

Online Instructor's Manual
to accompany

Cyberlaw: The Law of the Internet and Information Technology

1st Edition

Brian Craig
Globe University/Minnesota School of Business

Prentice Hall

Boston Columbus Indianapolis New York San Francisco Upper Saddle River

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To the Instructor

Cyberlaw is the field of law dealing with the Internet, encompassing cases, statutes, regulations, and disputes that affect people and businesses interacting through computers. With the ever-expanding role of the Internet and technology in people's lives, cyberlaw is at the heart of many legal and policy issues today. Since the Internet is a fluid and dynamic medium, cyberlaw is a field of law that changes rapidly and it is important to stay current with recent trends. Many students today will have an affinity for technology and that affinity can be used as a motivator to help students learn more about the legal and policies issues associated with the Internet. Recent judicial opinion, pending legislation, and news stories can be used as helpful examples. This instructor's manual supplements the material in the text and serves as a guide for lesson plans and teaching the material. Feedback and comments from instructors is certainly welcome and can be directed to the author, Brian Craig, at: [bcraig\(@msbcollege.edu\)](mailto:bcraig@msbcollege.edu).

Syllabi

MODEL SYLLABUS AND COURSE OUTLINE (10 Week)

Course Title:
Credit Hours:
Prerequisite(s):
Instructor:
Phone:
Email:

Course Number:
Term:
Meeting Time:

Office Location and Office Hours:

Course Description: The course explores the legal and policy issues associated with the Internet and cyberspace. The course will focus on cases, statutes, regulations, and constitutional provisions that affect people and businesses interacting through computers and the Internet. Topics include intellectual property, e-commerce, online contracts, cybercrimes, torts, and privacy issues.

Objectives:

Upon successful completion of this course, students are expected to:

1. Describe the history and development of the Internet.
2. Discuss jurisdictional issues in cyberspace.
3. Explain the scope of copyright protection for online content and the fair use defense.
4. Describe the purpose and major provisions of the Digital Millennium Copyright Act.
5. Explain the scope of trademark protection for Internet content, software, and other technology related products and services.
6. Explain the scope of patent protection for Internet patents and what is meant by obviousness.
7. Compare and contrast clickwrap agreements and browsewrap agreements
8. Explain the enforceability of e-contracts.
9. Discuss tax-related issues in the online environment.
10. Explain the main federal statutes associated with computer crimes and the penalties associated with cybercrimes.
11. Describe the different tort actions available the online environment, including invasion of privacy.
12. Explain the scope of the First Amendment freedom of speech and the press in the Internet age.
13. Discuss the scope and immunity provision under the Communications Decency Act.
14. Explain the right of privacy in the online environment afforded under the U.S. Constitution, state constitutions, and statutes.
15. Explain the legal and policy issues surrounding privacy with social networking sites, search queries, online advertising, data mining, online privacy policies, and workplace policies.

Text: Brian Craig, *Cyberlaw: The Law of the Internet and Information Technology*, 1st ed., Prentice Hall, 2012. (ISBN 10: 0-13-256087-9; ISBN 13: 978-0-13-256087-0).

Instructional Methods: This course combines lecture, class discussion and writing assignments. Guest speakers and video/audio materials may also be used.

Grading: The student's final grade will be determined on a percentage system. Grades are determined as follows:

Written Assignments:	50%
Final Exam:	20%
Quizzes:	20%
Class Participation:	10%
Total:	100%

The following grade scale is used to determine the student's final grade:

A = 90-100%
B = 80-89%
C = 70-79%
D = 60-69%
F = 0-59%

Attendance: Students are expected to attend every class. Since part of your grade is based on class participation, attendance is important. If you expect to be absent, please let the instructor know as soon as possible.

Academic Honesty: Students who violate the school's academic honesty policy face severe consequences. Please refer to university catalog for more information on academic honesty.

