

Cyberlaw Syllabus
Spring 2007
Room 202, South Hall
Thursday, 3:30-6:30 PM

Format:

The class will run three hours. Each class will be divided into two parts, with one 20-minute break. For each class, a pre-assigned group of students will be “on call” to help guide class discussion. Grades will be based primarily on written work in the form of either two short papers or one longer paper. Class participation will also count as 25% of your grade.

Contact Info:

Jason Schultz
Electronic Frontier Foundation
Jason@eff.org
(415) 436-9333 x 112

Casebook:

Lemley, Menell, Merges & Samuelson, *Software and Internet Law* (3rd Ed.), Aspen Publishing, 2006.

January 18: Introduction to the Course

- News Reports on Second Life Attack Spur Copyright Threats
 - <http://secondlife.reuters.com/stories/2007/01/05/anshe-chung-studios-cracks-down-on-griefing-photos/>
 - <http://www.theage.com.au/news/web/miscreants-stage-membersonly-attack/2006/12/21/1166290662836.html>
 - http://www.boingboing.net/2006/12/21/second_life_griefers.html
- David R. Johnson & David G. Post, *And How Shall the Net Be Governed? A Meditation on the Relative Virtues of Decentralized, Emergent Law*
 - available at <http://www.cli.org/emdraft.html>
- Michael Froomkin, An Introduction to the “governance” of the Internet
 - <http://www.law.miami.edu/~froomkin/seminar/ilsx.htm>

Recommended:

- Tim Wu, Copyright’s Communication Policy
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=532882

Questions to consider:

1. Who should decide how the Internet is to be governed?

2. What process would seem fair to you for governing the Internet?
3. How should disputes between governance policies be resolved?
4. What role should law play vis-à-vis technological advancement, markets, or social norms?
5. What mechanisms should be used to enforce governance decisions?
6. How should different cultural values be respected online?

January 25: Indecent Speech on the Internet

- *Reno v. ACLU*, 117 S.Ct. 2329 (1997)
 - (casebook at 869-884).
 - Full opinion at http://www.ciec.org/SC_appeal/opinion.shtml
- *Ashcroft v. ACLU* (“Ashcroft II”), 124 S.Ct. 2783 (2004)
 - (casebook at 886-894)
 - available at <http://lawgeek.typepad.com/Cyberlaw/CHAPTER11.pdf>
 - Also read Breyer’s dissent
 - <http://www.cdt.org/speech/copa/20040629copadecision.pdf>
- 18 U.S.C. § 2256-7
 - <http://www4.law.cornell.edu/uscode/18/2256.html>
 - <http://www4.law.cornell.edu/uscode/18/2257.html>
- Department of Justice Final Rulemaking re: 2257 Record-keeping Regulations
 - <http://www.freespeechcoalition.com/pdf/70FR29607%20%20.pdf>

Recommended:

- Lawrence Lessig, *The Law of the Horse*, 113 HARV. L. REV. 501 (1999)
 - <http://cyber.law.harvard.edu/works/lessig/finalhls.pdf>
- *American Library Ass’n, Inc. v. United States* (2002)
 - <http://www.cdt.org/speech/cipa/030623decision.pdf>
- EFF Amicus in *Nitke v. Ashcroft*
 - http://www.eff.net/legal/cases/Nitke_v_Ashcroft/nitke_v_ashcroft_amicus.html

Questions to consider:

1. Were *ACLU v. Reno* and *Ashcroft v. ACLU* consistent in their approach to Internet governance?
2. Under these decisions what, if anything, can Congress do to limit what children can view on the Internet?
3. How does one define the standards of a community in cyberspace?
4. What mechanisms should we use, if any, to enforce those standard? (Consider both legal and technological means).
5. What are the purpose and effect of the 2257 record keeping regulations?
 - a. Is 2257 consistent with *ACLU v. Reno* and *Ashcroft v. ACLU*?

