

Syllabus for INFA660 (Security Policy, Ethics, and the Legal Environment)

Course Description

(Formerly CSMN 685.) An overview of laws and ethics related to information assurance. The information security responsibilities of major domestic and international agencies (such as the Federal Bureau of Investigation, National Security Agency, and National Institute of Standards and Technology) are reviewed. Topics include issues involving information security management within an enterprise, such as suitable organizational policy, plans, and implementation strategies. Discussion also covers ethical issues, such as monitoring employee computer use and proper limitations on the use of customer data.

Course Goals/Objectives

At the end of the course, students should be able to:

- Define key terms and concepts in cyberlaw.
- Analyze and evaluate proposed or extant information security policies, practices and procedures in order to assess, in concert with their organization's legal representatives and advisors, potential legal liabilities that might flow from implementing them.
- Use basic ethical theories to evaluate the fairness of a proposed or extant collection of policies, laws, regulations, guidelines and practices designed to mitigate the risk and punish the misuse of on-line systems.
- Create policies and standard operating procedures for an organization that are ethically, morally and legally sound.
- Explain the public policy issues involved in privacy and apply privacy rules to management and operation of information infrastructures.
- Be able to explain the role of scientists and engineering experts in litigation
- Demonstrate an understanding what makes expert testimony admissible and what defects can lead to inadmissibility
- Be able to describe the principles of effective expert testimony

Course Materials

Ryan, D.; Shepherd, R. (2008). Cases & Materials in Cyberlaw CD-ROM. Wyndrose Technical Group.

Spinello, Richard (2006). Cyber Ethics: Morality and Law in Cyberspace. Jones & Bartlett Pub.

Course Introduction

This is a course for technical managers and is designed to create awareness of the ethical issues, legal resources and recourses, and policy implications inherent in our evolving on-line society. The course provides an overview of the ethical challenges faced by individuals and organizations in the information age and introduces the complex and dynamic state of law as it applies to behavior in cyberspace. It is intended to sensitize managers and computer professionals to the pitfalls and dangers of doing business in an interconnected world, and to familiarize the student with various organizations and materials that can be turned to for assistance in understanding how to ethically and legally operate and use modern computer systems and networks.

DISCLAIMER

This course is not intended to turn computer professionals or managers into lawyers. The instructor is a lawyer and many of the topics to be discussed will be concerned with the law and the legal implications of certain behavior. Every effort will be made to provide accurate and complete information. Please note, however, that at no time during this course will legal advice be offered. Any student or attendee needing legal advice should seek the services of a lawyer authorized to practice in the appropriate jurisdiction.

Grading Criteria

Section removed.

Academic Policies and Procedures

Section removed.

Project Descriptions

Topic/Themes: Copyright vs. Academic Integrity

Due Date: 9/24/07

Description:

Prepare a short paper of approximately 5-10 pages, not counting cover pages, tables of content, or bibliography, comparing and contrasting the restrictions on copying imposed by copyright law and the restrictions on plagiarism and paraphrasing in the University's academic integrity policy.

In this paper you must demonstrate graduate level writing and comply with the format requirements of the Publication Manual of the American Psychological Association, 5th Edition. Careful attention should be given to spelling, punctuation, source citations, references, and the presentation of tables and

figures. It is expected that all course work will be presented on time and error free. Be sure to include the certification statement

Topic/Themes: Employee IT Acceptable Use Policy

Due Date: 10/22/07

Description:

Prepare an employee usage policy for your organization's information systems and assets. Your policy should include, but not necessarily be limited to, email and web usage. Please include a basic description of the organization as an attachment. This description (less than 10 sentences) should identify the mission or business of the organization, approximate numbers and types of employees, the role of information technology, and any other descriptive information that relates to "acceptable use.") If your organization, for any reason, would object to your preparing such a paper for the organization, you may substitute the University or another organization. (I do not verify the facts you provide. Therefore, you may utilize and describe a fictitious organization.)

The body of your paper should be in two parts. In Part I, present the policy itself.

In Part II, discuss the ethical, moral and legal implications of your policy and the choices you made in preparing the policy. Be sure to include and identify each type (ethical, moral and legal).

There is no page limit on your submission.

