

Course Outline

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<b>COURSE:</b>	<b>LAWS 4204B - Legal Issues in e-Commerce</b>
<b>TERM:</b>	<b>Winter 2015</b>
<b>PREREQUISITES:</b>	<b>LAWS 2201, 2202</b>
<b>CLASS:</b>	<b>Day &amp; Time: Monday, 14:35 – 17:25</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b> <b>(CONTRACT)</b>	<b>Renata Pimentel Watkin, B.A., M.A., LL.B.</b>
<b>CONTACT:</b>	<b>Office: Room B442 LA</b> <b>Office Hrs: By appointment.</b> <b>Telephone: 613-795-7337</b> <b>Email: Renata.pimentelwatkin@carleton.ca</b>

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**Academic Accommodations**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

**Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original

source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:  
<http://www.carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

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## **COURSE DESCRIPTION**

The course provides an overview of the major legal issues that result from business transaction conducted over telecommunication networks. The focus will be on transactions occurring through the use of the Internet and mobile networks. The course's organization will follow a thematic approach from the very beginning of an electronic transaction -- determining where an electronic transaction takes place and contract formation — to consumer protection, privacy and intellectual property issues. Issues that have a broader societal interest, such as public safety and welfare, will also be examined.

## **REQUIRED TEXTS**

Scassa, Teresa and Michel Deturbide, 2<sup>nd</sup> ed., *Electronic Commerce and Internet Law in Canada* (Toronto: CCH Canadian Limited, 2012) ("Textbook"), which is available for purchase at the University's Bookstore.

Journal articles indicated in the Course Readings.

In addition to the text and the assigned journal articles, I may assign complementary weekly readings on topical issues based on materials which can be accessed on-line or are on reserve in the Library.

## **SUPPLEMENTARY TEXTS**

Laudon, Kenneth C. and Carol Guercio Traver. *E-commerce 2014* 10<sup>th</sup> ed. (Upper Saddle River, NJ: Pearson Education Inc., 2014). On reserve.

McInnes, Mitchell et al., 4<sup>th</sup> ed., *Managing the Law: The Legal Aspects of Doing Business* 4th

ed. (Upper Saddle River, NJ: Pearson Education Inc., 2013). On reserve.

## **COURSE FORMAT**

The course will follow a lecture and discussion format. Every week I will introduce students to the basic concepts, the fundamentals and the implications of each legal issue raised by electronic commerce and general class discussion will follow. Students must read the assigned materials in advance and be prepared to discuss them in class. The class participation grade component will be based on students' contributions to the class discussion.

## **EVALUATION**

### **(All components must be completed in order to get a passing grade)**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Class Participation (including attendance): 10 marks

Mid-Term Exam (in-class, February 9, duration: two hours): 40 marks

Final Exam (in formal exam period, April 11 to 23, 2015, cumulative, duration: three hours): 50 marks

## **Important Notices:**

### **1. Mid-Term Exam**

A student who is unable to write the mid-term exam because of illness or other circumstances beyond his/her control (e.g., death of a family member) may obtain permission to write an accommodation exam, provided the student meets the following conditions:

- a) Submit a written application for accommodation directly to the me prior to the mid-term exam; and
- b) Provide a medical certificate, in case of illness, or appropriate documents, in other cases (e.g. bereavement documentation). Please note: medical documents must specify the date of the onset of the illness, the (expected) date of recovery, and the extent to which the student was/is incapacitated during the time the exam or assignment was to be prepared.

### **2. Deferred Final Examinations**

A student who is unable to write a scheduled final exam because of illness or other circumstances beyond his/her control, or whose performance on the examination has been

impaired by such circumstances, may, on application to the Registrar’s Office, be granted permission to write a deferred final exam or assignment with proper documentation.

Applications for deferred final examinations must:

- a) Be made in writing to the appropriate Registrar’s Office no later than 5 business days after the date of the examination or the last day of classes; and
- b) Be fully supported in the case of illness by a medical certificate or by appropriate documents in other cases. Please note: medical documents must specify the date of the onset of the illness, the (expected) date of recovery, and the extent to which the student was/is incapacitated during the time the exam or assignment was to be prepared.