February 1: Conflicting National Regulations in a Global Internet Environment

- *League Against Racism and Antisemitism v. Yahoo! Inc., County Court of Paris* (2000)
 - <http://www.cdt.org/speech/international/20001120yahoofrance.pdf>
- Joel Reidenberg, *The Yahoo Case and the International Democratization of the Internet*, Fordham Law and Economics Research Paper No.11, April 2001
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=267148
- *Yahoo Inc. v. La Ligue Ccontre Le Racisme et L'antisemitisme*, 433 F.3d 1199 (9th Cir. Jan. 12, 2006)
 - (casebook at 605-617)
- Reporters without Borders, *Do Internet companies need to be regulated to ensure they respect free expression?*, January 6, 2006.
 - http://www.rsf.org/article.php3?id_article=16110

Recommended:

- Readings on the Great Chinese Firewall
 - http://en.wikipedia.org/wiki/Internet_censorship_in_mainland_China
 - http://www.businessweek.com/technology/content/jan2006/tc20060112_434051.htm
- *Cybersell v. Cybersell*, 130 F.3d 414 (9th Cir. 1997)
 - (casebook at 570-576)
 - <http://laws.lp.findlaw.com/9th/9617087>
- *Dow Jones v. Gutnick*
 - (casebook at 617-627)

Questions to consider:

1. Do you agree with Reidenberg that the French Yahoo! decision was good for Internet democracy? Why or why not?
 - a. Does his solution scale? What does this look like if it does?
 - b. How would this affect other aspects of the Internet, e.g. email, file transfers (e.g. Peer to Peer or FTP), Internet telephone calls (e.g. VoIP)?
2. What duty should online service providers like Yahoo have to enforce these rules?
3. Why do you think Yahoo chose to pull the material rather than use filters?
4. Do you agree that Yahoo should be subject to French jurisdiction over content hosted on U.S. based servers?
5. Should sales of Nazi memorabilia be treated differently than sales of used underwear, pet hamsters, or NFL gambling ads?
 - a. What about web pages claiming the Holocaust was a hoax vs. other web pages with false information?
6. Do we lose anything if we allow a “segregated” Internet?

February 8: Legal Efforts to Protect Digital Privacy

- *Smyth v. Pillsbury Co.*, 914 F.Supp. 97 (E.D. Pa 1996)
 - (casebook at 915-917)
- *United States v. Councilman*, 418 F.3d 67 (1st Cir. 2005).

- http://www.eff.org/legal/cases/US_v_Councilman/councilman_decision.pdf
- Theofel v. Farey-Jones, 341 F.3d 978, 982 (9th Cir. 2003)
 - <http://www.legalethics.com/include/content/ethics/arts/FareyJones.pdf>
- United States v. Ropp
 - (casebook at 926-931)
 - Available at <http://lawgeek.typepad.com/Cyberlaw/PrivacyReadings.pdf>

Recommended:

- Pamela Samuelson, *Privacy as Intellectual Property?*, 52 Stanford L. Rev. 1125 (2000), available at <http://www.sims.berkeley.edu/~pam/papers.html>
- Jerry Kang, *Information Privacy in Cyberspace Transactions*, 50 Stan. L. Rev. 1193 (1998), http://www1.law.ucla.edu/~kang/Scholarship/Kang_Cprivacy.pdf

Questions to consider:

1. What is privacy?
 - a. How do we define it?
 - b. Is it different in the physical world vs. the online world?
 - c. In email vs. while web surfing?
 - d. How do we enforce privacy protections in the physical world?
2. Do these cases come out the right way to protect privacy?
 - a. Are there downsides to the approaches these courts took?
3. What future challenges to privacy should we be prepared for?

