TABLE OF CONTENTS

Preface ........................................................................................................................................... i
Summary of Contents .................................................................................................................. iii
Table of Contents ........................................................................................................................... v

Introduction ....................................................................................................................................... 1

Part I. The Background: Regimes for Resolving Disputes

Chapter One. The Background: Regimes for Resolving Disputes

Assignment 1. Jurisdiction and Conflict of Laws
   A. Jurisdiction and Internet Commerce
      1. Minimum Contacts and Internet Commerce
         Neogen Corp. v. Neo Gen Screening, Inc.
         Gator.com Corp. v. L.L. Bean, Inc.
      2. Judgment Enforcement
      3. Cross-Border Issues
         (a) Jurisdiction to Prescribe and Adjudicate
         (b) Jurisdiction to Enforce
   B. Conflict of Laws and Internet Commerce
      CAT Internet Services v. Magazines.com Inc.

Problem Set 1 ............................................................................................................................... 

Assignment 2. Contractual Choice of Regime
   A. Contractual Choice of Law
      1. Choice of Law and Interstate Commerce
      2. Choice of Law and Cross-Border Commerce
   B. Contractual Choice of Forum
      1. Choice of Forum and Interstate Commerce
         Groff v. America Online, Inc.
      2. Choice of Forum and Cross-Border Commerce
   C. Arbitration
      1. Arbitration Clauses and Interstate Commerce
         Brower v. Gateway 2000, Inc.
      2. Arbitration Clauses and EU Commerce

Problem Set 2 ............................................................................................................................... 

The Camford Books Problem (Part I)..............................................................................................
Part II. The Context of Electronic Commerce

Chapter Two. Setting Up Shop on the Internet

Assignment 3. Trademarks and Domain Names
A. Trademarks and Trademark Infringement
B. Initial Interest Confusion
   *Playboy Enterprises, Inc. v. Netscape Communications Corp.*

Assignment 4. Cybersquatting
A. Private Responses: NSI and ICANN Dispute-Resolution Policies
   *Hewlett-Packard Company v. Burgar*
   *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*
B. Federal Response: The Anticybersquatting Consumer
   *Dluhos v. Strasberg*
   *The Taubman Company v. Webfeats*
   *Shields v. Zuccarini*

Assignment 5. Web Site Development
A. What Will the Web Site Do
   1. Informational Sites
   2. Simple Storefronts
   3. Complex Sites
B. Web-Site Development Contracts
   1. Defining and Implementing the Project
      (a) Site Design: How the Site Looks
      (b) Site Performance: How the Site Performs
      (c) Implementing the Statement of Work
      (d) The Customer’s Obligation to Provide Materials
      (e) Delivery and Acceptance
   2. Ownership
      (a) IP Issues
      (b) Drafting Issues
   3. Allocating Risks
      (a) Representations and Warranties
      (b) Limitations of Liability
      (c) Indemnification
C. Web-Site Hosting and Other IT Outsourcing

Assignment 6. Controlling Access to a Web Site
A. Trespass to Chattels
   *Intel Corp. v. Hamidi*
Chapter Three: Protecting Information

Assignment 9. Protecting Information: The Basics

A. Clickstream Data, Online Profiling, and Data Warehousing
B. Inadequate Security
C. Data Protection in the US
   1. Fair Information Practices
   2. COPPA

Problem Set 9
Assignment 10. Data Protection in the EU
A. EU Data Protection Directive
B. UK Data Protection Act of 1998
C. Accommodations Between the US and the EU

Problem Set 10

Assignment 11. Internet Privacy Policies and Related Practices
A. Privacy Policies
1. Online Privacy Practices
2. Developing a Privacy Policy
   (a) What Information Will Be Collected?
   (b) Who Will Have Access to the Information?
   (c) How Can the Policy Be Changed?
B. Self-Regulation
1. Seal Programs
2. Privacy Enhancing Technologies