Granting of a deferral requires that the student has performed satisfactorily in the course according to the evaluation scheme established in the Course Outline (excluding the final exam for which deferral privileges are requested). For more detailed information, please refer to consult Carleton’s Undergraduate Calendar for 2014-2015 (<http://calendar.carleton.ca/undergrad/>).

The course syllabus may change to accommodate student/instructor requirements. Changes will be made with as much advance notice as possible. Please check cuLearn regularly for updates and additional information and materials and Carleton’s Undergraduate Calendar for relevant dates and deadlines: <http://calendar.carleton.ca/undergrad/>.

## **SCHEDULE**

Jan. 6	1. Course Overview  2. Introduction to Electronic Commerce  The Infrastructure of Electronic Commerce (a) The Internet and the World Wide Web Platforms (b) The Mobile Platform (c) Cloud Computing  3. Economic and Social Effects  <u>Readings</u> Laudon, Kenneth C. and Carol Guercio Traver. “E-Commerce Infrastructure: the Internet, Web and Mobile Platform” <i>E-commerce 2014</i> 10 <sup>th</sup> ed. (Upper Saddle River, NJ: Pearson Education Inc., 2014) 106-181.
Jan. 12	1. The Regulation of Electronic Commerce 2. Electronic Commerce Regulation in Canada

	<p>3. Net Neutrality</p> <p><u>Readings</u></p> <ul style="list-style-type: none"><li>• Palfrey, John G., “Four Phases of Internet Regulation.” Social Research, Vol. 77, No. 3, Fall 2010, Berkman Center Research Publication No. 2010-9; Harvard Public Law Working Paper No. 10-42. Available at SSRN:<a href="http://ssrn.com/abstract=1658191">http://ssrn.com/abstract=1658191</a></li></ul> <p>Case:</p> <ul style="list-style-type: none"><li>- <i>Reference re Broadcasting Act</i>, 2012 SCC 4, [2012] 1 S.C.R.</li></ul>
Jan. 19	<p>Jurisdiction</p> <p><u>Readings</u></p> <p>Textbook, 599-639</p> <p>Cases:</p> <ul style="list-style-type: none"><li>- <i>Van Breda v. Village Resorts Ltd.</i>, 2012 SCC 17, [2012] 1 SCR 572</li><li>- <i>Breeden v. Black</i>, 2012 SCC 19, [2012] 1 S.C.R. 666</li><li>- <i>Society of Composers, Authors and Music Publishers of Canada v. Canadian Association of Internet Providers</i> 2004 SCC 45.</li><li>- <i>Dejean v. Intermix Media</i>, [2007] 4 FCR 151, aff'd 2007 FCA 365.</li><li>- <i>Perfect 10, Inc. v. Google, Inc.</i>, 2011 FC 348.</li></ul>
Jan. 26	<p>Domain Names</p> <p><u>Readings</u></p> <p>Textbook, 269-340</p> <p>Dispute Resolution Decisions:</p> <ul style="list-style-type: none"><li>- <i>Browne &amp; Co. Ltd. v. Bluebird Industries</i>, CIRA Dispute Number 00002 (October 22, 2002) (<a href="http://www.cira.ca/assets/Documents/Legal/Dispute/2002/00002-browneco.pdf">http://www.cira.ca/assets/Documents/Legal/Dispute/2002/00002-browneco.pdf</a>);</li><li>- <i>Julia Fiona Roberts v. Russell Boyd</i>, WIPO May 29, 2000 (<a href="http://www.wipo.int/amc/en/domains/decisions/html/2000/d2000-0210.html">http://www.wipo.int/amc/en/domains/decisions/html/2000/d2000-0210.html</a>);</li><li>- <i>Loblaws, Inc. v. PRESIDENTCHOICE.INC/PRESIDENTCHOICE.COM</i>, ICANN Administrative Panel Decision (June 7, 2000) (<a href="http://www.disputes.org/decisions/0170.htm">http://www.disputes.org/decisions/0170.htm</a>);</li><li>- <i>Royal Bank of Canada v. D3M Domain Sales (royalbankonline.com)</i>, ICANN Administrative Panel Decision (<a href="http://www.disputes.org/decisions/0147.htm">http://www.disputes.org/decisions/0147.htm</a>);</li><li>- <i>The Standard Life Assurance Company of Canada v. Hank Morin</i>, CIRA Dispute Number 00046 (November 16, 2005) (<a href="http://www.cira.ca/assets/Documents/Legal/Dispute/2005/00046-standard-life.ca.pdf">http://www.cira.ca/assets/Documents/Legal/Dispute/2005/00046-standard-life.ca.pdf</a>)</li></ul>