Week 1

Reading: Chapter 1

Topic: Introduction to Cyberlaw; Jurisdiction

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 2

Reading: Chapter 2

Topics: Introduction to Intellectual Property; Copyrights

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 3

Reading: Chapter 3

Topic: Trademarks; Domain names

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 4

Reading: Chapter 4

Topics: Patents; Trade Secrets

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 5

Reading: Chapters 5-6

Topics: E-Commerce; Online Contracts; Online Tax Related Issues

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 6

Reading: Chapter 7

Topics: Computer Crimes

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 7

Chapter 8

Topics: Torts; Invasion of Privacy

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 8

Reading: Chapter 9

Topics: Online Speech and Defamation

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 9

Reading: Chapters 10-11

Topics: Constitutional and Statutory Privacy Protections; Special Topics in Online Privacy (e.g. Data Mining, Online Privacy Policies)

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 10

Topic: Review for Final Exam

Assessment: Final Exam

MODEL SYLLABUS AND COURSE OUTLINE (16 Week)

Course Title:
Credit Hours:
Prerequisite(s):
Instructor:
Phone:
Email:

Course Number:
Term:
Meeting Time:

Office Location and Office Hours:

Course Description: The course explores the legal and policy issues associated with the Internet and cyberspace. The course will focus on cases, statutes, regulations, and constitutional provisions that affect people and businesses interacting through computers and the Internet. Topics include intellectual property, e-commerce, online contracts, cybercrimes, torts, and privacy issues.

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Upon successful completion of this course, students are expected to:

1. Describe the history and development of the Internet.
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5. Explain the scope of trademark protection for Internet content, software, and other technology related products and services.
6. Explain the scope of patent protection for Internet patents and what is meant by obviousness.
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13. Discuss the scope and immunity provision under the Communications Decency Act.
14. Explain the right of privacy in the online environment afforded under the U.S. Constitution, state constitutions, and statutes.
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The following grade scale is used to determine the student's final grade:

A = 90-100%
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Academic Honesty: Students who violate the school's academic honesty policy face severe consequences. Please refer to university catalog for more information on academic honesty.

Week 1

Reading: Chapter 1

Topic: Introduction to Cyberlaw; Jurisdiction

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 2

Reading: Chapter 2

Topics: Introduction to Intellectual Property

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 3

Reading: Chapter 2

Topics: Copyrights

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 4

Reading: Chapter 3

Topic: Trademarks; Domain names

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 5

Reading: Chapter 4

Topics: Patents; Trade Secrets

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 6

Reading: Chapters 5

Topics: E-Commerce; Online Contracts

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 7

Reading: Chapter 6

Topics: Online Tax Related Issues

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 8

Reading: Chapter 7

Topics: Computer Crimes

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 9

Reading: Chapter 7

Topics: Computer Crimes

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 10

Reading: Chapter 8

Topics: Torts; Invasion of Privacy

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 11

Reading: Chapter 9

Topics: Online Speech and Defamation

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 12

Reading: Chapter 9

Topics: Online Speech and Defamation

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 13

Reading: Chapter 10

Topics: Constitutional Privacy Protections

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 14

Reading: Chapter 10

Topics: Statutory Privacy Protections

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 15

Reading: Chapter 11

Topics: Special Topics in Online Privacy (e.g. Data Mining, Online Privacy Policies)

Assignments:

(Select various assignments from Case Questions, Review Questions, Discussion Questions, and Exercises.)

Week 16

Topic: Review for Final Exam

Assessment: Final Exam

Chapter 1

Jurisdiction and Venue in Cyberspace

CHAPTER OVERVIEW

Chapter 1 provides an introduction to the history and development of the Internet. This chapter also provides an introduction to cyberlaw and jurisdictional matters in cyberspace. In addition, this chapter addresses what contacts are sufficient to satisfy the Due Process Clause for personal jurisdiction, particularly in the context of Internet transactions and maintaining a website.