In this paper you must demonstrate graduate level writing and comply with the format requirements of the Publication Manual of the American Psychological Association, 5th Edition. Careful attention should be given to spelling, punctuation, source citations, references, and the presentation of tables and figures. It is expected that all course work will be presented on time and error free. Be sure to include the certification statement.

Topic/Themes: Analysis of Current IT Issue

Due Date: 11/12/07

Description:

Choose an IT event or story (current within this semester) that illustrates legal, ethical or moral concepts that this course has covered to date. Prepare an essay that describes the issue - citing factual sources as well as sources that may illuminate the issues as you now understand them. Use the IRAC analysis approach. Show me what you have learned! Do NOT just provide excerpts from a current case or legal opinion. This is your opportunity to analyze facts and precedents. Be sure to include the certification statement.

Course Schedule

Readings/Assignments		
Week	Session Dates	Readings, Assignments, and Due Dates
1	9/4-9/10	<p>Administrative matters concerning the course. Discussion of ethics, morality and the law, and the United States Legal System. Case Analysis of T. J. Hooper, 60 F.2nd 737 (2d Cir. 1932), cert. denied, 287 U.S. 662 (1932). An overview of law: Property Law; Tort Law; Criminal Law; Constitutional Law; and Contract Law. How to analyze cases.</p> <p>Cases: The T. J. Hooper, 60 F.2nd 737 (2d Cir. 1932) (L. Hand, J.), cert. denied, 287 U.S. 662 (1932). IRAC analysis of Leonard v. Texas, No. 05-86-01172-CR, 767 S.W.2d 171; 1988 Tex. App. LEXIS 3411 (TX Court of Appeals, 5th Dist., Dallas, 1988)</p> <p>Slides: The T. J. Hooper: Understanding Case Law and Applying it to Cyberspace</p>
2	9/11-9/17	<p>Discussion of copyrights. Digital Millennium Copyright Act, Section 1201.</p> <p>Cases and Materials in the Intellectual Property folder: ALS Scan v. Remarq, 239 F.3d 619; 2001 U.S. App. LEXIS 1567; 57 U.S.P.Q.2D (BNA) 1996, (4th Cir. 2001) Computer Associates v. Altai, 982 F.2d 693 (U. S. Ct. App., 2nd Cir., 1992) A&M Records v Napster, 239 F.3d 1004 (U. S. Court of Appeals, 9th Cir., 2001) Apple Computer v. Franklin Computer, 545 F. Supp. 812 (U. S. District Court, Eastern Dist. Of Pa., 1982) Data Products v. Reppart, 1990 U.S. Dist. LEXIS 16330; 18 U.S.P.Q.2D (BNA) 1058; Copy. L. Rep. (CCH) P26, 723 (U. S. District Court, Kan., 1990) Kelly v. Arriba Soft Corp., et al., 77 F. Supp. 2d 1116; 1999 U.S. Dist. LEXIS 19304; 53 U.S.P.Q.2D (BNA) 1361; Copy. L. Rep. (CCH) P28, 014 (C. D. CA, So. Div., 1999) Universal City Studios v Reimerdes, 111 F Supp 2d 294 (U. S. Dist. Ct., So Dist. NY, 2000)</p>

