

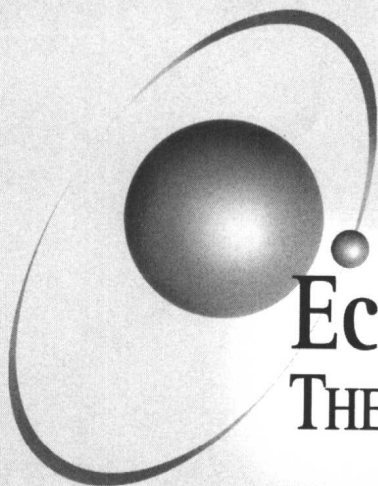
ECONOMICS AND E-COMMERCE

THE ONLINE LEGAL ENVIRONMENT



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Economics and E-Commerce

THE ONLINE LEGAL ENVIRONMENT

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Preface

The world of e-commerce is new, expanding, and increasingly important. Doing business online has led to dramatic improvements in efficiency in numerous industries. The ability to communicate in written form at virtually zero cost to anyone located anywhere in the world and at any time has speeded up the process of globalization. To some extent, the importance of e-commerce cannot be measured by the value of the annual transactions consummated online. This number is impressive—measuring in the many billions of dollars and growing rapidly—but it doesn't tell the full story, for e-commerce is now pervasive. It affects management, marketing, human resources, finance, accounting/taxation, and economics.

Currently, our legal system is struggling to keep up with the changes occurring in the online world. Never before has the law had to be adapted so quickly to new business practices. Yet in the last few years, a body of law for e-commerce has been evolving, as old law is adapted to the online world and new legislation is passed. Today's student and businessperson alike must have at least a passing knowledge of how the law is being applied in the online world—not only to understand the intersection of law and e-commerce, but also to be able to fully utilize the benefits of e-commerce.

At the outset, we must emphasize that the basic principles of law do not change simply because we are entering the online legal environment. To be sure, Congress and state legislatures are enacting new laws that specifically address certain problems in the online environment. Yet for the most part, old principles of law are being adapted and applied to new problems generated by evolving technology. Consequently, the basics of our legal environment are a necessary starting point for understanding law for e-commerce.

The Organization of This Book

Because the basic foundations of the law provide the framework for the study of law for e-commerce, Unit One of this text (the first six chapters) is, in effect, a mini-course in our legal environment. Chapter 1 presents a straightforward introduction to law. In Chapters

2 and 3, dispute resolution is examined in detail, including the resolution of disputes over domain names. In Chapter 4, we examine torts and crimes—civil and criminal wrongs. These wrongs take on a special significance when they occur in cyberspace. As you might expect, a thorough understanding of intellectual property is critical for understanding law for e-commerce. Chapters 5 and 6 deal with the legal protection available for intellectual property (including patents, copyrights, trademarks, cyber marks, and trade secrets) in both the offline and online environments.

The remaining chapters of this text examine law for e-commerce as it relates to management, marketing, human resources, finance, accounting/taxation, and economics. We strongly believe that a wide variety of students taking basic and advanced courses in these six disciplines will benefit not only from a basic introduction to the online legal environment but also from a study of law for e-commerce relating specifically to their specialized areas of study. Consequently, we offer this text in six additional modularized editions. Each of these streamlined editions includes Chapters 1 through 6, or the core chapters, plus two chapters relating to a particular discipline. Each module includes a full set of appendices.

A Companion Web Site

Instructors and students can access the companion Web site for *Law for E-Commerce* at <http://lec.westbuslaw.com>. The Web site offers Internet Applications (consisting of Internet activities for every chapter in this text), Instructor Resources, Student Resources, Court Case Updates, a "Talk to the Author" feature, and other useful resources.

Special Features

We have included in this text two special features, one focusing on controversial issues in the online world and the other offering guidelines on some aspect of e-commerce. Each chapter contains one or more of these features, which we describe here.



CONTROVERSIAL ISSUES IN THE ONLINE WORLD

Not surprisingly, because e-commerce is so new, controversies abound with respect to how the law should be applied to the online world. In features titled *Controversial Issues in the Online World*, we look at the most pressing and exciting of these controversies. Here are just a few of the topics discussed in these features:

- Electronic Filing and Privacy Issues (Chapter 2).
- Is Virtual Pornography a Crime? (Chapter 4).
- Code-Cracking Software for DVDs Online—The Courts Speak (Chapter 5).

Each *Controversial Issues* feature concludes with a question “For Critical Analysis.”

E-GUIDELINES Because so much business is now being conducted online, students and businesspersons alike can benefit from certain guidelines relating to e-commerce. Thus, most of the chapters in the text include a special *E-Guidelines* feature. Some examples are:

- ODR Guidelines for E-Commerce (Chapter 2).
- The Protection of Privacy Rights in Cyberspace (Chapter 4).
- Copyright Protection in a Digital Age (Chapter 5).

Each of the *E-Guidelines* features ends with a checklist that offers a series of practical tips for businesspersons.

An Effective Case Format

Even those business students and businesspersons who are not familiar with the law can profit from seeing how the courts reason through legal issues. The best way to do so is to actually read what the courts (judges) have said. Thus, in every chapter we present three to six actual court cases, each of which contains excerpts from the court’s opinion. The cases are numbered sequentially for easy referencing in class discussions, homework assignments, and examinations.

