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INTELLECTUAL PROPERTY AND INFORMATION LAW

School of Information (SI 519) and Public Policy (PUBPOL 688)
Fall Term 2008
Fridays from 2-5PM

Instructor: Bryce Pilz, *Assistant General Counsel, University of Michigan*

Course Description: You have signed up for this course at an exciting time. In August 2008 alone, we have seen China filter Internet connections available to Olympic journalists, a U.S. appellate court is set to issue a significant ruling concerning whether software can be patented, the RIAA continues to aggressively sue students for Internet file-sharing of copyrighted music, Congress is debating drastic reforms to intellectual property laws, and presidential candidates are using technology as a central means for disseminating campaign information. Intellectual property and information law issues are front and center in today's society like never before. Our challenge in this course will be to learn the underlying legal and policy frameworks so that we can constructively debate and analyze these and other specific examples of the rapidly changing "Information Age". By applying foundational concepts (such as free speech and copyright law) to current issues, we will explore:

- the related and sometimes competing legal and policy frameworks for developing and disseminating ideas and expression in the Information Age;
- how new technologies challenge existing law and policy; and
- the effects of other legal considerations and values on the development and dissemination of ideas and information (such as security, privacy, government regulation, international considerations, competition, and the protection of minors).

Due to the fluid nature of intellectual property and information law and policy, we will endeavor to integrate relevant current events into the classroom discussion.

Course Format: Your out-of-class reading will include legal cases, articles, actual and proposed legislation, and book chapters. We will apply and augment these readings through class discussion, role-playing, student presentations, an occasional guest-speaker, analysis of current events, and yes, some lecture. You will write some short papers, engage in weekly "exercises," and make presentations to the class. In the end, I will evaluate your performance based on these written and oral assignments, as well as your participation in and out of class.

Attendance: The Ford School and SI (and the agencies that accredit them) require that you attend class sessions in order to receive credit for this course. Your in-class participation is essential for this course, and you will miss the opportunity to learn from and teach your colleagues if you do not attend. Should circumstances force you to miss a class, please inform me as early as possible prior to that class session.

Evaluation: I will base your final grade on the following:

First Paper 20%
Second Paper 25%
Exercises 15%
Presentations 20%
Participation 20%

There will be no final exam for this course.

Papers: You will write two papers for this course. The papers serve a variety of purposes: (1) they will give you an opportunity to demonstrate to what extent you understand and can communicate thoughtfully about the fundamental principles of this course; (2) they provide the foundation for a colloquy between you as a student and me as an instructor; (3) they enable you to think deeply and write critically about the aspects of intellectual property and information law that interest you. To pass the class you must submit each paper and it must be of satisfactory quality. Please submit your papers on the due date established. Late papers will be subject to a deduction in grading.

For the first paper, you will write 5-8 (double-spaced) pages about the basic issues of intellectual property and free expression and you will be able to choose from among several topics/questions that I provide. For the second paper, you will write 10-15 pages about a course-related subject we will choose together during the term. You will submit a prospectus for this paper during the middle of the term.

Your papers should include citations to applicable class readings as well as to outside research materials. Strong papers will offer reasoned arguments and positions on issues – rather than mere descriptions of what others have written – supported by research, evidence, and innovative thinking. You should pay careful attention to your writing style so that you convey your thoughts as clearly and effectively as possible.

Presentations: You will give one brief, formal presentation related to one of the class topics we cover this term. We can work together to select the subject that will be most appropriate for you and the class, and in any event, you'll email to me a short 4-5 sentence abstract of your presentation at least 48 hours before class. The purpose of the presentation is to give you the opportunity to share your interests and discoveries with your colleagues.

I encourage you to use the variety of resources available to modern presenters, and that we are lucky to have available to us in Weill Hall.

Exercises: Throughout the term, I will ask you to take a few moments to address questions related to the day's readings. The principle behind these exercises is for you to apply what you have read for class in preparation for the ensuing discussion.