February 15: Technological Protections for Digital Privacy

- Dick Hardt, Identity 2.0, OSCON Keynote, July 2005
 - <http://www.identity20.com/media/OSCON2005/>
- Bruce Schneier, Why Cryptography Is Harder Than It Looks
 - <http://www.schneier.com/essay-037.html>
- Onion Routing as a tool for anonymity
 - <http://tor.eff.org/overview.html.en>
- FTC Report on Online Privacy, Fair Information Practice Principles
 - <http://www.ftc.gov/reports/privacy3/fairinfo.htm#Fair%20Information%20Practic%20Principles>
- Platform for Privacy Preferences
 - <http://www.w3.org/P3P/brochure.html>
- Electronic Privacy Information Center and Junkbusters, Pretty Poor Privacy: An Assessment of P3P and Internet Privacy (June 2000)
 - <http://www.epic.org/reports/pretypoorprivacy.html>

Recommended:

- The Web Bug FAQ, by Richard M. Smith (Nov. 11, 1999), http://www.eff.org/pub/Privacy/Profiling_cookies_webbugs/web_bug.html

- Protecting Free Expression Online with Freenet, IEEE Internet Computing (Jan/Feb 2002)
 - <http://freenet.sourceforge.net/papers/freenet-ieee.pdf>

Questions to consider:

1. Strong encryption has been available to protect online privacy for almost a decade now.
 - a. Why don't more people use it?
2. Will P3P work? Will anything?
3. Is Schneier right?
4. How do these technologies affect enforcement of cases like *Yahoo! France* or *ACLU v. Ashcroft*?
5. Are there any downsides to protecting privacy on the Internet?
 - a. Do they displace any of the benefits?

February 22: Law and Ethics of Hacking

- Wikipedia: Hacker
 - <http://en.wikipedia.org/wiki/Hacker>
- Shurgard Storage Centers v. Safeguard Self Storage, 119 F.Supp.2d 1121 (W.D.Wa 2000)
 - http://lawgeek.typepad.com/Westlaw_Document_01_07_36_6068.pdf
- Int'l. Ass'n. of Machinists and Aerospace Workers v. Werner-Matsuda, No. 2004-2552 (D. Md. Sept. 16, 2005)
 - http://www.mdd.uscourts.gov/Opinions152/Opinions/04_2552_IAM_Werner_Matsuda_Memo.pdf
 - (pages 32-44)
- eBay v. Bidder's Edge, 100 F.Supp.2d 1058 (N.D. Cal. 2000)
 - (casebook at 995-1002)

Recommended:

- Patrick S. Ryan, War, Peace, or Stalemate: Wargames, Wardialing, Wardriving, and the Emerging Market for Hacker Ethics, Virginia Journal of Law & Technology, Vol. 9, No. 7, Summer 2004
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=585867
- Randal Picker, Cyber Security: Of Heterogeneity and Autarky (August 2004)
 - http://www.law.uchicago.edu/Lawecon/WkngPprs_201-25/223-rcp-cybersecurity.pdf
- Orin S. Kerr, Cybercrime's Scope: Interpreting "Access" and "Authorization" in Computer Misuse Statutes, 78 N.Y.U. L. REV. 1596 (2003)
- Pearl Investments, LLC v. Standard I/O, Inc., 257 F.Supp.2d 326 (D. Maine 2003)
 - [http://homepages.law.asu.edu/~dkarjala/cyberlaw/PearlInvestmentsVStandard\(DMaine2003\).htm](http://homepages.law.asu.edu/~dkarjala/cyberlaw/PearlInvestmentsVStandard(DMaine2003).htm)
- EF Cultural Search Term End Travel BV v. Zefer, 318 F.3d 58, 61 (1st Cir. 2003)
 - <http://laws.lp.findlaw.com/1st/012001.html>

March 1: Liability for Posting Information Unlawfully Obtained by Others

- *Bartnicki v. Vopper*
 - (casebook at 946-995)
 - Full decision at: <http://supct.law.cornell.edu/supct/html/99-1687.ZS.html>
- *Pavlovich v. Superior Court*, 29 Cal.4th 262 (2002)
 - Read pages 1-20 of majority opinion, pages 1-2 of dissent
 - http://www.eff.org/IP/Video/DVDCCA_case/20021125_pavlovich_opinion.pdf
- *DVD-CCA v. Bunner*, 116 Cal.App.4th 241 (6th App. 2004)
 - http://www.eff.org/IP/Video/DVDCCA_case/20040227_Decision.pdf