Each case is presented in a special format, which begins with the case title and citation (including parallel citations). Whenever possible, we also include a URL, just below the case citation, that can be used to access the case online. Whenever a URL is presented, a footnote to the URL explains how students can navigate the site accessed to find the specific case. Following the citations for the case, we present sections giving the background and facts of the case, excerpts from the court opinion showing the court’s

reasoning on the issue, and the decision and remedy in the case.

In addition, many of the cases are preceded by a *Company Profile*, which provides background information on a party to the case, or a *Historical and Social [or other] Setting*. Each case concludes with a *For Critical Analysis* question that invites the reader to consider further one of the issues touched on in the case or some related issue, such as the ethical implications of the court’s decision.

Other Special Features of This Text

We believe that the best way to learn is to have a text that contains a complete set of pedagogical devices. *Law for E-Commerce* is such a text. We list here the special pedagogical devices we use:

- **Concepts Covered**—These are key learning objectives that give the reader an overall view of what lies ahead.
- **In-Margin Definitions of Key Legal Terms**—Terminology is one of the biggest stumbling blocks in learning law concepts. Key legal and technological terms are described not only in the text but also in the margin.
- **In-Margin *On the Web* Features**—Whenever appropriate, a specific link to a relevant Web page is given.
- **Exhibits**—When appropriate, an exhibit is presented to further illustrate a point. For example, in Chapter 3, exhibits illustrate the extent to which the Internet is used for online shopping, the number of Internet-related consumer complaints, the number of these complaints that are resolved through online dispute resolution, and so on. Chapter 4 includes an exhibit illustrating how the same act can lead to a tort lawsuit as well as a criminal prosecution. An exhibit in Chapter 5 summarizes the various forms of intellectual property.
- **Terms and Concepts**—At the end of each chapter, we present a list of all important terms and concepts that were boldfaced and defined in the margins within the chapter. Any reader who has doubts about the meaning of a term or concept can turn to the referenced page number in this list for the term’s definition.
- **Questions and Case Problems**—Every chapter ends with a full set of questions and case problems that instructors can assign. Each case problem is followed by the full case title and citation so that readers who wish to do so can examine the entire court opinion.



Appendices

Many readers will want to keep *Law for E-Commerce* as a reference book. Consequently, we provide a full set of appendices appropriate for the online legal world. They include:

- Appendix A: Digital Millennium Copyright Act of 1998 (Excerpts)
- Appendix B: ICANN's Uniform Domain Name Dispute-Resolution Policy (Excerpts)
- Appendix C: Anticybersquatting Consumer Protection Act of 1999 (Excerpts)
- Appendix D: Federal Trademark Dilution Act of 1995 (Excerpts)
- Appendix E: Uniform Electronic Transactions Act (Excerpts)
- Appendix F: Uniform Computer Information Transactions Act (Excerpts)
- Appendix G: Electronic Signatures in Global and National Commerce Act of 2000 (Excerpts)
- Appendix H: Internet Tax Freedom Act of 1998 (Excerpts)

A Full Set of Supplements

Instructors using this text can order a full set of supplements. These supplements include a comprehensive *Instructor's Manual with Test Bank* and an *Answers Manual*. The *Answers Manual* presents suggested answers to the hypothetical questions in the *Questions and Case Problems* section at the end of each chapter, as well as the court's conclusion and reasoning for the actual case problems presented in that section.

A number of other supplements are also available, including the following:

- *Handbook of Landmark Cases and Statutes in Business Law.*
- *Handbook on Critical Thinking and Writing.*
- *A Guide to Personal Law.*
- Westlaw®.
- Court TV®.

- CNN® *Legal Issues* Update Video.
- *Business Law: The Game.*
- Quicken® *Business Lawyer*® 2000 CD-ROM and Applications.
- *Black's Handbook of Basic Law Terms.*
- *The New York Times Guide to Business Law and Legal Environment.*
- InfoTrac® College Edition.

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Numerous other individuals helped us to create an up-to-date, error-free book in a brief span of time. We particularly thank William Eric Hollowell, who provided much of the necessary research, and Lavina Leed Miller, who coordinated the project and provided editorial and research assistance from the outset of the project through its final stages. We were fortunate to have the copyediting and proofreading services of Suzie Franklin DeFazio. We also thank Roxie Lee for her proofreading and other assistance, which helped us to meet our ambitious publishing schedule, and Sue Jasin of K&M Consulting for her contributions to the project.

More than any other subject in the field of law and the legal environment, law for e-commerce is changing rapidly. Instructors, students, and businesspersons who have comments about additional topics that we should include in future editions should write us directly. We value all such comments and will take them to heart when we start the second edition of this text.

Roger LeRoy Miller
Gaylord Jentz

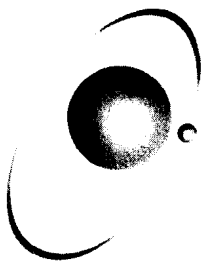
DEDICATION

To Nello,
Your tireless efforts at helping me reach
excellence go beyond friendship.
I'll never attain your level,
but I'll look better while trying.
Thanks.

—R.L.M.

To my wife, JoAnn; my children, Kathy,
Gary, Lori, and Rory; and my grandchildren,
Erin, Megan, Eric, Emily, Michelle, Javier,
Carmen, and Steve.

—G.A.J.



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