Class Participation: By taking this class, we are making a deal. I will zealously prepare for and plan each class. I have spent the summer selecting readings for each class that will allow us to hopefully build a vibrant class discussion, applying what we learn in

those readings. I will carefully schedule a series of activities for each class that will ideally allow us to enjoy our exploration of intellectual property and information law. In exchange, I expect your diligent and enthusiastic participation in the class discussions. I also expect that you have read and understood the readings. You will have the opportunity to participate both in class and through electronic communications. While I encourage you to challenge notions that you read about or hear about during this class, you will treat the members of this class cordially and with the utmost respect.

Meetings Outside Class: I recommend and encourage you to meet with me at least once during the semester to discuss paper or presentation topics or other issues of interest (*e.g.*, career options). I am available during the regular business day by appointment at my office in the University of Michigan Office of Technology Transfer, which has new offices at 1214 S. University, 2nd Floor (right above Pinball Pete's). To schedule an appointment with me, you may contact me directly (bpilz@umich.edu or 763-4783). I am frequently checking my email, whether I am at the office or not, so that is typically the best way to contact me.

E-Mail Group and CTools: I have created an email group for our class called si519@ctools.umich.edu. You can send class-related messages to the group. I also encourage you to use the CTools discussion section to forward articles or announcements that relate to the subject matter of our class. I will use the email list as a way to communicate important information to the whole class.

Accommodations for Students with Disabilities: If you think you need an accommodation for a disability, please let me know at your earliest convenience. Some aspects of this course, the assignments, the in-class activities, and the way we teach may be modified to facilitate your participation and progress. As soon as you make me aware of your needs, we can work with the Office of Services for Students with Disabilities (SSD) to help us determine appropriate accommodations. SSD (734-763-3000; <http://www.umich.edu/sswd/>) typically recommends accommodations through a Verified Individualized Services and Accommodations (VISA) form. I will treat any information you provide as private and confidential.

Feedback: Besides the formal feedback required by the Ford School and SI at the end of the term, I will also seek feedback from you at some point during the middle of the term. I also encourage any constructive suggestions for the course at any time during the term.

Syllabus: This syllabus is a guide. Virtually any aspect of the syllabus could change. I'll give you as much notice as possible if we're going to change something.

INTELLECTUAL PROPERTY AND INFORMATION LAW

Topical Overview and Readings

I. The Protection of “Ideas and Expression” – Fundamental Principles of Free Speech and Intellectual Property

An overview of foundational laws and policies determining how ideas and expression are developed and disseminated in our society, with a focus on cyberspace.

- Introduction and overview of the course; review of course requirements
- Introduction to U.S. Law – the court system; U.S. Constitution; legislation
- Introduction to the subject matter of the course – why intellectual property and information law matter so much.

Week 1 – September 5

These online materials will give you an overview of the U.S. legal system to assist you in understanding the manner in which we implement and enforce intellectual property and information laws.

An Introduction (All): <http://usinfo.state.gov/products/pubs/legalotln/>

Chapter 1 (All): <http://usinfo.state.gov/products/pubs/legalotln/federal.htm>

Chapter 3 (All): <http://usinfo.state.gov/products/pubs/legalotln/policy.htm>

Chapter 6 (only the section “The Nature and Substance of Civil Law”):

<http://usinfo.state.gov/products/pubs/legalotln/civil.htm>

Chapter 8 (All): <http://usinfo.state.gov/products/pubs/legalotln/impact.htm>

These short articles will guide you in briefing/reading/thinking about the judicial decisions you will read in this class.

<http://volokh.com/files/howtoreadv2.pdf>

<http://www.lib.jjay.cuny.edu/research/brief.html>

This very short case will allow you to apply what you read above. Try to brief this case as instructed above.

Matthews v. Friedman 157 F3rd. 25 (First Cir. 1998).

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981408.html>

This chapter should be a light read giving you an introduction into the subject matter of this course. We will delve into this material in more detail in future weeks.