Recommended:

- *RTC v. Lerma*, 908 F.Supp. 1362 (E.D.Va. 1995)
 - http://www.amquix.info/scientology_v_lerma.html

Questions to consider:

1. Is one's duty re: stolen property found on the street the same as one's duty re: stolen information found on the web?
2. Can a trade secret ever be protected if it is posted to the Internet?
3. The *Bunner* case was dismissed before reaching trial after the preliminary injunction was denied.
 - a. What do you think would have happened at trial?
 - b. What evidence do you think DVD-CCA could have put forth to support its trade secret claim, if any?
4. How do these rules comport with the privacy rules we attempt to enforce?

March 8: Copyright in Cyberspace: Why Digital Makes a Difference

- Digital Remix Material To Review for Class (View at least three)
 - Hey Ya Charlie Brown!
 - <http://www.jengajam.com/r/Hey-Ya-Charlie-Brown/>
 - Powerful Pictures
 - <http://www.law.duke.edu/cspd/contest/finalists/entries/powerfulpictures.m>
[p4](#)
 - Red v. Blue
 - <http://www.bungie.net/Games/Halo/>
 - <http://www.redvsblue.com>
 - http://files.redvsblue.com/3xTG/RvB_TG_LoRes.mov
 - "This Land" by JibJab
 - <http://www.jibjab.com/Home.aspx>
 - (Click on "This Land")
 - let them sing it for you
 - <http://www.sr.se/p1/src/sing/index.htm>

- Trailer Mashups
 - <http://www.thetrailermash.com/10-things-i-hate-about-commandments-comedy/>
 - <http://www.thetrailermash.com/shining-romantic-comedy/>
 - <http://www.thetrailermash.com/brokeback-to-the-future-parody/>
- Pamela Samuelson, Copyright Grab, 4.01 WIRED 135 (1996)
 - <http://www.wired.com/wired/archive/4.01/white.paper.html>
- John Perry Barlow, *The Economy of Ideas*, 2.03 WIRED 84 (1994),
 - <http://www.wired.com/wired/archive/2.03/economy.ideas.html>

Recommended:

- Edward Felten, *Rip, Mix, Burn, Sue: Technology, Politics, and the Fight to Control Digital Media*, 2004 Princeton University President's Lecture.
 - Video and Audio: <http://www.cs.princeton.edu/~felten/rip/>
- Intellectual Property and the National Information Infrastructure: Report of the Working Group on Intellectual Property Rights (Sept. 1995)
 - <http://www.uspto.gov/web/offices/com/doc/ipnii/>
- WIPO Copyright Treaty
 - www.jus.uio.no/lm/wipo.copyright.treaty.1996/doc.html
- Jessica Litman, *Digital Copyright* (2001)
- Paul Edward Geller, *From Patchwork to Network: Strategies for International Intellectual Property in Flux*, 31 Vand. J. Transn'l L. 553 (1998)
 - http://papers.ssrn.com/paper.taf?abstract_id=185868

Questions to consider:

1. Barlow wrote his essay for Wired in 1994.
 - a. What has changed since he wrote this essay?
 - b. How was he right?
 - c. How was he wrong?
2. Do we need new rules for copyright because of digital media?
 - a. How will we know if we do or don't?
 - b. Is there any empirical evidence we should examine?
3. Should any of the digital remix examples be illegal without permission?
 - a. If so, why?
4. Should any of the original artists be compensated for the material used in the remixes?
 - a. If so, how?