CHAPTER OBJECTIVES

1. Explain the history of the Internet.
2. Describe the different types of jurisdiction, including subject matter jurisdiction, personal jurisdiction, and in rem jurisdiction.
3. Discuss how service of process plays a critical role in the commencement of litigation and how service of process can be effectuated via electronic means.
4. Explain what activities are considered minimum contacts for a website owner and the sliding scale used by courts for passive and active website.
5. Describe the purpose of a choice of law provision and a forum selection clause in an online contract.

LECTURE OUTLINE

HISTORY AND DEVELOPMENT OF THE INTERNET

INTRODUCTION TO CYBERLAW

JURISDICTION IN CYBERSPACE

Personal Jurisdiction

Subject Matter Jurisdiction

In Rem Jurisdiction

LONG ARM STATUTES AND DUE PROCESS

Finding the Long-Arm Statute in a Particular State

Constitutional Protections of Due Process

International Shoe Co. v. Washington, 326 U.S. 310 (1945)

CHOICE OF LAW PROVISION

VENUE

Enforceability of Forum Selection Clause

FULL FAITH AND CREDIT CLAUSE

ADDITIONAL ASSIGNMENTS AND CLASS ACTIVITIES

Instructors may consider using more recent cases in their jurisdiction to find other cases dealing with exercising personal jurisdiction over a non-resident defendant with the Internet by running a search on Westlaw with the West Key Number for 106k13.3(12). Here is the hierarchy for this West Key Number:

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k13.1 Actions by or Against Nonresidents, Personal Jurisdiction In; “Long-Arm” Jurisdiction

106k13.3 Factors Considered in General

106 k13 .3(12) k. Internet use.

Instructors may also consider using the Discussion Questions at the end of the chapter for classroom discussion of policy issues. The Case Questions at the end of the featured cases, and Exercises at the end of the chapter can also be used as additional assignments or as in-class activities.

SUGGESTED ANSWERS TO END-OF-CHAPTER ASSIGNMENTS

Answers to Review Questions

1. Explain the history of the Internet.

Answer: The history of the Internet can be traced back to a military research network established in 1968 called the Arpanet, which was sponsored by the Advanced Research Projects Agency (ARPA) of the U.S. Department of Defense.

2. Explain the difference between subject matter jurisdiction, personal jurisdiction, and in rem jurisdiction.

Answer: In rem jurisdiction is a court’s power to adjudicate the rights to a given piece of property, including the power to seize and hold it. Personal jurisdiction is a court’s power to bring a person into its adjudicative process; jurisdiction over a defendant’s personal rights, rather than merely over property interests. Subject matter jurisdiction is jurisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things.

3. What is required to maintain personal jurisdiction over a nonresident defendant who operates a website?

Answer: Courts apply the minimum contacts test under *International Shoe*. If the defendant has sufficient minimum contacts in the forum state, a court will likely find that there is no violation of the Due Process Clause for the court to exercise jurisdiction. Courts apply a sliding scale for website owners and operators, and generally hold that a passive website for advertising along

does meet the requirements for minimum contacts. A court will more likely exercise personal jurisdiction over an interactive website where the defendant purposely avails themselves of the forum state and exercise of personal jurisdiction would be reasonable and fair.

4. Explain the difference between a choice of law clause and a forum selection clause. Why would a company include these provisions in an online agreement?

Answer: A company may include a choice of law clause and a forum selection clause in an online agreement to avoid the time and cost of litigating disputes. The choice of law provision provides the law of a particular state, such as California state law, will govern any dispute that arises under the contract.

Chapter 2

Copyright Law in the Digital Age

CHAPTER OVERVIEW

Chapter 2 starts by providing an introduction to intellectual property law by comparing and contrasting copyrights, trademarks, patents, and trade secrets. The rest of the chapter focuses on copyright law, which stands at the forefront of legal issues related to the Internet. This chapter also focuses on the scope of copyright protection, copyright notice, copyright registration, copyright duration, and the fair use defense with respect to computers and new technology.