Lawrence Lessig, *Code 2.0*, Chapter on Intellectual Property, pp. 169-199

<http://pdf.codev2.cc/Lessig-Codev2.pdf>

(I’ve also provided a .pdf of this chapter on the CTools site.)

- Origins and purpose of the First Amendment; underlying assumptions of freedom of expression.
- When and how do ideas become translated into “protected free speech”?
- To what extent does protection for speech depend on its context or content?

- Should the rules in cyberspace differ from those for other media?

Week 2 – September 12

Examine the 45 words of the First Amendment.

The First Amendment

http://www.usconstitution.net/xconst_Am1.html

This article provides a great overview of First Amendment law in the context of the Internet and universities.

Constance S. Hawke, Computer and Internet Use on Campus, Chapter 2: Free Speech in Cyberspace, pp. 41-80. (CTools)

This Supreme Court case is the latest in the line of challenges to laws passed by Congress attempting to protect minors from pornography on the Internet. (Read only Justice Kennedy’s Opinion.)

Ashcroft v. ACLU, 542 U.S. 656 (June 29, 2004)

<http://supct.law.cornell.edu/supct/search/display.html?terms=ashcroft%20american%20civil%20&url=/supct/html/03-218.ZS.html>

The following is a fact sheet on the history and issues of Internet filters, with a focus on a case upholding a challenge to the Children’s Internet Protection Act, which required federally-funded libraries to engage in filtering.

Fact Sheet on Internet Filtering

<http://www.fepproject.org/factsheets/filtering.html>

This is a short article summarizing the issues of attempts to use the legal process to discover the identity of anonymous Internet posters.

The Process that “John Doe” is Due: Addressing the Legal Challenge to Internet Anonymity, David L. Sobel

<http://www.vjolt.net/vol5/symposium/v5i1a3-Sobel.html>

This short case addresses whether software constitutes protectable expression, and when national security concerns trump freedom of expression principles.

Junger v. Daly (6th Cir. 1999)

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=6th&no=00a0117p>

Are bloggers “press” under the First Amendment?

NCAA v. Bloggers Article

<http://www.nytimes.com/2007/06/14/sports/baseball/14blogs.html?ref=sports>

- Origins and purpose of intellectual property and law
- The bundle of rights involved in copyright
- What is the difference between ideas and tangible expression? Do these terms

- have distinct meaning in the digital age?
- In what ways has the Internet changed the norms and assumptions underlying intellectual property protection?
- How do the purposes of intellectual property and free expression relate to each other?
- What is the relationship between limits on intellectual property protection (e.g., fair use doctrine or patentable subject matter restrictions) to the First Amendment?

Week 3 – September 19: Copyright Law I

This article provides a good copyright background in the context of digital archives.
June Besek, “Copyright Issues Relevant to the Creation of a Digital Archive,” January 2003, Council on Library and Information Resources.

www.clir.org/pubs/reports/pub112/pub112.pdf

(also on CTools)

The following is a good overview of the key provisions of U.S. Copyright Law.

Jessica Litman, Digital Copyright, pp. 15-34 (CTools)

This 9th Circuit case address the fair use defense for “thumbnailed” reproductions of copyrighted materials.

Kelley v. Arriba Soft Corp., (9th Cir. 2003)

[http://caselaw.lp.findlaw.com/scripts/viewcase.pl?](http://caselaw.lp.findlaw.com/scripts/viewcase.pl?court=9th&party=arriba&subject=0&casenum=0)

[court=9th&party=arriba&subject=0&casenum=0](http://caselaw.lp.findlaw.com/scripts/viewcase.pl?court=9th&party=arriba&subject=0&casenum=0)

Examine This Attempt to Provide Fair Use Guidelines

<http://www.utsystem.edu/ogc/intellectualproperty/ccmcguid.htm>

This Supreme Court case addresses secondary liability for file-sharing technology. (Read only Justice Souter’s Opinion.)

Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd., 2005 U.S. LEXIS 5212 (June 27, 2005)

<http://www.law.cornell.edu/supct/pdf/04-480P.ZO>

- Does the Internet alter the rationale for copyright protection? Would you still create if you were not given the full bundle of copyrights in your creation? Could you find someone to publish/distribute your work if they were not granted that full bundle of rights?
- How does the DMCA impact Universities?
- What types of reform are needed to best protect free expression and/or innovation? Who is best situated to implement that reform?

Week 4 – September 26: Copyright Law II

Lawrence Lessig led a Harvard Legal Clinic in challenging the Sono Bono copyright extension act. Will Mickey Mouse ever enter the public domain?

Eldred v. Ashcroft (2003)

<http://www.law.cornell.edu/supct/pdf/01-618P.ZO>

Can a magazine release a digital compilation of its past magazine issues?

Greenberg v. National Geographic (11th Cir. 2007)

<http://www.ca11.uscourts.gov/opinions/ops/200516964.pdf>

Read this Article on the Digital Millennium Copyright Act

<http://net.educause.edu/ir/library/html/cem/cem99/cem9913.html>

Read the following information concerning “orphan works”?

<http://www.publicknowledge.org/issues/ow>

Analyze These Suggestions On Improving Copyright Law

Lawrence Lessig, *Free Culture*, Section titled “Them, Soon,” pp. 287-306

<http://www.free-culture.cc/freeculture.pdf>

(A copy of this chapter is also provided on the CTools site.)

- In what ways does strong patent protection help innovation? Hurt innovation?
- What are the rationales for granting a patent monopoly? Are those rationales different for different types of technologies? Does the Internet or globalization alter those rationales?
- Should the public interest with respect to patent monopolies be better protected by the courts or congress?

Week 5 – October 3: Patent Law I

The following will provide a background on the main principles of patent law:

Read the following sections: (Requirements for protection under U.S. patent law, Applying for a utility patent, Examination of patent applications in the U.S. patent office, Rights granted by a U.S. patent)

<http://www.bitlaw.com/patent/index.html>

Review this summary of the patent application process:

<http://www.warf.org/inventors/index.jsp?cid=15&scid=10>

This article discusses the significance of the Supreme Court’s 2007 decision in the KSR case, which many have called the most significant patent case in the last 20 years. KSR strengthens the “nonobviousness” hurdle to obtaining a patent – making it harder to get a patent, and easier to invalidate an issued patent.

<http://www.wsg.com/wsg/Display.aspx?>

[SectionName=publications/PDFSearch/clientalert_ksr.htm](http://www.wsg.com/wsg/Display.aspx?SectionName=publications/PDFSearch/clientalert_ksr.htm)

This is the first Federal Circuit case to apply the KSR decision. (It is shorter and easier to follow than KSR, in my opinion).

Leapfrog Enterprises v. Fisher-Price

<http://www.cafc.uscourts.gov/opinions/06-1402.pdf>

Take-home exercise (details given out Week 4)

The following chapter addresses some of the detriments of patents.

The Gridlock Economy, Sections on Patents, pp. 49-78, 99-102 (CTools)

- Do patents make sense for inventions embodied in software? What factors would impact your decision to pursue patent protection?
- Who is best situated to provide meaningful patent reform: the courts or congress?
- Should the public have a greater voice in patent reform issues?

Week 6 – October 10: Patent Reform / Intro to Trademark Law

Patent Reform Legislation has been a hot topic. These materials address some of the issues.

Summary of Presentations on Patent Reform:

http://tlc.usm.maine.edu/cli/documents/patent_reform_jaffee_ftc_ibm.pdf

Summary of Patent Reform Issues (read up to “Legislative Initiatives” on page 13:

http://www.lawandinnovation.org/cli/documents/crs_report_patent_reform.pdf

Marshall, Texas is known for more than just high school football.... What are (or would be) some of the pro’s and con’s of have courts that specialize in patent law?

