



Internet Law (Law 793)
Professor Eric Goldman
Fall 2017

1. SESSIONS. The course meets in Bannan 135 Tuesdays and Thursdays 10:30-11:45 am from August 15 to November 21. We will not meet on October 10 due to Fall recess. I will be traveling October 17, so a guest speaker will teach that session. We will have a “review session” on November 27, noon to 1:15, in Bannan 135.

2. BOOK. You can download the casebook PDF from Camino (<https://camino.instructure.com/courses/32888>). If you prefer a hard copy (as I do), you can print out the PDF, or it may be cheaper to buy a print-on-demand version from CreateSpace (go to <https://www.createspace.com/7360833>).

3. GRADING.

Attendance. In-class material and discussions are crucial to this course, so I expect you to attend every class session. However, because our lives are unpredictable, you have five “free passes” for unexcused absences. Let me know about an upcoming absence only if you are asking me to excuse it. I excuse absences rarely; and job interviews don’t get an excuse (although they are good news!). Your sixth unexcused absence may trigger a significant penalty to your final course grade. At my option, I may drop you from the course or give you an F upon a seventh unexcused absence. I award a small “perfect attendance” prize to students who attend every class session.

I will circulate a sign-in sheet during each class session. It is your responsibility to sign the sheet before I leave the room that day. **IF YOU COME TO CLASS BUT FAIL TO SIGN IN, IT WILL COUNT AS AN ABSENCE.** Make sure to sign in!

Optional Midterm. There will be an optional midterm. I hope all of you take it. However, I *especially* encourage you to take the midterm if this is your first semester at Santa Clara Law (i.e., if you’re a new LLM, visitor, transfer, etc.). The midterm is designed to identify potential problems before the final exam. Unsuspecting students who have taken my final exam without prior feedback have occasionally run into serious problems that were avoidable with some warning.

The midterm will be a one-question take-home exam with a word count cap. The midterm’s procedural rules will resemble the final exam rules discussed below, including the fact that late midterms will earn a “no pass.” The midterm will be available October 6 at 10:00 am and, if you participate, your answer must be submitted no later than October 8 at 5:00 pm (all times in this syllabus are Pacific time).

Your midterm answer will be submitted to me and one of your peers, and a peer will submit his/her midterm answer to you. To complete the project, you will then write and submit a short

evaluation memo of your peer's midterm answer. I'll provide more specific parameters for the evaluation memo when we get closer to the date. I anticipate most evaluation memos will be 500 words or less. The evaluation memo will be due to me and your peer by October 15 at 5:00 pm.

I will grade the midterm and your evaluation memo on a pass/no pass basis. All submissions will pass, irrespective of their substantive correctness, unless there are procedural violations (i.e., honor code violations or not honoring exam rules) or if I, in my sole discretion, feel you didn't take the project seriously.

If you earn a "pass" on the midterm project, you will earn 1 extra point on your raw final exam score. That may not sound like much, but it has the potential to boost your final course grade by a half-grade. Furthermore, by getting exam feedback before the final exam, you increase the odds you will do better on the final. Other than consequences for honor code violations, skipping or not passing the midterm will not change your final course score.

It takes me a long time to grade papers during the busy semester, but I will try to return the midterms and evaluation memos before Thanksgiving (ideally, well before). I rarely write lots of comments, but I'll do my best, and I will provide a sample answer as well. If there is sufficient interest, we can discuss the midterm as part of the review session.

Short Papers.

Paper #1: Write a paper applying an aspect of Internet Law to the real world, such as a first-hand experience you've had or a news item during the semester that piques your interest. You'll maximize the value of this paper if you use it to practice your application of the course's legal principles to real-life situations. If they would help, include screenshots. This paper doesn't have a minimum or maximum word count limit, but you should target between 500-1,000 words.

Paper #1 is due no later than December 15 at noon. However, if you submit paper #1 before November 16, I will try to return it with my comments before the exam window begins. Paper #1 will count 10% towards your final numerical score.

Here are some topic ideas, but please don't feel restricted to these:

- Critique the contract formation process of a popular website or your favorite website.
- Discuss when a website removed content of yours, you tried to access content that had been removed unexpectedly, or you undertook efforts to remove content from a website that you felt violated your rights.
- Discuss when a website engaged in activities you felt violated your privacy.
- Discuss a purchase in an online marketplace (like eBay/Amazon Marketplace, Airbnb or Uber/Lyft) that went wrong.

If you want, I'm happy to approve a topic in advance. Just email me a sentence or two. I have an expansive view of topics that would be appropriate. Please don't reveal anything about yourself that I would need to report on a Character & Fitness questionnaire or where you broke the law if it's within the applicable statute of limitations.

Paper #2: Answer the following question and explain why: “The thing that surprised me most about Internet Law is...” Please limit your response to 750 words or less. Paper #2 is due no later than December 15 at noon. Paper #2 will count 20% towards your final numerical score.

Paper Grading. I grade short papers on a 0-3 point scale. Most papers will get a 2 (roughly, “met expectations”). I occasionally award 3s for papers that exceed my expectations and 1s for papers that didn’t meet my expectations because I feel (in my sole judgment) that the paper was executed rotely or perfunctorily. 0s are for process violations. I normally don’t write a lot of comments on each paper.

Midterm/Short Paper Submission Procedures. Please submit each paper to the applicable submission page in Camino. If possible, I strongly prefer PDFs over Word files. Include your name and a word count in your paper. At each paper’s deadline, Camino will automatically shut down the paper submission functionality. As a result, if your paper is late by even one minute (per Camino’s clock), you will automatically receive a zero on that paper. **NO EXCUSES.**

Final Exam. The final exam will count 70% towards your final numerical score. The final exam will be a take-home exam with 1 or 2 essay questions and a maximum word count. I expect you will be able to checkout and return your exam electronically through Examsoft. The earliest checkout time will be November 29 at 10:00 am and the latest check-in time will be December 15 at noon. The Examsoft timestamps are irrebuttable evidence of the checkout and check-in times. Make sure you get confirmation that your answer successfully uploaded to Examsoft.

