SYLLABUS

THE LAW OF ELECTRONIC COMMERCE
LAW 7197
FALL 2010
PROFESSOR BUDNITZ
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Required Texts: The casebook for this course is Mann, Electronic Commerce, Third Edition. Professor Budnitz’ assignments include pages from his Statutory Supplement. In this Syllabus those materials are referred to as “Stat”. The assignments also include pages from his Additional Materials, which are referred to as “Add” in this Syllabus. Both the Statutory Supplement and the Additional Materials are available through the GSU Web site for this course. Otherwise, page numbers in this Syllabus refer to the casebook.

Web Site: Professor Budnitz maintains a Web site for this course. Students must regularly check this site for changes in the syllabus, assignments, and class schedule. The site contains handouts, a Statutory Supplement, Additional Materials, links to other relevant sites, etc. On the GSU COL list of course web sites, the courses are listed by course number, so look for #7197.

Introduction       Pages
1-2

Chapter 4: Transactions in Electronic Commerce

Section A. Sales of Goods       355-356

Assignment 14 Electronic Contracting I       357-365
372-387

Skip the excerpt from White’s article et seq., pp.365-372. On page Add 1-7
372, omit text until 2nd to last paragraph that starts: “An Stat 81-107
approach less objectionable....”

The text refers to various provisions of the UCC & UCITA. These are reproduced in the Statutory Supplement. Read only the provisions referred to in the casebook. Read UCITA §§112, 209 & 211.

Page 372, 2nd to last paragraph refers to UCITA §102(a)(43) & (44). The cite should be to §102(a)(44) & (45).

Pages 385-86, the Mail-Order Rule: read for background only.

Assignment 14 is continued on the next page
Problem 14.1.  Ignore references to the Restatement. Consider UCC § 2-206. It provides that “an offer to make a contract shall be construed as inviting acceptance in any medium reasonable in the circumstances.” Also consider UCITA. See the UCITA outline in the Additional Materials, p.7. Omit Problems 14.3-14.7. Ignore references in Problem Set to UCC §§ 2-204 & 2-207. Instead, apply the sections that are referred to as “Old UCC;” those sections are in the Statutory Supplement.

Assignment 15 Electronic Contracting II 389-398
Omit Problems 15.6 & 15.8. Stat 44-57
Problem 15.1. 1) Which law applies, UETA or E-Sign? Stat 108-113
2) Assume seller obtained the consumers’ consent to electronic disclosure pursuant to E-Sign §101(c).
Problem 15.2(b). Review UETA § 8(b) & 8 (c)
Problem 15.4. Assume Cliff made the mistake.
Review the first 14 pages of the FTC’s guidance on advertising on the Internet, see: http://www.ftc.gov/bcp/edu/pubs/business/ecommerce/bus41.pdf We will not discuss this guidance in detail; just have a general familiarity with it.

Section C. Software Licensing

Assignment 21: The Basic Framework
Read Softman case, pp.517-522; omit portions on copyright infringement, pp. 518-519. 517-522
Add 9

Assignment 22 The Proprietary Software License 533-546
Class discussion will focus on the Microsoft warranty, pp. 537-38, and licensor self-help, pp. 545-46.
P. 546, omit Problem Set.

Chapter 1 The Background: Regimes for Resolving Disputes

Assignment 1 Jurisdiction and Conflict of Laws 6-7
P. 7, omit Trintec case 30-36
Omit Sections 2 & 3 on page 36 Add 10-16
Chapter 2: Setting Up Shop in Cyberspace

Assignment 3 Trademarks and Domain Names

P. 84: omit Problems 3.2 through 3.4  
Add pp. 17-18, read the summaries to obtain general familiarity with the laws.  
You are not responsible for knowing the specifics.  
Statutory Supplement, pages 71-75. Skim to get a sense of the general statutory scheme.  
Focus primarily on p.74, § 1125(a).