		<p>Slides: Protection of Intellectual Property</p>
3	9/18-9/24	<p>Protection of Intellectual Capital - Patents. Trademarks. Trade dress. Trade secrets. Discussion of unfair competition, cyber squatting, typo squatting, linking, framing and met tagging. The Lanham Act (15 U.S.C. § 1127), Federal Trademark Dilution Act (15 U.S.C. §1125(e)). Anticybersquatting Consumer Protection Act (1999). No Electronic Theft Act (?NET Act?), P.L. No. 105-147, 18 USC §101.</p> <p>Cases and Materials in the Intellectual Property folder: American Imaging v. Intergraph, 2000 U.S. App. LEXIS 13949 (U. S. Ct. App., Fed. Cir., 2000) Cert. denied 531 U.S. 1071; 121 S. Ct. 761; 148 L. Ed. 2d 663; 2001 U.S. LEXIS 145; 69 U.S.L.W. 3456 (2001) Apple Computer v. Formula International, 725 F.2d 521 (U. S. Court of Appeals, 9th Circuit, 1984) Baron v. Complete Environmental, 1994 Conn. Super. LEXIS 2144 (1994) Bihari v. Gross, 119 F. Supp. 2d 309; 2000 U.S. Dist. LEXIS 14180; 56 U.S.P.Q.2D (BNA) 1489 (S. D. NY, 2000) Brookfield v. West Coast Entertainment, 174 F.3d 1036 (U. S. Court of Appeals, 9th Circuit, 1999) Two Pesos v. Taco Cabana, 505 U.S. 763; 112 S. Ct. 2753; 120 L. Ed. 2d 615; 1992 U.S. LEXIS 4533; 60 U.S.L.W. 4762; 23 U.S.P.Q.2D (BNA) 1081; 92 Cal. Daily Op. Service 5571; 92 Daily Journal DAR 8910; 6 Fla. L. Weekly Fed. S 643 (1992)</p> <p>Project 1 due 09/24/2007 NLT 11:59 PM EDT.</p>
4	9/25-10/1	<p>Discussion of policies, ethics, morality and the law.</p> <p>Sources: Materials from the Policies folder on your disk.</p>
5	10/2-10/8	<p>Discussion of Privacy in the courts.</p> <p>Cases and Materials in the Privacy folder: Stanley v. Georgia, 394 U.S. 557; 89 S. Ct. 1243; 1969 U.S. LEXIS 1972; 22 L. Ed. 2d 542 (1969) Osborne v. Ohio, 495 U.S. 103; 110 S. Ct. 1691; 1990 U.S. LEXIS 2036; 109 L. Ed. 2d 98; 58 U.S.L.W. 4467 (1990) Olmstead v. U. S., 277 U.S. 438; 48 S. Ct. 564; 72 L. Ed.</p>

		<p>944; 1928 U.S. LEXIS 694; 66 A.L.R. 376, 1928 Katz v. U. S., 389 U.S. 347; 88 S. Ct. 507; 19 L. Ed. 2d 576; 1967 U.S. LEXIS 2 (1967)</p> <p>Konop v. Hawaiian Airlines, 302 F.3d 868; 2002 U.S. App. LEXIS 17586; 170 L.R.R.M. 2906; 146 Lab. Cas. (CCH) P10,096; 19 BNA IER CAS 166; 2002 Cal. Daily Op. Service 7727; 2002 Daily Journal DAR 9709 (U. S. Ct. App., 9th Cir., 2002)</p> <p>Steve Jackson Games, Incorporated, et al., v. United States Secret Service, et al., 36 F.3d 457; 1994 U.S. App. LEXIS 30323 (U. S. Court of Appeals, 5th Circuit, 1994)</p> <p>U. S. v. Councilman, 2003 U.S. Dist. LEXIS 2089 (U. S. Dist. Ct., MA, 2003)</p> <p>Thompson v. Thompson, Opinion 2002 DNH 108, CV-02-091-M (U. S. Dist. Ct., NH, May 30, 2002)</p> <p>U. S. v. Carroll, 105 F.3d 740; 1997 U.S. App. LEXIS 1804 (U. S. Court of Appeals, 1st Circuit, 1997)</p> <p>U. S. v. Charbonneau, 979 F. Supp. 1177; 1997 U.S. Dist. LEXIS 15600 (U. S. District Court, So. Dist. Ohio, Eastern Div.,1997)</p> <p>Slides: Privacy and Adult Materials</p>
6	10/9-10/15	<p>Computer crime and criminal behavior in cyberspace. Discussion of computers as instruments in conspiracies or crimes, encryption, law enforcement issues, search and seizure issues, The Electronic Communications Privacy Act (18 U.S.C. §§ 2701 et. seq.), The Computer Fraud and Abuse Act (18 U.S.C. § 1030), Child Pornography (18 U.S.C. §§ 2251 et seq.) and state computer criminal laws. Other federal criminal statutes that protect intellectual property rights such as: Copyright Offenses - 17 U.S.C. 506, 18 U.S.C. 2319, 18 U.S.C. 2318; Copyright Management Offenses - Digital Millennium Copyright Act (DMCA) 17 U.S.C. 1201, 17 U.S.C. 1202, 17 U.S.C. 1203, 17 U.S.C. 1204, 17 U.S.C. 1205; Bootlegging Offenses,18 U.S.C. 2319A; Trademark Offenses, 18 U.S.C. 2320; Trade Secret Offenses - 18 U.S.C. 1831, 18 U.S.C. 1832, 18 U.S.C. 1833, 18 U.S.C. 1834, 18 U.S.C. 1835, 18 U.S.C. 1836, 18 U.S.C. 1837, 18 U.S.C. 1838, 18 U.S.C. 1839; Offenses Relating to the Integrity of IP Systems - 17 U.S.C. 506(c-d), 17 U.S.C. 506(e), 18 U.S.C. 497, 35 U.S.C. 292; Offenses Relating to the Misuse of Dissemination Systems - 18 U.S.C. 1341, 18 U.S.C.</p>

