LAW & CYBERSPACE

The course introduces students to the knowledge and analytical tools to perform interdisciplinary analyses of legal issues related to the "virtual geography created by interconnected computers and networks," a.k.a. Cyberspace.

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Evaluation:  The course grade will depend on a midterm and either (your choice), a take-home final exam or a paper. The only restriction on the topic of the paper is that it should be broadly related to the theme of the course.

Required Text:
Recommended Reading:
LAWRENCE D. GRAHAM, Legal Battles that Shaped the Computer Industry (Quorum Books, 1999). (Referred to as "Legal Battles").
LAWRENCE LESSIG, Code and Other Laws of Cyberspace (Basic Books, 1999). (Referred to as "Code").
CLIVE GRINGRASS, The Laws of the Internet (Butterworths, 1997).
ROSEN, The Unwanted Gaze.
FERRERA et al., CyberLaw Text and Cases (South-Western College Publishing, 2001).
LEE B. BURGUNDER, Legal Aspects of Managing Technology, 2d ed. (West Publishing Company, 2001.)

SYLLABUS

0. INTRODUCTION TO CYBERSPACE.
   GRINGRASS, The Laws of the Internet, Chapter 1.

I. JURISDICTION IN CYBERSPACE: The Long Arm of the Law Reaches over the Internet.
   Ferrera et al., CyberLaw, Chapter 2; Code, Chapter 14 ("Sovereignty.")
   Bagley, p. 93, "Personal Jurisdiction and the Web."

II. INTELLECTUAL PROPERTY.
   Introduction [Legal Battles, pp. 7 - 15 ["Legal Protection for Hardware and Software: A Primer."]]
   Principles of patent and copyright law (Bagley, pp. 367 - 89.)
   The Napster Case:
      Legal Issues:

Economic and Game Theoretic Perspective: M. Boldrin & D.K. Levine, "Why Napster is Right."

Available at levine.sscnet.ucla.edu/general/intellectual/napster.htm.

Software Patents [Legal Battles, pp. 140-47.]

Who Owns Programming Languages? [Legal Battles, pp. 93-101.]

User Interface Battles

Bagley, pp. 389-91.

Legal Battles, Chapter III, pp. 53-75 ["The Big Deal with Look and Feel."]

Reverse Engineering

Bagley, pp. 391-392 - "Registered Mask Work."

Legal Battles, pp. 111-118 ["Subversive Techniques: Reverse Engineering."]


Trademarks

Bagley, pp. 392-402.

Legal Battles, pp. 126-31.

Internet Domain Names

Bagley, pp. 403-404.


Trade Secrets

Bagley, pp. 403-411.

Technology Licensing

Bagley, pp. 411-416.

Legal Battles, pp. 151-55 ["Computer Chip Wars."]

III. PRIVACY AND SURVEILLANCE IN CYBERSPACE.

Bagley, pp. 542 - 47 ("Searches employing new technology."


Code, Chapter 9.
For a comprehensive treatment of the subject, see ROSEN, The Unwanted Gaze.

IV. FREE SPEECH AND DEFAMATION IN CYBERSPACE.

Introduction to freedom of speech & First Amendment
Bagley, pp. 68-73.
L. Rev. 7 (1986). Especially section "First Amendment primer."
Code, Chapter 12.
Economic perspective: Ray Ibrahim, Giving the Internet an Acid Bath of
Economics: Electronic Defamation Viewed through a New Lense, 2 Va. J.L. &
Tech. 5 (Fall 1997).
Defamation on the Internet: Burgunder, pp. 526-534.

V. PRODUCT LIABILITY.

5.1 Introduction.
Bagley, Chapter 10.
Richard A. Epstein, Torts (Aspen, 1999), Chapters 15, 16.
Handout from "Technological Risk and Issue Preclusion," product defect
and analysis of untaken precaution.
American Law and Economics Review, Spring 2000 vol 2 # 1, Viscusi
article on value of a life.

5.2 Application.

5.3 Circumstantial Evidence - Doctrine of Res Ipsa Loquitur

5.3.1 Introduction
Keeton and Prosser on the Law of Torts, Ch. 6, §39, pp. 242-257;

5.3.2 Illustrative Cases
Escola v. Coca-Cola Bottling Co. of Fresno, 150 P.2d 436 (Cal. 1944).

5.3.3 Probabilistic Analysis of Res Ipsa Loquitur:

5.3.4 Fuzzy Logic Approach to Res Ipsa Loquitur:

5.3.5 Application: Malevolent Software.
M. de Villiers, Virus Ex Machina Res Ipsa Loquitur.

VI. ANTITRUST

6.1 Introduction.
Bagley, Chapter 18.

6.2 Concept of market power.
Shenefield and Stelzer, Chapter 5 (The Analytical Framework: Markets and Market Power), Appendix B (The Herfindahl-Hirschman Index).

6.3 Mergers and acquisitions
Shenefield and Stelzer, Chapter 8 (Mergers and Acquisitions).
Hovenkamp, Chapter 11

6.4 Tying arrangements
Hovenkamp, Chapter 8.
Shenefield and Stelzer, Chapter 9.
Illustrative case: United States v. Microsoft Corporation

Background of Microsoft case
Bagley, pp. 691-694.
N. Economides, Preliminary Analysis of U.S. v. Microsoft.
Available at: http://raven.stern.nyu.edu/networks/ms/top.html.
N. Economides, Competition and Vertical Integration in the Computer industry. Available at: http://raven.stern.nyu.edu/networks/ms/top.html.
[Click on "Competition in the Computer Industry."]
N. Economides, Remedies in the Case of US v. MS
Available at http://raven.stern.nyu.edu/networks/ms/remedies.htm.
Liebowitz and Margolis, Winners, Losers & Microsoft. Chapters I, II and Appendix.
Burgunder, Law for Technology Management: Section on Microsoft case