March 15: Copyright Liability for Intermediaries on the Internet

- 17 U.S.C § 512
 - http://assembler.law.cornell.edu/uscode/html/uscode17/usc_sec_17_00000512----000-.html
- *Metro-Goldwyn-Mayer, Inc. v. Grokster*, 125 S. Ct. 2764 (2005)

- http://www.eff.org/IP/P2P/MGM_v_Grokster/04-480.pdf
- Douglas Lichtman and Eric Posner, *Holding Internet Service Providers Accountable* (July 2004), pp. 1-31
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=573502

Recommended:

- *CoStar Group Inc., v. Loopnet, Inc.*, 373 F.3d 544 (4th Cir. 2004)
 - http://www.eff.org/legal/ISP_liability/CoStar_v_Loopnet/20040621CoStarOpinion.pdf
- *Online Policy Group et al. v. Diebold, Inc.*, 337 F.Supp.2d 1195 (N.D. Cal. 2004)
 - http://www.eff.org/legal/ISP_liability/OPG_v_Diebold/20040930_Diebold_SJ_Order.pdf

Questions to consider:

1. What responsible, if any, should intermediaries have for copyright infringement online?
2. What is the most efficient way to enforce copyrights online?
 - a. What are the pros?
 - b. What are the cons?
3. Who is more persuasive, Lichtman and Posner or the Supreme Court in *Grokster*?

March 22: Other Liabilities for Intermediaries on the Internet

- *Zeran v. America OnLine, Inc.*, 129 F.3d 327 (4th Cir. 1997)
 - (casebook at 859-8865)
- *Blumenthal v. Drudge*, 992 F. Supp. 44 (D.D.C. 1998)
 - (casebook at 865-869)
- Chicago Lawyer's Committee v. Craigslist
 - http://www.eff.org/legal/cases/clc_v_craigslist/craigslist_decision.pdf
- *Court rules that Heise is immediately liable for reader comments*
 - <http://www.heise.de/english/newsticker/news/67029>

Recommended:

- Susan Friewald, *Comparative Institutional Analysis in Cyberspace: The Case of Intermediary Liability for Defamation*, 14 Harv. J. L. & Tech. 569 (2001)
- Maureen O'Rourke, *Fencing Cyberspace: Drawing Borders in a Virtual World*, 82 Minn. L. Rev. 609 (1998)

Questions to consider:

1. Should defamation be treated differently with respect to intermediaries than intellectual property violations? Why or why not?
2. Do you agree with the approach in *Zeran* or *Craigslist* more?
3. If you were an online publisher, how would you design your system to handle content?

- a. From staff writers
- b. From freelance writers
- c. Comments from the public

MARCH 29: SPRING BREAK

APRIL 5: Much Ado About SPAM

Part One: Why Regulating Spam is Difficult

- Business Software Alliance, *Consumer Attitudes Toward Spam in the United Kingdom*, Dec. 9, 2004
 - <http://lawgeek.typepad.com/BSASpam.pdf>
- *CompuServe, Inc. v. Cyberpromotions, Inc.*, 962 F. Supp. 1015 (S.D. Ohio 1997)
 - (casebook at 977-985)
- *Watchtower Bible & Tract Society v. Village of Stratton*, 122 S.Ct. 2080 (2002)
 - Read majority opinion only
 - <http://supct.law.cornell.edu/supct/pdf/00-1737P.ZO>
- *Omega Travel v. Mummagraphics*.
 - <http://caselaw.findlaw.com/data2/circs/4th/052080p.pdf>

Recommended:

- Claudia Sarrocco *et al.*, [Spam in the Information Society: Building Frameworks for International Cooperation](#)
- *ACLU of Georgia v. Miller*, 977 F. Supp. 1228 (N.D. Ga. 1997) (striking down state law forbidding anonymous or pseudonymous communications)
 - http://people.hofstra.edu/faculty/peter_j_spiro/cyberlaw/miller.htm

Questions to consider:

1. What are the negative impacts on society of spam, if any?
2. Compare the court's approach in *CompuServe* with the CAN-SPAM Act. What are the pros and cons of each?
3. How do you square the rule in *Watchtower Bible* with CAN-SPAM? Does CAN-SPAM survive under a *Watchtower* challenge?
4. What is the difference between spam and physical junk mail?
 - a. Between spam and roadside billboards?
 - b. Between spam and ads on buses?