		<p>1343, 18 U.S.C. 2512, 47 U.S.C. 553; The No Electronic Theft (NET) Act; and The Economic Espionage Act. Insurance Claims Privacy Protection Act (ICPPA) Insurance Claims Privacy Protection Act</p> <p>Cases and Materials in The Criminal Folder: U. S. v. Morris, 928 F.2d 504; 1991 U.S. App. LEXIS 3682 (U. S. Court of Appeals, 2nd Circuit, 1991) cert. denied 502 U.S. 817; 112 S. Ct. 72; 1991 U.S. LEXIS 4427; 116 L. Ed. 2d 46; 60 U.S.L.W. 3258 (October 7, 1991) U. S. v Riggs, 743 F. Supp. 556; 1990 U.S. Dist. LEXIS 9304 (U. S. District Court, No. Dist. Ill., Eastern Div., 1990) Burleson v. Texas, State No. 2-88-301-CR, 802 S.W.2d 429; 1991 Tex. App. LEXIS 229 (Court of Appeals of Texas, Second District, Fort Worth, 1991) 18 U.S.C. § 1030. Fraud and Related Activity in Connection with Computers 18 U.S.C. § 2511. Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited</p>
7	10/16-10/22	<p>The law of evidence. Federal Rules of Evidence. Competency vs. credibility. Relevance. Real and demonstrative evidence. Hearsay. Best evidence rule. Public records. Business records. Digital evidence. Seizing and freezing computers. Digital forensic examinations.</p> <p>Cases and Materials from the Evidence folder: U. S. v. Bellamy, 26 Fed. Appx. 250; 2002 U.S. App. LEXIS 861 (U. S. Ct. App. 4th Cir., 2002) Hamel v. General Motors Corporation, 1990 U.S. Dist. LEXIS 602 (U. S. Dist. Ct., KA, 1990) Best Practices for Seizing Electronic Evidence Reference Manual on Scientific Evidence</p> <p>Slides: Computer Forensics Criminal Procedure</p> <p>Project 2 due 10/22/2007 NLT 11:59 PM EDT.</p>
8	10/23-10/29	<p>Engineers, engineering managers and professors of engineering increasingly find that they are needed as expert witnesses in both civil and criminal litigation involving design, development, fabrication, construction, implementation, utilization and even destruction in</p>

engineering projects and product design. Acting as an expert witness is a specialized art, and the skills that make one a good engineer are not sufficient in and of themselves to make one a good expert witness. Expert witnesses must educate and inform the jury. They must also withstand sometimes withering attacks by opposing counsel on the admissibility of the evidence or the credibility of the expert. This session introduces the strategies and tactics surrounding the use of expert witnesses in lawsuits. Procedures including non-deposition discovery against experts, depositions, direct examination, and cross examination are reviewed. Admissibility. Proper subjects for expert testimony. The expert witness? Competency. Frye tests. Daubert tests. Use of test equipment supporting testimony. Attacks on interpretation standards. Non-deposition discovery. Depositions. Direct Examination. Cross Examination

Cases and Materials:

Daubert v Merrell Dow Pharmaceuticals, 509 U.S. 579; 113 S. Ct. 2786; 125 L. Ed. 2d 469; 1993 U.S. LEXIS 4408; 61 U.S.L.W. 4805; 27 U.S.P.Q.2D (BNA) 1200; CCH Prod. Liab. Rep. P13,494; 93 Cal. Daily Op. Service 4825; 93 Daily Journal DAR 8148; 23 ELR 20979; 7 Fla. L. Weekly Fed. S 632 (1993)
Frye v. U. S., 54 App. D.C. 46; 293 F. 1013; 1923 U.S. App. LEXIS 1712; 34 A.L.R. 145 (Ct. App., D. C., 1923)
G. E. v. Joiner, 522 U.S. 136; 118 S. Ct. 512; 139 L. Ed. 2d 508; 1997 U.S. LEXIS 7503; 66 U.S.L.W. 4036; 48 Fed. R. Evid. Serv. (Callaghan) 1; 18 OSHC (BNA) 1097; CCH Prod. Liab. Rep. P15,120; 97 Cal. Daily Op. Service 9355; 97 Daily Journal DAR 15051; 28 ELR 20227; 1997 Colo. J. C.A.R. 3361; 11 Fla. L. Weekly Fed. S 284 (1997)
U. S. v. Horn, 185 F. Supp. 530 (2002)
Samuel v. Ford Motor Co., 96 F. Supp. 2d 491; 2000 U.S. Dist. LEXIS 9491; 54 Fed. R. Evid. Serv. (Callaghan) 725 (U. S. Dist. Ct., MD, 2000)
Berlyn v. Gazette, 214 F. Supp. 2d 530; 2002 U.S. Dist. LEXIS 15789; 2002-2 Trade Cas. (CCH) P73,788 (U. S. Dist. Ct., MD, 2002)
Berry v. City of Detroit, 25 F.3d 1342; 1994 U.S. App. LEXIS 14898; 1994 FED App. 0215P (6th Cir., 1994), Rehearing En Banc Denied 1994 U.S. App. LEXIS 23079 (August 23, 1994)
Newman v. Motorola, 2002 U.S. Dist. LEXIS 18421 (U.

		<p>S. Dist. Ct., MD, 2002)</p> <p>Slides: The Scientist or Engineer as an Expert Witness</p>
9	10/30-11/5	<p>Discussion of contract fundamentals such as: the bargaining process, offer, acceptance, consideration, mutuality of obligation, restatement of contracts, statute of frauds, definiteness, and documentation.</p> <p>Cases and Materials from the Contracts folder: Cyberchron v. Calldata Systems Development, 47 F.3d 39 (U. S. Court of Appeals, 2nd Circuit, 1995) Cyber promotions v. Apex Global Information Services, 1997 U.S. Dist. LEXIS 15344 (U. S. Dist. Ct., E. D. PA, 1997) Hawkins v. McGee, 84 N.H. 114; 146 A. 641 (N. H., 1929) Hotmail v Van Money Pie, 1998 U.S. Dist. LEXIS 10729; 47 U.S.P.Q.2D (BNA) 1020 (U. S. Dist. Ct., No. Dist. CA, San Jose Div., 1998) Lucy v. Zehmer, 196 Va. 493; 84 S.E.2d 516 (Va., 1954) Petterson v. Pattberg, 248 N.Y. 86; 161 N.E. 428 (N.Y., 1928)</p> <p>Slides: Contracts I - Basics</p>
10	11/6-11/12	<p>Discussion of damages, remedies, reliance, restitution, enforcement, warranties, avoidability, unforeseeability, uncertainty, mistake, performance, breach, unconscionable and the Uniform Commercial Code.</p> <p>Cases and Materials from the Contracts folder: Sullivan v. O'Connor, 363 Mass. 579; 296 N.E.2d 183 (Mass., 1973) Hill v. Gateway 2000, 105 F.3d 1147 (U. S. Court of Appeals, 7th Circuit, 1997) American Guarantee v Ingram Micro, 2000 U.S. Dist. LEXIS 7299 (U. S. District Court, AZ, 2000) Appliances v. Queen Stove Works, 228 Minn. 55; 36 N.W.2d 121 (Minn., 1949) Costanza v Rochester, 147 A.D.2d 929; 537 N.Y.S.2d 394; 1989 N.Y. App. Div. LEXIS 1221 (Supreme Ct. of NY, App. Div., 4th Dept., 1989) Leasco v. Taussig, 473 F.2d 777 (U. S. Court of Appeals, 2nd Circuit, 1972) Spang Industries v. The Aetna Casualty and Surety</p>