New York Times Article on Marshall, Texas:

[http://www.nytimes.com/2006/09/24/business/24ward.html?
_r=2&pagewanted=1&ref=technology&oref=slogin&oref=login](http://www.nytimes.com/2006/09/24/business/24ward.html?_r=2&pagewanted=1&ref=technology&oref=slogin&oref=login)

Review this overview of some of the important principles of trademark law:

<http://cyber.law.harvard.edu/metaschool/fisher/domain/tm.htm>

The following case addresses trademark infringement in metatags.

Brookfield Communications v. West Coast Entertainment (9th Cir. 1999)

http://www-personal.umich.edu/~omri/Brookfield_v_WestCoastEntertainment.pdf

This case addresses trademark issues in linking.

<http://www.internetlibrary.com/pdf/Boston-Duck-Tours-Super-Duck-Tours-D-Mass.pdf>

- In what ways does the rationale for trademark protection differ from copyright and patent protection?

- How has the Internet impacted the duty to police one's trademark rights? It is easier to police, but is there a concern of overly-aggressive policing?
- What types of "use" of a mark should we be most concerned about?
- Who should control the distribution of domain name rights?

Week 7 – October 17: Software Patents / Trademarks (Cont.)

While some software and business method patents were being issued by the PTO prior to 1997, it was the State Street decision which triggered applicants flooding the PTO with software patents.

State Street Bank v. Signature Financial (Fed. Cir. 1997)

<http://www.ll.georgetown.edu/Federal/judicial/fed/opinions/97opinions/97-1327.pdf>

This blog post identifies some of the competing interests in the Bilski case.

Blog post discussing BIO amicus brief concerning *Bilski* case:

http://www.patentdocs.net/patent_docs/2008/04/bio-files-amicu.html

Information on domain names:

<http://www.bitlaw.com/internet/domain.html>

This article addresses issues with "cybergripping."

<http://www.law.com/jsp/ihc/PubArticleIHC.jsp?id=1124960714485>

American Airlines Suit Against Google – Complaint (read through p. 35).

http://www.out-law.com/PDF/Lawsuit_AA_v_Google.pdf

NYTimes Article on American Airlines / Google Settlement:

http://www.nytimes.com/idg/IDG_852573C4006938800025748E006DED62.html?ref=technology

II. Legal Issues Impacting Accessing and Disseminating Information

A look at various legal issues that affect how rights holders disseminate information and how and whether the public accesses information.

- What are the rights of the general public regarding access to and use of ideas and expression?
- What is the concept of the public domain (including government documents, idea of open-source movement)?
- How can open source be an effective business model?
- In what ways, if any, does the Internet make open source licenses more practical?
- Can "open source" apply to more than just software?

- Which of the concerns about the current state of copyright law does the creative commons project address?

Week 8 – October 24: Open Dissemination and Access to Information

The following chapter gives an example of how non-proprietary dissemination of works can thrive:

Lawrence Lessig, Free Culture, Chapter One: Creators, pp. 21-30
<http://www.free-culture.cc/freeculture.pdf> (also available on CTools)

This chapter serves as a good introduction to the concept of open source software:

Lawrence Rosen, Open Source Licensing: Software Freedom and Intellectual Property Law, Preamble, xix-xxii and Chapter 1: Freedom and Open Source, pp. 1-11, Chapter 3: Distribution of Software, pp. 41-49 (CTools)

This blog briefly touches on some of the success of open source business models:

Blog: Venture Capital Funding for Open Source Shows Significant Increase in First Quarter, Mark Radcliffe

<http://lawandlifesiliconvalley.blogspot.com/2008/05/venture-capital-funding-for-open-source.html>

Here is the first case addressing the enforceability of open source licenses and confirming that open source is in fact based on intellectual property protection.

Jacobson v. Katzer, Aug. 13, 2008

<http://www.cafc.uscourts.gov/opinions/08-1001.pdf>

These articles analyze the concept of open access in the research context.