	<ul style="list-style-type: none"> <li>- <i>Coca-Cola Ltd., v. Amos B. Hennan</i>, CIRA Dispute Number 00014 (October 28, 2003) (<a href="http://cira.ca/assets/Documents/Legal/Dispute/2004/00014-cocacola.ca.pdf">http://cira.ca/assets/Documents/Legal/Dispute/2004/00014-cocacola.ca.pdf</a>);</li> <li>- <i>Air Products Canada Ltd./Prodair Canada Ltée v. Index Québec Inc.</i>, CIRA Dispute Number 00007 (April 15, 2003) (<a href="http://www.cira.ca/assets/Documents/Legal/Dispute/2003/00007airproductcadecision-en.pdf">http://www.cira.ca/assets/Documents/Legal/Dispute/2003/00007airproductcadecision-en.pdf</a>)</li> <li>- <i>Ryerson University v. MetCap Living Management Inc.</i>, CIRA Dispute Number DCA-1342-CIRA (<a href="http://www.cira.ca/assets/Documents/Legal/Dispute/2011/00172-ryersonhousing-ca.pdf">http://www.cira.ca/assets/Documents/Legal/Dispute/2011/00172-ryersonhousing-ca.pdf</a>)</li> </ul> <p>Court Cases:</p> <ul style="list-style-type: none"> <li>- <i>Black v. Molson Canada</i>, [2002] O.J. No. 2820 (OSC)</li> <li>- <i>Tucows.Com Co. and Lojas Renner S.A.</i>, 2011 ONCA 548.</li> </ul>
Feb. 2	<ol style="list-style-type: none"> <li>1. Contract Issues in Online Transactions:             <ol style="list-style-type: none"> <li>(a) Jurisdiction</li> <li>(b) Contract Formation</li> <li>(c) Automated Transactions</li> </ol> </li> <li>2. Exam Review</li> </ol> <p><u>Readings:</u></p> <ul style="list-style-type: none"> <li>• Textbook, 1-40.</li> <li>• Freedman, Bradley J., “Electronic Contracts under Canadian Law-A Practical Guide” 28 Man. L.J. 1 (2000-2002), 1-60.</li> </ul> <p><u>Cases:</u></p> <ul style="list-style-type: none"> <li>- <i>ProCD, Incorporated v. Zeidenberg</i> (1996), 86 F.3d (7<sup>th</sup> Circuit 1996)</li> <li>- <i>Hill v. Gateway 200, Inc.</i> (1997), 105 F.3d 1147 (7<sup>th</sup> Cir. 1996)</li> <li>- <i>Rudder v. Microsoft Corp.</i>, [1999] O.J. No. 3778, Court File No. 97-CT-046534CP.</li> </ul>
Feb. 9	Mid-Term Exam
Feb. 16	Winter Break
Feb. 23	<ol style="list-style-type: none"> <li>1. Mid-Term Exam Feedback</li> <li>2. Privacy             <ol style="list-style-type: none"> <li>(a) Basic concepts related to privacy</li> <li>(b) The practices of Internet companies that threaten privacy</li> <li>(c) Location-based marketing and advertising</li> <li>(d) Social Media</li> <li>(e) Other practices</li> </ol> </li> </ol> <p><u>Readings:</u></p>

