

CYBERSPACE AND THE LAW (A.K.A. CYBERLAW)
MASSACHUSETTS SCHOOL OF LAW
PROFESSOR TODD CHEESMAN
FALL 2009

SYLLABUS

Overview

This course addresses the wide range of legal problems related to the Internet. Course participants are expected to read the assigned materials before each lecture, participate actively in our asynchronous discussion forum, prepare and deliver a written class presentation, and write and defend a thesis paper of publishable quality. The course meets entirely online.

The website for our seminar is located at www.cheesmanlaw.com

Instructor

Todd Cheesman, Adjunct Professor of Law

Telephone: (978) 912-7415

Email: ToddCheesman1@gmail.com

Office Hours: by appointment

Textbook

Cummings, Pitcairn & Cheesman; *Cyberlaw: Issues and Analysis*. This book is available only through the school bookstore.

You may also find one or both of the following supplemental (recommended) textbooks helpful, particularly if you do not have much experience with scholarly legal writing:

◇ Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers* (3d ed., West 2005) (ISBN 978-0-314-14631-1, list \$42)

◇ Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on Law Review* (3d ed., Foundation Press 2007) (ISBN 978-1-59941-195-8, list \$31)

Course Requirements and Grading

(1) Attendance and participation: Regular attendance at and active participation in seminar meetings is required. Since the course is being taught in an interactive seminar format, notes and videotapes are not an adequate substitute for in-person attendance and participation. Students who miss more than three sessions will not be eligible to receive credit for the course unless alternative arrangements have been made in advance. Class participation will constitute 10% of the final course grade.

(2) Presentation: Each student will be assigned to prepare a presentation on a particular case or development during the course. This presentation should explain the significance of the case or development, offer additional information beyond that provided by the assigned readings, and include a critical assessment or substantive recommendations rather than merely descriptive information. The page “limit” allocated for these presentations may vary, but likely will be approximately 8-12 pages, 1.5 spaced, 1” margins.

Students may submit one or more proposed topics for these presentations on or before September 5, and will be notified of their assigned topics and presentation dates on or before September 12. (Note that the same or related topics may not be used for both the in-class presentation and the thesis paper.) The presentation will constitute 20% of the final course grade.

(3) Thesis paper and defense: Each student must write and defend a thesis paper of a style and quality suitable for publication. The length generally should fall in the range of 4,000 to 8,000 words, not including citations¹. Again, use 1.5 spacing and 1" margins. Students may select a topic of their choice (within the scope of the course), subject to approval by the instructor. A proposed topic and thesis statement should be submitted on or before October 3. You will be notified within 48 hours if your topic is not approved. The topic for the thesis paper cannot be substantially similar to the topic of the student's in-class presentation. Depth of analysis is much more important for the thesis paper than breadth, so you should generally choose as narrow a topic as possible. A research plan, including a review of the existing literature on the chosen topic, should be submitted by October 10. A draft of the thesis paper must be submitted to the instructor no later than October 31. Copies of each student's draft will be circulated to the class. The draft need not be polished, but it should provide readers with a sufficient basis to understand the subject matter and the author's thesis. It should reflect substantial research and thought; a bare outline or research plan is not adequate at this stage, nor is a paper that includes only descriptive background material and little or no analysis.

Each student will prepare and present a defense of his or her thesis paper to present in our chat room. This defense is analogous to an oral defense such as would be required for a master's thesis or doctoral dissertation, although it will not be as formal or intensive. The final draft of the paper is due on November 7.

¹ There is neither a strict limit for the draft nor the final paper. However, if your paper is shorter than 4,000 words (excluding footnotes), or if the substantive analysis components of the paper (excluding any background or primarily descriptive material) comprise fewer than about 2,500 words, it is very unlikely that the paper has addressed its topic in adequate depth for purposes of this seminar. If your topic is not especially narrow, it will likely require considerably more analysis than suggested by the above guidelines. An early draft that is shorter than these guidelines may serve as a useful starting point, but do not try to add padding to a short draft in order to reach a particular arbitrary length. Your paper will be much more effective if you start with a much longer draft and then revise and edit it for brevity and clarity.

Absent exceptional circumstances, no papers will be accepted after November 14. Thesis papers will be evaluated based primarily upon three factors: depth and clarity of analysis; originality and difficulty of the problem; and persuasiveness of argument. Proper use of authority is required. Citations should be rendered in a standard form, and should appear in footnotes or endnotes. The thesis paper will constitute 40% of the final course grade. The research plan and literature review, the draft paper, and the oral defense are each worth 10%. Assignments (including the final paper) submitted after the stated deadlines will be subject to the following late penalties:

By 12:00 noon November 9: 5% grade deduction

Up to one week late: one full letter grade deduction

Up to two weeks late: two full letter grades deduction

More than two weeks late: no credit will be given

(4) Extra Credit: Students wishing extra credit may submit copies of their course outlines which should include information relating to readings and class lectures. Outlines should be of professional quality. If approved, you will receive a half letter grade improvement to your course grade. The best outline in the class of professional quality will garner a full letter grade improvement to your course grade.

Semester Schedule

August 22	Introduction. Read pp 1-62 in the casebook.
September 5	Geography and Sovereignty. Read pp 63-166 in the casebook. <i>Proposed topic for class presentation due.</i>
September 12	Law versus Technology. Read pp 137-210 in the casebook. <i>You will receive approval of topic for class presentation.</i>
September 19	Regulation and Innovation. Read pp 211-294 in the casebook.
September 26	Private Regulation. Read pp 295-388 in the casebook.

- October 3 Speech Regulation. Read casebook pp 389-480.
Proposed thesis paper topic and thesis statement due.
- October 10 Intermediaries. Read casebook pp 481-560.
Research plan and literature review due.
- October 17 Privacy and Surveillance. Read casebook pp 561-678.
- October 24 Information Enclosure. Read casebook pp 679-732.
- October 31 [Reserved for makeup class or topic to be determined]
Draft of thesis paper due.
- November 7 ***Defense of Thesis Papers.***
- November 14 ***Defense of Thesis Papers.***
- November 21 Cultural Change. Read casebook pp 733-798.
Outlines Due.
- November 28 Thanksgiving Break. No class.