# Santa-Clara University

# **Blog Law**

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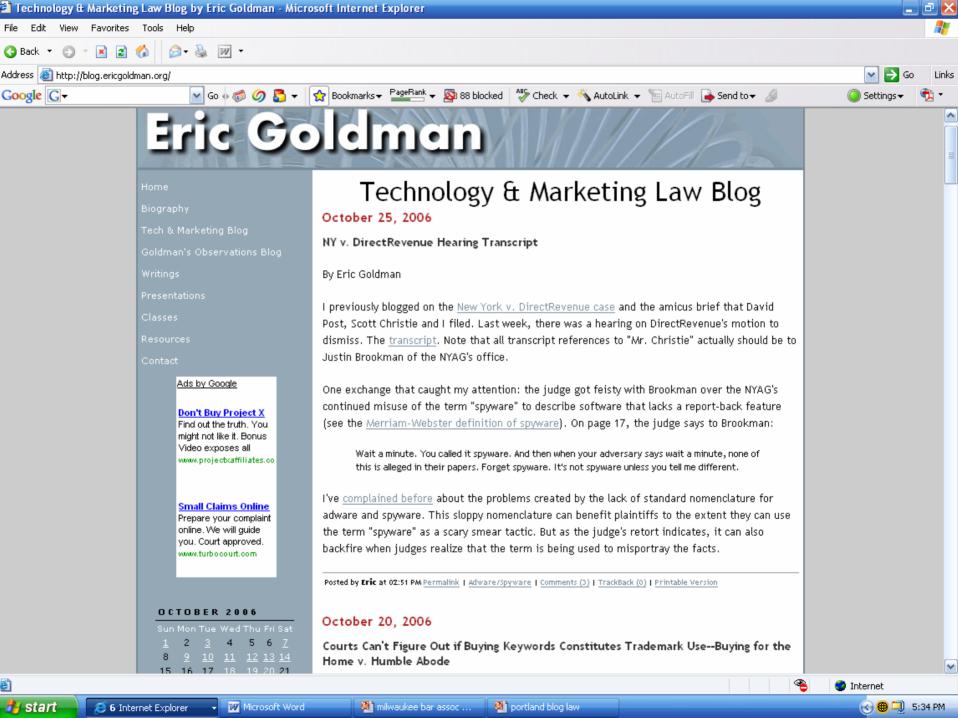
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## What is a Blog?

• People have been "blogging" since the Internet's beginning

- Blog = "a web-based publication consisting primarily of periodic articles" (Wikipedia Apr. 2006)
  - Postings in reverse chronological order
  - No third party editors
  - RSS feed





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# The Blogging Phenomenon

### • 50M+ Blogs (Technorati Aug. 2006)

- 2 new blogs every second
- Doubling every 6 months
- 1.6M new posts every day
- Boing Boing claims 1.7 million unique readers/day (Open and Shut?)
- Blogs influence MSM...
- …and MSM is becoming more bloggy
- RSS as new desktop portal



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# **Blogs and Publishing**

- Blog law = publishing law
- Major blogger liability concerns
  - Defamation
  - Invasion of privacy
  - Copyright infringement
  - Trade secret misappropriation

### • Selected blog-specific legal issues (non-IP)

- Blogs as journalists
- Blogs as advertising
- Blogs and election laws
- Blogs, anonymity and retaliation



# **Blogs and Publishing**

47 USC 230 eliminates most non-IP claims based on third party content

- "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider"
- Scienter and editorial control irrelevant
- Examples
  - DiMeo v. Max, 433 F. Supp. 2d 523 (E.D. Pa. 2006)
  - D'Alonzo v. Truscello, 2006 WL 1768091 (Pa. Ct. Common Pleas 2006)



# **Blogs and IP**

- Bloggers as Copyright Defendants
- Bloggers as Copyright Plaintiffs
- Bloggers as Trademark Defendants
- Bloggers as Trademark Plaintiffs
- Blogs and Trade Secrets/Patents



## **Group/Guest Blogs**

### • Legal issues

- Liability
- Legal compliance
- Asset disposition

## • Legal paradigms

- Partnership
- Employment
- Contribution to collective work
- Joint work

#### Proactive steps

- Form entity/joint blogger agreement
- 512 registration
- Investigate insurance options



# **Blog Law Resources**

## • EFF Legal Guide for Bloggers

http://www.eff.org/bloggers/lg/

## Bloggership Conference Papers

 http://papers.ssrn.com/sol3/JELJOUR\_Results.cfm?form\_name=journalbrow se&journal\_id=890371

### • Eric Goldman, Co-Blogging Law

- http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=898048
- Eric Goldman, Blog Law Recap
  - http://blog.ericgoldman.org/archives/2006/07/blog\_law\_recap.htm
- Eric Goldman Blogroll
  - http://www.bloglines.com/blog/ericgoldman