Assignment 4 Cybersquatting

In Problem Set 4, pp. 116-117, references to the Lanham Act are to  
the ACPA, discussed beginning at p. 96  
Omit Problems 4.4 & 4.5

Assignment 5 Web-Site Development and Hosting

Pages 713-714. Read only the section on The Basics of Copyright.  
Pages 138-39, omit Problems 5.1-5.4  
Problem 5.5. Read the following sections of the Copyright Act that are in  
your Statutory Supplement. In section 101, the definition of “work made  
for hire,” and sections 106(2), 201, & 204.

Assignment 6 Controlling Access

Omit p. 155, Section B, Misappropriation.  
Omit Problems 6.1 & 6.2.

See walmart.com’s web site license.  
Go to walmart.com. At the bottom of the home page you will find a link to  
“Terms of Use.” Click on that link and read “Use of this Site”  
and “Site Security.”

Assignment 7 Liability of the Site Owner

P. 198, omit CoStar  
P. 213-214, omit Section D  
Problem 7.1, omit reference to Copyright Act §512 in part (a).  
Omit 7.1(c).

Problem 7.5: Instead of dealing with the specific facts of the  
problem, consider more generally whether Congress should enact a law  
requiring RFT (Carl) to obtain explicit written consent from CPT, the new owner,  
that is, a linking agreement. Would such a law lead to “privatization” of Web sites? Should  
it matter whether or not the text surrounding the link suggests RFT has a relationship or  
affiliation with or is sponsored by CPT?
Assignment 8  ISP Liability
P. 228, omit Problem 8.1
216-217
223-228

Chapter 3: Protecting Information

Assignment 10 Protecting Information: The Basics
Problem 10.1(b) The California statute referred to is in Stat pp. 3-4. Stat 3-4
Omit Problem 10.2 Stat 58-62

The Georgia Identity Fraud statute begins on Stat 58. We will focus on Add 45-48
the record’s “disposal” and the record’s “destruction”? In order to
understand that section, look especially at the definitions of “discard”
and “dispose” in § 10-15-1.

Assignment 12 Internet Privacy Policies & Related Practices 311-322

Assignment 13 Theft of Information 325-334
Pp. 349-50, Patriot Act—read for background, we won’t discuss in detail. 349-350
Problem Set 13, do only Problem 13.1. Ignore the reference to ECPA Stat 28-43
§ 2511. Add 49-52

Sample Exam Add 53-54

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MISCELLANEOUS (BUT IMPORTANT)

Course objectives
Gain an understanding of many of the rules, concepts, and policies
of the law of electronic commerce as well as the business and
technological context in which they take place.

Attendance
Regular attendance is required. In the event a student has more than
two unexcused absences, the Instructor, in his discretion, may deduct
points from the final grade or require a forced withdrawal from the
course.

Office hours
Mondays, 10:30 to noon, 1:00 to 2:00 pm. Tuesdays and
Wednesdays, 1:00 p.m. to 3:00 pm. Thursdays 1:00 to 2:30.
Professor Budnitz will gladly arrange to meet with students at other
times if the above office hours are not convenient. Whether you
want to come during office hours or arrange to meet at a different
time, call him at 404-413-9155 or e-mail him at mbudnitz@gsu.edu to set up an appointment.

Prerequisites

Completion of all first year full-time courses.

Exam and grading policy

Students are required to take a three hour exam. Students may take into the exam the casebook, materials posted on Professor Budnitz’ course Web site, handouts, and student notes and student outlines prepared by you and/or a fellow student in the class this semester. Do not wait until the days immediately preceding the exam to print material from the course web site that you want to take into the exam. In past years, the COL website has not been operational in the days before the exam due to technical problems, preventing students who waited until that time from printing the course materials on the web site. Students may not bring into the exam any third party material such as commercial texts which are not assigned, nutshells, hornbooks, or the like. This prohibition includes scanning or downloading third party material and incorporating it into material you bring to the exam.

Make-up exam

Arranged through the Office of the Associate Dean in accordance with policies stated in the College of Law Bulletin.

Caveat

The course syllabus provides a general plan for the course; deviation may be necessary. There will be additional material assigned. Students should check the course Web site and their e-mails on a regular basis for important announcements, changes in the class schedule, changes in assignments, etc. Notify Professor Budnitz if you want him to contact you at an e-mail address different from your GSU e-mail address.