Problem Set 11

Assignment 12. The Electronic Communications Privacy Act
A. Electronic Communications Privacy Act
   In re Pharmatrak, Inc. Privacy Litigation
   Theofel v. Farey-Jones
B. USA Patriot Act of 2001

Problem Set 12

The Camford Books Problem (Part III)

Part II: The Influence of Information Technology on Commercial Transactions

Chapter Four: Transactions in Electronic Commerce

Section A: Sales of Goods

Assignment 13. Electronic Contracting I
A. Delayed Presentation of Terms (“Shrinkwrap”)
   Brower v. Gateway 2000, Inc.
B. Electronic Presentation of Terms (“Clickwrap” and “Browsewrap”)
   Rudder v. Microsoft Corp.
   Specht v. Netscape Communications Corp.
C. Mail-Order Rule

Problem Set 13

Assignment 14. Electronic Contracting II
A. Eliminating Paper Documents
B. Attribution......................................................................................................
   1. Robotic Devices...........................................................................................
   2. Signatures..................................................................................................
C. Mailbox Rule ..................................................................................................
D. Mistake...........................................................................................................

Problem Set 14 ......................................................................................................

Assignment 15. Internet Auctions........................................................................
   A. Traditional Auctions......................................................................................
   B. Licensing of Auctioneers............................................................................... 
   C. Online Auctions................................................................................................ 
      1. Auctions on eBay..........................................................................................
      2. Contracting out of Auctioneer Status.........................................................
         Gentry v. eBay, Inc. ....................................................................................

Problem Set 15 ......................................................................................................

Assignment 16. Taxing the Internet .....................................................................
   A. Taxation by Local Jurisdictions......................................................................
      Quill Corporation v. North Dakota ................................................................
   B. Taxation by National Jurisdictions ................................................................

Problem Set 16 ......................................................................................................

Section B. B2B Transactions .................................................................................

Assignment 17. Electronic Data Interchange and Trading-Partner Agreements ....
   A. The Basics of EDI...........................................................................................
      1. The History of EDI......................................................................................
      2. EDI Technology...........................................................................................
         Figure 17.1 – Traditional and EDI Invoices ...........................................
      3. EDI Applications..........................................................................................
   B. Trading-Partner Agreements...........................................................................
      1. Writings and Records..................................................................................
      2. The Interchange of Documents................................................................
      3. Security Procedures and Message Authentication...................................
      4. Terms and Conditions..............................................................................

Problem Set 17 ......................................................................................................

Assignment 18. Digital Signatures........................................................................
   A. What is a Digital Signature?...........................................................................
      1. Symmetric and Asymmetric Cryptography................................................
         Figure 18.1 – Conventional Cryptography ..............................................
      2. Digital Signatures......................................................................................
         Figure 18.2 – Asymmetric Cryptography ................................................
         Figure 18.3 – Message Digest................................................................
         Figure 18.4 – Digitally Signed Document ............................................
      3. Public Key Infrastructure and Certification authorities..............................
         Figure 18.5 – Certification authority.........................................................
B. Digital Signatures in Electronic Commerce ..................................................
   1. Authentication of Network Users ............................................................
   2. Communications Security Protocols ......................................................
   3. Open-System Applications ....................................................................
      Figure 18.6 – SSL
C. Digital Signature Legislation .....................................................................
   1. In the United States ..............................................................................
   2. The EU Electronic Signatures Directive ..............................................

   A. B2B Internet Exchanges: An Overview ..................................................  
   B. Structure of a B2B Internet Exchange ....................................................
      1. Market Models ..................................................................................
      2. Technology of a B2B Internet Exchange ..........................................  
      3. Legal Form: Exchange Members Versus Owners ............................
      4. Antitrust Considerations .................................................................
   C. Terms and Conditions of Exchange Transactions .................................
      1. Exchange Membership .....................................................................
      2. Terms and Conditions ....................................................................
      3. Payment ...........................................................................................
      4. Information Practices .....................................................................

Problem Set 19 .............................................................................................