CHAPTER OBJECTIVES

1. Compare and contrast copyright law with other areas of intellectual property law.
2. Explain the scope of copyright protection for websites and software.
3. Describe the benefits of copyright notice and copyright registration.
4. Discuss the four fair use defense factors and how courts apply these factors in a copyright infringement action.
5. Explain the major provisions of the Digital Millennium Copyright Act.

LECTURE OUTLINE

INTRODUCTION TO INTELLECTUAL PROPERTY

SCOPE OF COPYRIGHT LAW

COPYRIGHT NOTICE

COPYRIGHT REGISTRATION

COPYRIGHT DURATION

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA)

INFRINGEMENT

COPYRIGHT INFRINGEMENT DEFENSES

INTERNATIONAL ENFORCEMENT OF COPYRIGHTS

ADDITIONAL ASSIGNMENTS AND CLASS ACTIVITIES

Instructors may consider finding and showing a particular video on YouTube and then lead a class discussion on whether the video is an infringement on any copyright interests. Discuss and analyze the four fair use defense factors. Then decide how the owner could file a DMCA complaint. One potential in-class activity could be to divide the class into two groups and then

hold a simulation of oral arguments involving the appeal in the *Viacom v. YouTube* litigation. One group would represent Viacom and the other group would represent YouTube with the instructor or others acting as

Consider using the Discussion Questions at the end of the chapter for classroom discussion of policy issues. The Case Questions at the end of the featured cases, and Exercises at the end of the chapter can also be used as additional assignments or as in-class activities.

SUGGESTED ANSWERS TO END-OF-CHAPTER ASSIGNMENTS

Answers to Review Questions

1. What types of works are exempt from copyright protection? Give specific examples of websites that have content that are not protected by copyright law.

Answer: Copyright law does not protect the following works:

- Works that have not been fixed in a tangible form of expression.
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration
- Works consisting entirely of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources)

One example states in the text of a website that has not content not protected by copyright law is a website for online fantasy baseball with Major League Baseball (MLB) statistics. MLB baseball statistics are not protected by copyright as stated by the court in *C.B.C. Distribution & Marketing, Inc. v. Major League Baseball Advanced Media, L.P.*, 505 F.3d 818 (8th Cir. 2007). A website that contains weather data is another example of content that is not protected by copyright law.

2. What is the duration of a copyright for a work made for hire?

Answer: For works made for hire and anonymous and pseudonymous works created after 1978, the duration of copyright is 95 years from first publication or 120 years from creation, whichever is shorter (unless the author's identity is later revealed in Copyright Office records, in which case the term becomes the author's life plus 70 years).

3. What types of works are considered works for hire?

Answer: Works created by employees for the employer or for an independent contractor are considered works for hire. For example, original content on a website developed by an employee is considered a work for hire.

4. What are the benefits of copyright registration with the U.S. Copyright Office?

Answer: Registration is a pre-requisite for a copyright infringement action. Registration is also prima-facie evidence and entitled the copyright owner to statutory fees and attorneys' fees.

5. What are the four fair use defense factors? Provide examples of each factor.

Answer: The fair use defense factors are: 1) the purpose and character of the use; 2) the nature of the copyrighted work; 3) the amount of the work used; and 4) the economic impact of the use. Examples will vary.

6. What is the meaning in transformative use?

Answer: Transformative use means adding something new to the work.

7. What is the safe harbor provision under the Digital Millennium Copyright Act?

Answer: The DMCA includes a “safe harbor” provision that allows websites and Internet service providers to avoid liability for copyright infringement if they follow certain procedural safeguards. The DMCA “safe harbor” provision in 17 U.S.C. § 512(c), (m) and (n) is designed to relieve websites from the burden of checking user-generated material before the content is posted. The DMCA includes a takedown notice procedure.