Intro to Science Commons:

http://sciencecommons.org/wp-content/uploads/ScienceCommons_Concept_Paper.pdf

Article on NIH Open Access Policy:

http://www.umuc.edu/cip/newsletter/2008_03/NIH_Mandate_GH_Spr08.pdf

Creative Commons Primer:

<http://www.locusmag.com/Features/2007/11/cory-doctorow-creative-commons.html>

- What interests (both private and public) warrant legal restrictions on the otherwise free dissemination of ideas and expression?
- Are there particular persons that should have more or less protection from defamation?
- Does the Internet change the way we think about defamation?
- Should it concern us if private parties can achieve through contract what they could not otherwise achieve under the law? (e.g., protect databases, restrict otherwise fair uses?)

Week 9 – October 31: Restrictions on Accessing and Disseminating Information on the Internet: False Information and Contracts

The following provides a general overview of defamation law principles:

<http://www-cs-education.stanford.edu/classes/cs201/Projects/defamation-and-the-internet/sections/background/index.html>

The following materials describe a defamation law suit brought against a blogger:

<http://blogs.wsj.com/law/2008/03/13/revealed-patent-blogger-and-employer-sued-for-defamation/http://www.informationweek.com/news/management/legal/showArticle.jhtml?articleID=210003653>

<http://www.patentlyo.com/patent/2008/03/troll-tracker-d.html>

<http://www.patentlyo.com/albritton.cisco.pdf>

<http://www.patentlyo.com/patent/2008/08/albritton-v-p-1.html><http://blogs.wsj.com/law/2008/02/26/bounty-hunter-outs-author-of-patent-troll-tracker-blog/>

Read this EFF summary of a case addressing service provider liability for defamatory comments:

http://w2.eff.org/legal/cases/Barrett_v_Rosenthal/

These materials address the enforceability of the Terms of Service in Second Life:

(read through p.6, and then from p.22 to the end).

Bragg v. Linden Research, Inc. (E.D. Pa. 2007)

<http://www.wired.com/gaming/virtualworlds/news/2006/05/70909>

<http://www.nylawyer.com/adgifs/decisions/101507robreno.pdf>

The following materials address Internet issues concerning elections and politics:

<http://eqs.nictusa.com/eqsdocs/000061C5.pdf>

<http://arstechnica.com/news.ars/post/20070807-internet-vote-swapping-legal-court-finds.html>

- Should Universities be held to a different standard in terms of their ownership or control of intellectual property? What interests should we consider in regulating how Universities disseminate their intellectual property?
- Under the UM policies, if a faculty member authors new software that creates a database system that makes it significantly easier to collect, manage, and analyze genetic data, who owns the rights in that software?

Week 10 – November 7: Disseminating University IP: University IP Policies, Technology Transfer, and Digital Archive Issues

Review the FAQs About University Tech Transfer to get a general overview of university technology transfer:

http://www.autm.net/aboutTT/aboutTT_faqs.cfm

Review and familiarize yourself with the UM Policies on IP. We will use these in class to address some hypothetical and real-life situations.

Bylaw 3.10: <http://www.regents.umich.edu/bylaws/bylaws03.html> - 10

Technology Transfer Policy: <http://www.techtransfer.umich.edu/resources/policies.php>

Copyright Policy: http://www.copyright.umich.edu/policy_intro.html

Read the Book Review: Ivory Tower and Industrial Innovation: University-Industry Technology Transfer Before and After the Bayh-Dole Act.

<http://www.hbs.edu/bhr/archives/bookreviews/79/mgraham.pdf>

Read Chou v. University of Chicago, (Fed. Cir. 2001) to get a sense for disputes that can arise in the university setting:

<http://www.ll.georgetown.edu/federal/judicial/fed/opinions/00opinions/00-1317.html>

Principles for Emerging Systems of Scholarly Publishing:

(on CTools).

This paper analyzes the copyright issues in the Google Print Library Project:

ALA policy paper on legal issues of Google Print Library Project (on CTools).

III. Regulation And Protection of Public Interests Through The Government And Technology

A look at how other legal doctrines, government policy, and technology design or philosophy regulate technology, especially the Internet.