Section C. Sales of Intangibles

Assignment 20. Transactions in Information ..................................................
   A. Special Characteristics of Information .....................................................
   B. Information in Internet Commerce .......................................................  
   C. Legal Protections for Information .........................................................
      1. Copyright ........................................................................................
      2. Trade Secret ...................................................................................
      3. Misappropriation ..............................................................................
         National Basketball Association v. Motorola, Inc. ............................  
      4. Contract ..........................................................................................
      5. Trespass to Chattels ........................................................................
   D. EU Sui Generis Right in Databases .......................................................  
      British Horseracing Board Ltd. v. William Hill Organisation, Ltd. .........  

Problem Set 20 .............................................................................................

Assignment 21. Sales of Music .................................................................
   A. Ownership of Music ............................................................................
   B. Digital Transmission of Music ............................................................
   C. P2P Trading of Music ...........................................................................

Problem Set 21 .............................................................................................
Section D. Software Licensing

Assignment 22. The Concept of a License
A. The Concept of a License and the Law That Governs It
B. Scope

Boosey & Hawkes Music Publishers, Ltd. v. The Walt Disney Co.

[More content to come]

Problem Set 22

Assignment 23. Preemption Issues in Licensing Transaction
A. Two Paradigms
1. The Distinction Between Fact and Expression
2. First-Sale Doctrine
   Bobbs-Merrill Co. v. Straus
3. Fair Use
B. Efforts to Enhance Control
1. Technological Restrictions
2. Restrictions by Transactional Design
   DSC Communications Corp. v. Pulse Communications, Inc.
3. Can the Licensor Prohibit Assignment by the Licensee?

Problem Set 23

Assignment 24. The Basics of a Software License [New]

Assignment 25. Open-Source Software [New]

Chapter Five: Electronic Payments

Section A: Electronic Technology and the Checking System

Assignment 26. The Road to Truncation
A. The Basics of Check Collection
1. Direct Presentment
   Figure 26.1 – Direct Presentment
2. Indirect Collection
   a. Clearinghouse Collection
      Figure 26.2 – Clearinghouse Collection
   b. Direct-Send Collection
      Figure 26.3 – Direct-Send Collection
   c. Federal-Reserve Collection
      Figure 26.4 – Federal-Reserve Collection
      Figure 26.5 – MICR Line
B. Allocation of Loss in the Checking System
1. The General Rules
2. Special Liability Rules (Negligence and the Like)
C. Payor-Bank Truncation
D. Depositary-Bank Truncation
  1. Factual Summary
  2. Legal and Practical Issues
     a. Dispersed Processing of Checks
     b. The Need for a Tangible Image
     c. A Middle Ground for Now: Recovering the Originals
Problem Set 26

Assignment 27. The Check 21 Act [New]

Assignment 28. Electronic Checks
  A. POS Conversion
     Figure 28.1 – POS Conversion
  B. ACH “Checks”
     Figure 28.2 – ACH “Checks”
  C. True Electronic Checks
Problem Set 28

Section B: Internet Payments and Emerging Payment Systems

Assignment 29. Paying for Retail Internet Purchases
  A. Credit Cards
     1. Fraud
     2. Privacy
     3. Micropayments
  B. Debit Cards
Problem Set 29

Assignment 30. Person-to-Person Payments
  A. Providing Funds for Payment
  B. Making Payments
  C. Collecting Payments
Problem Set 30

Assignment 31. Electronic Bill Presentment and Payment
  A. How it Works
     1. Biller Web sites
     2. Bill Aggregators
        Figure 31.1 – Bill Aggregators
  B. Errors
     1. Customer Errors
     2. Bank and Intermediary Errors
        a. Bill-Distribution Errors
        b. Excessive and Duplicative Payments
     3. Biller Errors
  C. Fraud
1. Interloping Bills
2. Interloping Payments

Problem Set 31

Assignment 32. Electronic Money

A. Portability: Stored-Value Cards
   1. History and Basic Concepts
   2. Using Stored-Value Cards
      a. Storing Value on the Card
      b. Spending the Value from the Card
      c. Obtaining Payment from the System
      Figure 32.1 – Using Stored-Value Cards
   3. Error and Fraud in Stored-Value Card Systems

