

University of California  
School of Law

Take-Home Course Examination  
Fall 2001

Student Exam # \_\_\_\_\_

Law 276.1 Cyberlaw (cross-listed as SIMS 235)

Professor Pamela Samuelson

Take-Home Instructions:

You have twenty-four hours within which to complete this exam. To pick up this exam from Take-Home Exam Headquarters, Room 123 Boalt, you must bring your student identification and, if a law student, your exam label with your exam number on it. This copy of the exam will then be date- and time-stamped. You must return this copy of the exam and your exam answers to Take-Home Exam Headquarters within twenty-four hours after picking it up. Your answers will be date- and time-stamped.

Please make sure that your exam number (if a law student) or name (if enrolled in the SIMS class), course name, page number, and the instructor's name are on each page of your answer. It would be preferable if answers were typed and double-spaced.

There are three questions. All are found on the next page. Please give equal time and energy to each question, as each will count for one-third of the total exam grade.

Best wishes on the exam and with the rest of your life.

Question 1:

The U.S. Supreme Court recently heard oral argument in *Ashcroft v. ACLU*, a case that challenges the constitutionality of the Child Online Protection Act (COPA). During this semester, we studied the Third Circuit Court of Appeals' decision in that case (rendered under the name *ACLU v. Reno*). Please explain how you think the Supreme Court will decide that case and why.

Question 2:

What, if anything, should Congress do about spam?

Question 3:

Computer scientist David Touretsky of Carnegie Mellon University (CMU) has a website located at <http://www-2.cs.cmu.edu/~dst/DeCSS/Gallery/>. It contains numerous expressions of descrambling information for the Content Scrambling System (CSS), including source code listings for DeCSS printed on T-shirts and haiku versions of DeCSS. In light of the Second Circuit's affirmance of the trial court decision in *Universal City Studios, Inc. v. Reimerdes*, please comment on the potential liability of Touretsky and CMU for violation of the anti-circumvention provisions of the Digital Millennium Copyright Act (DMCA), now codified at 17 U.S.C. sec. 1201. (For those of you who are not law students, CMU is located in the Third Circuit and so the Second Circuit's decision is not binding on trial or appellate court judges, although a decision by the Second Circuit would surely be considered by a Third Circuit judge.) For the sake of this exam, DO NOT READ the Second Circuit decision or focus on its analysis; assume instead that the Second Circuit merely affirmed Judge Kaplan's decision and adopted its reasoning. References to Judge Kaplan's decision in *Reimerdes* would, however, be highly relevant.