	<p>Laudon and Guercio Traver, 493-503</p> <p>Different Approaches to Privacy</p> <ol style="list-style-type: none"> <li>a. Canada</li> <li>b. United States</li> <li>c. European Union</li> </ol> <p><u>Readings:</u> Canada: 79-89; 93-116; 123-191. United States and Europe: Laudon and Guercio Traver, 503-514</p> <p><u>Cases:</u></p> <ul style="list-style-type: none"> <li>- <i>BMG v. John Doe</i>, 2004 FC 488;</li> <li>- <i>York University v. Bell Canada</i> (2009) (3d) 695 (Ontario Superior Court);</li> <li>- <i>Warman v. Fournier</i> 2010 ONSC 2126.</li> </ul>
March 2	<p>Intellectual Property Rights</p> <ol style="list-style-type: none"> <li>1. Basic Concepts</li> <li>2. Trademarks</li> <li>3. Patents</li> </ol> <p><u>Readings:</u> Textbook: 340-343;</p> <p><u>Cases:</u></p> <ul style="list-style-type: none"> <li>- <i>Pandi v. Fieldofwebs.com</i>, (2001) 55 OR (3d) 577 (ON CA);</li> <li>- <i>Pro-C Ltd. v. Computer City, Inc.</i>, (2001) 55 OR (3d) 577 (ON CA);</li> <li>- <i>Canada (Attorney General) v. Amazon.com, Inc.</i>, 2011 FCA 328.</li> </ul>
March 9	<p>Intellectual Property Rights (cont'd)</p> <ol style="list-style-type: none"> <li>1. Copyright</li> </ol> <p>Consumer Protection</p> <ol style="list-style-type: none"> <li>1. Spam</li> <li>2. Identity Theft</li> </ol> <p><u>Readings</u> Copyright <i>SOCAN v. Bell Canada</i>, 2012 SCC 36, [2012] 2 S.R.C. 326</p> <p>Spam Textbook: 586-592.</p>
March 16	Websites

	<p>1. Terms of use 2. Privacy Policies 3. User-Generated Content</p> <p>Intermediary Liability 1. Internet Service Providers 2. Online Service Providers</p> <p>Readings: Mitchell McInnes (Author), Ian R. Kerr (Author), J. Anthony VanDuzer. <i>Managing the Law: The Legal Aspects of Doing Business</i> 4th ed. (Upper Saddle River, NJ: Pearson Education Inc., 2013), 476-490.</p> <p>Cases: Terms of Use <i>Rudder v. Microsoft</i> (1999) 47 CCLT (2d) 168 (Ont SCJ) <i>Kanitz v. Rogers Cable Inc.</i> (2002) 58 OR (3d) 299 (SCJ) <i>Dell Computer Corp v. Union des consommateurs</i> (2007) 284 DLR (4th) 577 SCC</p> <p>User-Generated Content <i>Doctor's Assoc Inc v. QIP Holders LLC</i> 38 Media L Rep 1616 (D Conn 19 February 2010) [Subway v. Quiznos]</p> <p>Intermediary Liability <i>Crookes v. Newton</i>, 2011 SCC 47</p>
March 23	<p>Public Safety and Welfare: Protecting Children 1. Cyberbullying 2. Child Pornography</p> <p><u>Readings</u> UNICEF, <i>Child Safety Online: Global Challenges and Strategies</i> (December 2011) (<a href="http://www.unicef.ca/sites/default/files/imce_uploads/TAKE%20ACTION/ADVOCATE/DOCS/Child_Safety_online_Globa_challenges_and_strategies.pdf">http://www.unicef.ca/sites/default/files/imce_uploads/TAKE%20ACTION/ADVOCATE/DOCS/Child_Safety_online_Globa_challenges_and_strategies.pdf</a>)</p>
March 30	Exam Review