B. Remote Transactions: Internet-Capable Electronic Money
   1. Obtaining E-Money
   2. Spending E-money
   3. Clearing and Settling E-money Transactions
      Figure 32.2 – Using Electronic Money
   4. Problems with E-money Systems
      a. Privacy
      b. Duplicate Spending
      c. Forged Ecoins

Problem Set 32

Section C: Electronic Technology and Cross-Border Sales

Assignment 33. Cross-Border Sale Transactions

A. The Basic Transactions
   1. Documentary-Draft Transactions
      a. Delivering the Goods to the Carrier
      b. Issuing the Draft
      Figure 33.1 – Sight Draft for Documentary Collection
      c. Processing by the Seller's Bank
      d. Processing by the Buyer's Bank
      Figure 33.2 – Documentary-Draft Transaction
   2. Letter-of-Credit Transactions
      Figure 33.3 – Issuing the Letter of Credit
      Figure 33.4 – Payment by Letter of Credit

B. Electronic Advances
   1. Bolero
   2. The eUCP

Problem Set 33

Chapter Six: Lending in the Information Age

Section A: Lending Against Intellectual Property
Assignment 34. Lending Against Copyrights
A. The Basics of Secured Lending
B. The Copyright Act
  1. The Basics of Copyright
  2. Perfecting Security Interests in Copyrightable Materials
     National Peregrine, Inc. v. Capitol Federal Savings
     & Loan Ass'n (In re Peregrine Entertainment, Ltd)
     Aerocon Engineering, Inc. v. Silicon Valley Bank
     (In re World Auxiliary Power Co.)
Problem Set 34

Assignment 35. Financing the Acquisition of Software
A. Software Leases
   Figure 35.1 – Software Leasing
   Figure 35.2 – Article 9 View of General Intangibles
B. Finance Licenses
   Figure 35.3 – Finance Licensing
Problem Set 35

Assignment 36. Lending Against Patents
A. The Basics of Patent Law
B. Perfecting Security Interests in Patents
   Moldo v. Matsco, Inc. (In re Cybernetic Services, Inc.)
Problem Set 36

Assignment 37. Lending Against Other Forms of Intellectual Property
A. Trademarks
   In re Together Development Corporation
B. Trade Secrets
C. Web Sites and Domain Names
   Network Solutions, Inc. v. Umbro International, Inc.
Problem Set 37

Section B: Electronic Enhancements of Lending Transactions

Assignment 38. Registry Systems – Electronic Filing
A. The Basics of Loan-Supporting Filing Systems
B. Updating Personal-Property Filing Systems
C. Updating Real-Property Filing Systems
   1. The Existing Mortgage Filing Systems
   2. E-SIGN and Electronic Mortgage Filings
D. Problems with Electronic Filing
Problem Set 38

A. Account-Based Lending Systems
   Figure 39.1 – Account-Based Lending Systems
B. The Article 8 System ........................................................................................................
   1. The Direct Holding System ......................................................................................
   2. The Indirect Holding System ....................................................................................
      a. The Basic Framework .........................................................................................
         Figure 39.2 – The Indirect Holding System ...................................................
      b. Rights Against the Intermediary ........................................................................
      c. Rights Against Third Parties ...........................................................................
   3. Lending Against Securities Entitlements ...................................................................
C. Lending Against Deposit Accounts .............................................................................
   Problem Set 39 ............................................................................................................

Assignment 40. Token Systems – Electronic Notes............................................................
   A. Transferable Records Under E-SIGN and the UETA ..............................................
      1. The Basics of Negotiability ..............................................................................
      2. Negotiability Under E-SIGN and the UETA ......................................................
      3. Implementation for Real-Estate Notes .................................................................
   B. Electronic Chattel paper Under Article 9 .................................................................
   Problem Set 40

Appendices

Appendix A. The History and Technology of Internet Addresses and Domain Names........xxx