		<p>Torrington Construction v. Spang Industries v. Syracuse Rigging, 512 F.2d 365 (U. S. Court of Appeals, 2nd Circuit, 1975) Woollums v. Horsley., 93 Ky. 582; 20 S.W. 781 (Ky., 1892)</p> <p>Slides: Contracts II - Damages and Enforcement; Warranties</p> <p>Project 3 due 11/12/2007 NLT 11:59 PM Eastern Time.</p>
11	11/13-11/20	<p>Discussion and review of electronic contracting, licensing content on the internet, employment, penetration testing, software development, maintenance and service contracts.</p> <p>Cases and Materials from the Contracts folder: Employment, Confidentiality, Non-Disclosure and Non-Compete Agreement Network License and Maintenance Agreement Shrinkwrap Software License Agreement Site License and Maintenance Agreement Software Consulting Agreement Software Development Agreement Software License and Development Software License Agreement Software License Agreement II Software Maintenance Agreement System Integration Agreement</p> <p>Slides: Contracts III - Employment Contracts; Software Development Contracts; Service Contracts</p>
12	11/21-11/25	HOLIDAY - Relax!
13	11/26-12/2	<p>Discussion of negligence, strict liability, product liability, defamation, misrepresentation, interference with economic relationships, intentional or reckless acts that cause injury, downstream liability.</p> <p>Cases and Materials from the Torts folder: Chaves v. Johnson, 335 S.E.2d 97 (Va. 1985) Cubby v. Compuserve, 776 F.Supp 135 (S.D.N.Y. 1991) New York Times Co. v. Sullivan, 376 U.S. 254 (1964)</p> <p>Slides: Torts</p>
14	12/3-12/9	Regulatory Issues

Discussion of the major federal and state regulations governing technology issues such as: the Administrative Procedure Act, patents, copyrights, trademarks, trade names, electronic commerce regulations, and the maintenance and security of electronic databases and networks. Regulation of Online services. Convergence. Charging for online use. Internet telephony, Potential regulatory schema. Internet taxation.

Cases and Materials from the Regulatory folder:

U. S. v. McLean, 738 F.2d 655 (U. S. Court of Appeals, 5th Circuit, 1984)

In re Gore: The United States of America Before the Securities and Exchange Commission, Securities Exchange Act of 1934, Release No. 38343 / February 27, 1997, Accounting and Auditing Enforcement, Release No. 889 / February 27, 1997, Administrative Proceeding, File No. 3-9262

Estate of Ronald Busch v. Commissioner of Internal Revenue, 72 T. C. Memo 1996-342 (U. S. Tax Court, 1996)

15 USC §78dd-2 Foreign Corrupt Practices Act

Rev. Proc. 64-12

Rev. Proc. 86-19

Rev. Proc. 91-59

Rev. Proc. 98-25

Rev. Rul. 71-20

Rev. Rul. 81-205

Slides:

Regulatory Issues

AND

Discussion of the complexity of jurisdiction issues created by electronic commerce.

Cases and Materials from the Jurisdiction folder:

United States v. Thomas, 74 F.3d 701 (1996)

Bedrejo v. Triple E Canada, 295 Mont. 430; 984 P.2d 739 (Mon., 1999)

Bellino & Forensic Document Services v. Simon & Spence, U. S. District Court for the Eastern District of Louisiana, 1999 U.S. Dist. LEXIS 18081

Yahoo! v. La Ligue Contre Le Racisme et

l'Antisemitisme, 145 F. Supp. 2d 1168; 2001 U.S. Dist.

		<p>LEXIS 7565; 29 Media L. Rep. 2008 (No. D. Ca., San Jose Div., 2001)</p> <p>Zippo Mfg. V Zippo.com, 952 F. Supp. 1119; 1997 U.S. Dist. LEXIS 1701; 42 U.S.P.Q.2D (BNA) 1062 (U. S. District Court, Western Dist Pa., 1997)</p> <p>Blumenthal v. Drudge and AOL, 992 F. Supp. 44 (U. S. District Court, D. C., 1998)</p> <p>Slides: Jurisdiction in Cyberspace</p>
15	12/10-12/16	Final exam due December 16 not later than 11:59 PM EST