Part Two: Technological solutions and tradeoffs

- Microsoft, [Sender ID for E-mail](#)
 - <http://www.microsoft.com/mscorp/safety/technologies/senderid/default.mspx>
- Yahoo, [Domain Keys](#)
 - <http://antispam.yahoo.com/domainkeys>

- David Post, *Of Blackholes and Decentralized Lawmaking in Cyberspace*, 2 Vand. J. Ent. L. & Prac. 70 (2000),
 - <http://www.temple.edu/lawschool/dpost/blackhole.html>

Questions to consider:

1. Can technological solutions solve the spam problem?
2. What harm, if any, could they cause to innocent parties?
3. Even if they do harm innocent parties, should we still use these technological solutions?

April 12: The Rising Use of Technical Measures to Protect Digital Content

PART ONE:

- Cory Doctorow, *DRM Talk for Microsoft Research*, June 17, 2004
 - <http://www.dashes.com/ani/stuff/doctorow-drm-ms.html>
- HBO CGMS-A announcement
 - <http://www.hbo.com/corpinfo/cgmsafaq.shtml>
- *Has TiVo forsaken us?*, Wired, Nov. 2004
 - <http://www.wired.com/wired/archive/12.11/view.html?pg=3>
- *The Darknet and the Future of Content Distribution*
 - crypto.stanford.edu/DRM2002/darknet5.doc

Recommended:

- Seth Schoen, *Trusted Computing: Promise and Risk*
- http://www.eff.org/Infrastructure/trusted_computing/20031001_tc.php
- Mike Godwin, *Everything You Ever Wanted to Know about Digital Rights Management But Were Afraid to Ask*, (pp. 1-17)
 - http://www.publicknowledge.org/pdf/citizens_guide_to_drm.pdf
- Electronic Privacy Information Center, *Digital Rights Management and Privacy*
 - <http://www.epic.org/privacy/drm/>
- The NSF Middleware Initiative and Digital Rights Management Workshop,
 - <http://www.ait.utk.edu/drmworkshop/resources.htm>
- Ross Anderson's FAQ on the Trusted Computing Platform Alliance and Palladium
 - <http://www.cl.cam.ac.uk/~rja14/tpa-faq.html>
- Content Protection Status Report:
 - http://judiciary.senate.gov/special/content_protection.pdf
- Hollywood wants to plug the analog hole:
 - <http://bpdg.blogs.eff.org/archives/000113.html#000113>

Question to consider:

1. Do content or technology companies have the right to control content that consumers purchase and use in the privacy of their own homes?
2. Is DRM a good business model for content companies?

- a. For technology companies?
3. Can DRM be pro-consumer?
 - a. If so, what would such a system look like?
 - b. Can DRM be programmed to respect concepts like fair use or the idea-expression dichotomy?
4. Do consumers have any inalienable rights re: Content and DRM?

PART TWO:

Enforcing Digital Technical Protection Measures

- Pamela Samuelson, *Intellectual Property and the Digital Economy: Why the Anti-Circumvention Regulations Need to Be Revised*, 14 Berkeley Tech. L.J. 519 (1999)
 - (casebook at 784-788)
- *Universal v. Reimerdes*, 111 F. Supp. 2d 294 (S.D.N.Y. 2000)
 - (casebook at 788-805)
 - <http://www.tomwbell.com/NetLaw/Ch07/Universal.html>
- *Lexmark Int'l, Inc. v. Static Control Components, Inc.*
 - (casebook at 808-820)
 - http://www.eff.org/legal/cases/Lexmark_v_Static_Control/20041026_Ruling.pdf

Recommended:

- Gallery of CSS Descramblers
 - <http://www-2.cs.cmu.edu/~dst/DeCSS/Gallery/index.html>
- Yochai Benkler, *Free as the Air to Common Use: First Amendment Constraints on Enclosure of the Public Domain*, 74 N.Y.U. Law Review 354 (1999)
 - <http://www.nyu.edu/pages/lawreview/74/2/benkler.pdf>
- Kamiel Koelman, *A Hard Nut to Crack: Legal Protection of Technical Measures*, European Intellectual Property Review 272 (June 2000)
 - <http://www.ivir.nl/publications/koelman/hardnut.html>
- Unintended Consequences: Five Years Under the DMCA
 - http://www.eff.org/IP/DMCA/unintended_consequences.php

Questions to consider:

1. Have the anti-circumvention rules of the DMCA changed the copyright balance?
 - a. If so, how?
 - b. Is it better now or worse?
2. Can you reconcile the views of *Corley* with *Lexmark*?
3. What effect do you think rules like these have on software designers, researchers, and technology users, if any?
4. If you could rewrite the DMCA, what if anything would you change?

April 19: Intermediate Use and Online Indexing of copyrighted material

- *Sega Enterprises, Ltd. v. Accolade, Inc.*, 977 F.2d 1510 (9th Cir. 1992)
 - (casebook at 122-136)
 - http://www.eff.org/legal/cases/sega_v_accolade_977f2d1510_decision.html
- *Kelly v. Arriba Soft Corp.*, 336 F.3d 811 (9th Cir. 2003)
 - (casebook at 721-727)
 - http://www.eff.org/IP/Linking/Kelly_v_Arriba_Soft/20030707_9th_revised_ruling.pdf
- Perfect 10 v. Google
 - http://www.eff.org/legal/cases/Perfect10_v_Google/perfect10_order.pdf
 - (Read pages 1-8 and 23-33)
- The Google Library Project: The Copyright Debate
 - <http://ala.org/ala/washoff/oitp/googlepaprfnl.pdf>
- Flickr Color Picker
 - <http://krazydad.com/colrpickr/>

April 26: The Collision of Trademarks and Information Location Technologies in Cyberspace

- *Brookfield Communications, Inc. v. West Coast Entertainment Corp.*, 174 F.3d 1036 (9th Cir. 1999)
 - (casebook at 677-685)
- *Playboy v. Netscape*, 354 F.3d 1029 (9th Cir. 2004)
 - <http://caselaw.lp.findlaw.com/data2/circs/9th/0056648p.pdf>
 - Read only the Berzon concurrence
- *1-800 Contacts v. WhenU*
 - (casebook 692-700)
 - <http://www.orrick.com/fileupload/484.pdf>
- *GEICO v. Google, Inc.*, No. 1:04cv507 (E.D. Va. Aug. 8, 2005).
 - <http://blog.ericgoldman.org/archives/geicogoogleaug2005.pdf>

Recommended:

- Mark Lemley, *The Modern Lanham Act and the Death of Common Sense*, 108 YALE L.J. 1678 (1999)
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=147788
- The Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)
 - <http://www.lclark.edu/~loren/cyberlaw01/1125d.pdf>
- ICANN, Uniform Domain Name Dispute Resolution Policy
 - <http://www.icann.org/udrp/udrp-policy-24oct99.htm>
- Michael Geist, *Fair.com? An Examination of the Allegations of Systemic Unfairness in the ICANN UDRP*,
 - <http://aix1.uottawa.ca/~geist/geistudrp.pdf>

Questions to consider:

1. Do the traditional tests for trademark infringement and dilution work online?
 - a. How do we tell which users are confused and which aren't?

2. Is it possible to reference a trademark online without infringing or diluting it?
3. What should the rules for trademarks on the internet be?
4. What is the difference between West Coast Video and Google? Between WhenU and Google? Between meta-tags and sponsored links?
5. How do the rules for keyword ad providers differ from those imposed for copyright and defamation?

May 3: Open Topic

May 10: Open Topic/Project Reviews
