cir.)	288
A&M Records v. Napster (facts and file-trader liability portions) (9 th Cir. Feb. 2002)	310
Universal City Studios v. Corley (2 nd Cir.)	319

Trademarks and Domain Names (Weeks 7 and 8)

Topics: Trademarks, Domain Names, Metatags and Keywords

15 USC §§1125, 1129	page 346
ICANN Domain Name Dispute Resolution Policy (and associated rules)	354
Playboy v. Welles (9 th Cir. 2002)	372
Promatek v. Equitrac (7 th Cir.)	388
Ty v. Perryman (7 th Cir.)	396

Privacy (Week 9)

15 USC §§6501-6504	407
16 CFR Part 312 (implementing COPPA)	419
US Privacy Overview handout	433
Grandma Goldstein Recipe handout	436

Pornography (Week 10)

Topics: Obscenity, Child Pornography, Indecency, “Harmful to Minors” Speech

Eric Goldman’s Helpful Hints to Knowing Your Porn Terms	438
ACLU v. Reno (Sup. Ct. 1997)	439
Ashcroft v. ACLU (Sup. Ct. 2002)	465

Security, Spam and Information Torts (Week 11)

Topics: ECPA, Spam, Defamation, Publicity/Privacy Rights, Harmful/Inaccurate Information

Review 18 USC §1030 , Heckel , Register.com and Hamidi	67, 209, 234, 253
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Intermediary Liability for User Content/Actions (Weeks 12 and 13)

Reread 17 USC §512	197
47 USC §230	504
15 USC §1114	508
Zeran v. America Online (4 th Cir.)	510
Schneider v. Amazon.com (Wash. Ct. App.)	519
Gentry v. eBay (Cal. App. Ct.)	526
A&M Records v. Napster (secondary liability portions) (9 th Cir. Feb. 2002)	540
ALS Scan v. RemarQ Communities (4 th Cir.)	549
Hendrickson v. eBay (Sept. 2001)	558
Aimster Copyright Litigation (N.D. Ill. Sept 2002)	572
Perfect 10, Inc. v. Cybernet Ventures (April 2002)	596
Review Corley (focus on liability for linking discussion)	319
Lockheed Martin v. Network Solutions (9 th Cir.)	650

Catch-Up (Week 14)

9. CONTACT INFORMATION.

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More course-related materials, including an electronic copy of this syllabus, are available at http://eric_goldman.tripod.com.