

**FINAL EXAMINATION
INTERNET & SOFTWARE LAW
PROFESSOR GREENBERG
SPRING 2005**

1. You have three (3) hours to complete this exam.
2. This is an **open** book exam. You may use any notes, books or other materials to assist you in responding to the questions.
3. There are two (2) essay questions on this exam. Each question is worth 50 points. I suggest you spend 1/3rd of your time on each question outlining your response, and then write for the remaining time you allocate for each question. If you use the full period of three hours, this would mean outlining for 30 minutes and writing for 60 minutes on each question. Each subpart and subissue is equally weighted for grading purposes, so divide your response evenly among the subparts - do not write a full answer for one part and a short answer for another part. Answer each question as fully as you can, citing any appropriate cases, industry standards, and statutes that are relevant.
4. Please answer these questions in the blue books provided to you. Write only on the right hand side of the page (skipping a page each time) and double-space your work. Please write legibly. If I cannot read your response to a question, your grade will be adversely affected.
5. Write your **exam number** on your exam envelope. Put student exam # at the top of this page, each page of questions, and each blue book. **Do not** use your name, student ID number, Social Security Number, or in any other way identify yourself on any exam materials.
6. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. **Do not** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

Good luck!

Question No. 1 (50 Points)

Praxis Corporation has developed “SourceSearch”, an innovative software program that reviews college student research papers and, by searching the Internet, finds out whether the student has copied text in their paper from other sources – in other words, a plagiarism-finding system. The program uses unique graphics to teach users how to run the search function, and contains a text discussion of whether copying is really cheating, or just students creating derivative works. Praxis licenses “SourceSearch” to colleges for \$50 per student paper, and is the only company which provides this kind of product.

Praxis tried to get a business method patent for “SourceSearch” – the patent application was rejected on the grounds that the software was not non-obvious.

Golden Gate University wants to use “SourceSearch” to verify that its students are not plagiarizing source materials in their research papers. School administrators do not want to pay \$50 per student, however, so they decide to simply license one copy and then reverse engineer the software, and make their own duplicate copies for use on all student papers. The University takes the position that “SourceSearch” may be copied at will, because Praxis doesn’t have a patent on it, and the valuable elements of the software are not protected by copyright. The University’s software developers create a different version of “SourceSearch” which uses different graphics, and does not include the text discussion on cheating.

As a recent graduate of the University’s law school, you are asked by the Administration for advice as to whether their course of action to date exposes the University to liability, and if so, what claims can be brought against the University, what defenses may it assert in reply, and who is likely to win, and why. What is your advice?

Question No. 2 (50 Points)

Ian Nottingham is a citizen of Atuan, a small Pacific island nation that is not a signatory to any international treaties. Ian is a computer hacker, who uses the fake name Sara Pezzini as his Internet name. On a recent trip to the USA, Ian applied for a job at Ferris Aircraft in Coast City, Florida, as a software developer. He was turned down. Enraged, upon his return to Atuan he went to the Ferris Aircraft website, found a picture of company president Hal Jordan, and digitally placed the head of Mr. Jordan on the body of a gay porn star. Using his fake name Sara Pezzini, Ian hacked into the private intranet system of Ferris, and began sending 250,000 emails a day to all of the Ferris Aircraft employees, alleging that this was a picture of Mr. Jordan, and claiming that the executive led a secret life as a gay porn star.

Hal Jordan has contacted you to ask what action, if any, may be taken against the unknown sender of these messages, both on behalf of him individually, and on behalf of Ferris Aircraft. He asks if it is possible to determine the identity of the sender, and if so, how can this be done? Assuming you do find out who is sending the message, can you bring an action against the sender, and if so, in what jurisdiction? What claims can you bring against the sender, what remedies can you seek, and what defenses are available to the sender? Lastly, like all clients, he asks what is the likelihood that he and Ferris will prevail in any legal proceedings. What is your advice?

END OF EXAM