You will have 73 hours to complete the exam, starting from the time you download it. The exam questions will not require such a lengthy time period. You can decide how much time to spend on the exam, but I expect most work done after the sixth or seventh hour of work will not materially improve the exam grade (or may start reducing it).

I do not accept late exams, period. **YOU WILL FAIL THE COURSE IF YOUR EXAM IS NOT RETURNED ON TIME—EVEN YOU ARE LATE BY ONLY 1 MINUTE. NO EXCUSES.** Thus, you will fail the course if you are at the deadline time and, as you are just about to upload your masterful answer, your computer spontaneously shuts down, your neighbors are watching porn videos on your shared Internet connection, or you experience any other technological snafu that may seem unexpected but is actually Murphy’s Law in action. As a result, only the most courageous or foolish students will actually upload their answer close to their deadline.

I strongly encourage you to review my past exams to understand my exam style. You can find past exams and sample answers at my website (note the law may have changed in the interim).

I will not be able to answer substantive questions after the exam period opens on November 29. Please plan your exam prep accordingly.

4. **RECORDING.** I plan to record all course sessions (except guest lectures) and make both audio and video recordings available for your review. If you have any concerns about being recorded in class, please let me know ASAP.
5. **OFFICE HOURS.** I am usually in my office between 9:30 and 6 M-F. Drop by at your convenience, or email me a few times that would be convenient for you and we'll schedule an appointment.
6. **READINGS.** For the first week, read pages 1-29 of the casebook. I'll announce the subsequent week's reading at the end of each Thursday's session. Note: the book's table of contents links to various statutes and rules, and I expect you to familiar with that material for the exam.
7. **LEARNING OBJECTIVES.** My objectives for students taking this course:
 - Learn the basic nomenclature and concepts of Internet technology.
 - Understand Internet exceptionalism and some arguments for and against it.
 - Learn the basic nomenclature and doctrinal principles of Internet law.
 - Brainstorm options for business decision-makers and evaluate the pros and cons of those options.
 - Practice writing about Internet law topics in different formats.
 - Consider the theoretical and practical dilemmas that arise when applying the law to rapidly developing technologies and develop some practical ways to cope with these dilemmas.
8. **CONTACT INFORMATION.**

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When emailing me, please reference "Internet Law" in the subject line to avoid unintentional deletion as spam.

If you want to see some of the Internet Law issues I'm tracking, read my blog [<http://blog.ericgoldman.org>] and follow me at Twitter [<https://twitter.com/ericgoldman>]. Course-related materials are available at my personal website, <http://www.ericgoldman.org/cyberlaw.html>.

Additional Disclosures

Academic Integrity

Honesty and integrity are qualities that are essential to the legal profession. Students preparing to enter this profession must conduct themselves in accordance with these qualities in all of their professional activities, including with respect to the School of Law. Accordingly, law students shall act with honesty and candor, and shall fulfill obligations of good faith and fair dealing in their relations with their peers, University faculty and staff, and the professional legal community at large. The Academic Integrity Policy

[\[http://law.scu.edu/bulletin/academic-integrity-policy/\]](http://law.scu.edu/bulletin/academic-integrity-policy/) spells out the School of Law's expectations for law students in this regard.

Further, the University's Academic Integrity pledge is an expression of the University's commitment to fostering an understanding of – and commitment to – a culture of integrity at Santa Clara University. The Academic Integrity pledge, which applies to all students, states:

I am committed to being a person of integrity. I pledge, as a member of the Santa Clara University community, to abide by and uphold the standards of academic integrity contained in the Student Conduct Code.

Students are expected to uphold the principles of the Law School Academic Integrity Policy and the SCU Academic Integrity pledge for all work in this class.

Disabilities Resources

If you have a disability for which accommodations may be required in this class, please contact Disabilities Resources [\[http://www.scu.edu/disabilities\]](http://www.scu.edu/disabilities), Benson 216, as soon as possible to discuss your needs and register for accommodations with the University. All accommodations are provided through the Office of Disabilities Resources.

Disabilities Resources must be contacted in advance to schedule proctored examinations or to arrange other accommodations. For more information you may contact Disabilities Resources at 408-554-4109.

Accommodations for Pregnancy and Parenting

In alignment with Title IX of the Education Amendments of 1972, and with the California Education Code, Section 66281.7, Santa Clara University provides reasonable accommodations to students who are pregnant, have recently experienced childbirth, and/or have medical needs related to childbirth. Pregnant and parenting students can often arrange accommodations by working directly with the Law Student Services Office. Alternatively, a pregnant or parenting student experiencing related medical conditions may request accommodations through Disability Resources.

Discrimination and Sexual Misconduct (Title IX)

Santa Clara University upholds a zero-tolerance policy for discrimination, harassment and sexual misconduct. If you (or someone you know) have experienced discrimination or harassment, including sexual assault, domestic/dating violence, or stalking, I encourage you to tell someone promptly. For more information, please consult the University's Gender-Based Discrimination and Sexual Misconduct Policy at <https://www.scu.edu/media/offices/student-life/policies/GenderBasedDiscriminationandSexualMisconductPolicyPublication.pdf> or contact the University's EEO and Title IX Coordinator, Belinda Guthrie, at 408-554-3043, bguthrie@scu.edu. Reports may be submitted online through <https://www.scu.edu/osl/report/> or anonymously through Ethicspoint <https://www.scu.edu/hr/quick-links/ethicspoint/>.