- What principles dictate when and why it is appropriate to regulate access to information?
- How does privacy apply in cyberspace and is that different than at home or at work?
- Does technology blur traditional boundaries concerning our expectation of privacy?
- What are the rights and responsibilities of individuals, network providers, etc concerning security?

Week 11 – November 14: Privacy and Surveillance on the Internet

The following chapter will provide a good overview of privacy issues:

Lawrence Lessig, Code 2.0, Chapter on Privacy, pp. 200-232

<http://pdf.codev2.cc/Lessig-Codev2.pdf>

(also available on CTools)

This is a fun read that identifies the policy considerations surround privacy.

Jerry Kang & Benedikt Buchner, Privacy in Atlantis, Harvard Journal of Law &

Technology, Volum3 18, Number 1, Fall 2004 (CTools)

This chapter provides a good background of the primary surveillance issues concerning digital technology.

N.D. Batra, Digital Freedom: How Much Can You Handle, Chapter 4: Surveillance in Cyberspace, pp. 77-122. (CTools)

Review this blog identifying one of many recent data breaches and the University of Miami's response.

Blog on University Miami Data Breach and Response:

<http://blogs.wsj.com/biztech/2008/04/25/how-to-respond-to-a-data-breach/?mod=WSJBlog>

- What constitutional principles limit the federal government's ability to regulate the Internet?
- What are the implications of technology issued by private companies regulating the Internet? Should the government care?

Week 12 – November 21: Internet Regulation By Government and Technology

The following chapters serve as a background on Internet regulation through both government and the code itself:

Lawrence Lessig, Code 2.0, Chapter 5: Regulating Code, pp. 61-82

Lawrence Lessig, Code 2.0, Chapter 7: What Things Regulate, pp. 120-137

<http://pdf.codev2.cc/Lessig-Codev2.pdf>

(also available on CTools)

FCC Ruling against Comcast, released August 20, 2008 (read through p. 34).

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-183A1.doc.

ACLU article on Net Neutrality:

<http://www.aclu.org/freespeech/internet/26829res20060922.html>

Review the following background on ICANN and a potential dispute over the .XXX domain name.

<http://www.icmregistry.com/IRP/Background.pdf>

Week 13 – November 28: No Class; Happy Thanksgiving!

Enjoy your time off and have a great holiday weekend.

- What interests should the government consider in deciding to criminalize certain activity on the Internet?
- What cybercrimes should be federal versus state crimes? The commerce clause

generally allows Congress to regulate activities that impact interstate commerce. Does the Internet render meaningless the interstate commerce limitation on Congress's power?

- In what ways does the government's heavy involvement in pursuing and prosecuting cybercrimes impact our other constitutional freedoms to a greater extent than with the government's pursuit of traditional crime?

Week 14 – December 5: Cybercrime and Wrap-Up

This case relating to “cyberstalking” occurred close to home:

United States v. Abraham Jacob Alkhabaz (6th Cir. 1997)

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=6th&navby=docket&no=970036p>

Listen to the NPR report “Cyber Sleuths Zero In as Web Fraud Takes Toll” linked here:

<http://www.npr.org/templates/story/story.php?storyId=18117120>

This gives an overview of the Department of Justice's efforts to prosecute cybercrimes:

CyberCrimes Report (Read up to p. 32).

[http://www.cybercrime.gov/2006IPTFProgressReport\(6-19-06\).pdf](http://www.cybercrime.gov/2006IPTFProgressReport(6-19-06).pdf)

This article from a prominent legal scholar offers thoughts on crime in virtual worlds:

Orin Kerr, Criminal Law in Virtual Worlds, Forthcoming in the University of Chicago Legal Forum

<http://papers.ssrn.com/abstract=1097392>

Identifying which jurisdiction controls crimes on the Internet is a difficult issue:

[http://www.thefreelibrary.com/Approaches+to+cybercrime+jurisdiction.\(Report\)-a0172599113](http://www.thefreelibrary.com/Approaches+to+cybercrime+jurisdiction.(Report)-a0172599113)