

FENNEMORE CRAIG

I - Law

INTELLECTUAL PROPERTY LAW ALERT

Fennemore Craig I-Law, a bi-weekly e-mail from Fennemore Craig's Intellectual Property Group, provides an update on e-commerce, Internet, trademark, patent, licensing and copyright news.

Fennemore Craig counsels clients on Internet, branding and e-commerce issues and protection and commercial exploitation of patents, copyrights, trademarks, and trade secrets. Clients include a range of domestic and international businesses from Internet start-ups to large multi-nationals in industries ranging from computer software and hardware to pharmaceuticals, toys, games, optics, and electronics.

If you think other people would benefit from this communiqué, please let them know that they can subscribe by sending an e-mail to Cheryl Martin-DeVries at cdevries@fclaw.com. Back issues of *Fennemore Craig I-Law* can be found at the Issues & Answers section of our web site at www.fennemorecraig.com.

Unsubscribe to *Fennemore Craig I-Law* at any time by sending an e-mail message to cdevries@fclaw.com with "UNSUBSCRIBE FC I-LAW" in the subject line of the e-mail.

If you have any questions or comments, please contact Steve Winkelman, author of *Fennemore Craig I-Law*, at swinkelm@fclaw.com or 602.916.5407.

Fennemore Craig
www.fennemorecraig.com
602.916.5000

ONLINE & E-COMMERCE ISSUES

- The long-running Netscape/Internet Explorer anti-trust browser technology dispute is over. Microsoft agreed to pay AOL, which owns Netscape these days, \$750 million. In addition, the agreement allows, but does not require, AOL to put Microsoft's digital media technology on AOL and sets the stage for the two companies to share technology.
<http://www.msnbc.com/news/919691.asp?0cv=CA01>
<http://news.com.com/2100-1032-1011296.html?tag=nl>
<http://www.washingtonpost.com/wp-dyn/articles/A55960-2003May29.html>
<http://www.wired.com/news/business/0,1367,59039,00.html>
- Aye, there's the rub. There are a few exceptions to the federal do-not-call list prohibition on telemarketers, of which you may not be aware. Banks, telephone companies, and airlines are exempt from the prohibition.
<http://www.latimes.com/news/printedition/opinion/la-ed-sales19may19,1,5666271.story>
(free registration required)

- North Dakota Supreme Court addresses online jurisdiction issues in libel case.
<http://www.law.com/jsp/article.jsp?id=1052440764269>
- But the US Supreme Court declines to take Internet libel jurisdiction case.
http://news.com.com/2110-1028_3-1008068.html?tag=cshrt
- Arizona law forbidding inmates from appearing on the Internet is ruled unconstitutional.
<http://www.azcentral.com/arizonarepublic/local/articles/0517inmatesweb17.html>
- Next year, they will be offering "Breaking and Entering 101." College plans computer virus writing course.
http://news.com.com/2100-1002_3-1010538.html?tag=fd_top
- Computer virus vs. Computer worm: Good layperson's explanation of the difference.
<http://slate.msn.com/id/2083292/>
- Web ads that look like computer error messages must now contain a disclaimer indicating that they are advertisements.
http://news.com.com/2110-1024_3-1010688.html
- US Cybersecurity chief to be part of Department of Homeland Security.
<http://www.washingtonpost.com/wp-dyn/articles/A42220-2003May26.html>
- What's driving the growth in bandwidth? Why, it's music and pornography, of course.
http://news.com.com/2100-1026_3-1011032.html?tag=fd_top
- Broadband is not as broad-spread as we thought.
<http://www.washingtonpost.com/wp-dyn/articles/A23117-2003May21.html>
- US tech workers challenging special US tech visas, claiming it is costing US workers their jobs.
<http://www.nytimes.com/2003/05/30/technology/30VISA.html> *(free registration required)*
- Technology is reaching most courtrooms, at last.
<http://www.nytimes.com/2003/05/29/technology/circuits/29cour.html> *(free registration required)*
- A chicken in every pot, and wi-fi in every home. Internet fundraising (aka cyber-begging) is working for Presidential candidates.
<http://www.washingtonpost.com/wp-dyn/articles/A26322-2003May22.html>
- Also, one presidential candidate (Governor Howard Dean) has put up an all-video website to provide political junkies with info about the Gov and his positions. Welcome to Howard Dean TV.
<http://www.wired.com/news/business/0,1367,58953,00.html>
- Non-profits learning the benefits of being wired.
<http://www.nytimes.com/2003/05/26/technology/26ECOM.html> *(free registration required)*
- High school student allegedly uses school email server to distribute explicit pictures of herself to 3 male classmates; all get expelled. (BTW, could the link be any longer?)
<http://www.stltoday.com/stltoday/news/stories.nsf/News/6219B3E1299C653C86256D2D00165F7B?OpenDocument&Headline=Law+and+Order%3A+Explicit+photo+sent+over+Internet+leads+to+expulsion+of+4+at+MICDS>
- New law restricts online pornography. But is it constitutional?
<http://www.gigalaw.com/articles/2003-all/isenberg-2003-05-all.html>

SPAM

- Spammer claims to send 120-180 million emails every 12 hours. Egad! Well, that explains I-LAW's inbox, but what about the rest of you?
<http://www.washingtonpost.com/wp-dyn/articles/A23386-2003May21.html>
- Should spammers go to jail? Are we really ready for that?
<http://www.ecommercetimes.com/perl/story/21554.html>
- Microsoft proposing anti-spam legislation.
<http://www.washingtonpost.com/wp-dyn/articles/A17281-2003May20.html>
- Spammers use other people's computers to send out spam.
<http://www.nytimes.com/2003/05/20/technology/20SPAM.html> *(free registration required)*

PRIVACY

- Court strikes down Washington State law that prohibits online posting of personal info about police officers and court officials.
http://seattlepi.nwsource.com/local/123525_info24.html
- Responding to critics who were concerned that the Pentagon's "Total Information Awareness" program was a sweeping, unconstitutional and dangerous gathering of personal information and invasion of privacy, the Pentagon has changed the name to the "Terrorism Information Awareness" program. Well, that should alleviate everyone's concerns.
<http://www.washingtonpost.com/wp-dyn/articles/A19272-2003May21.html>

BIOTECH ISSUES

- Secret attempt to broker deal between biotech food advocates and critics fails (and, by the way, the secret attempt is no longer a secret).
<http://www.washingtonpost.com/wp-dyn/articles/A55678-2003May29.html>
- Genetic profile of African-Americans planned by Howard University.
<http://www.washingtonpost.com/wp-dyn/articles/A46122-2003May27.html>
- Along with little Jimmy's failure to clean his plate at every meal.... President Bush says that European bio-crop ban undermines efforts to stop hunger in the third world.
<http://www.nytimes.com/2003/05/22/international/europe/22PREX.html> *(free registration required)*

DOMAIN NAMES

- Home run! Baseball slugger Magglio Ordonze wins MagglioOrdonze.com.
<http://www.arbforum.com/domains/decisions/154595.htm>
- NatWestBankSucks.com taken from critic and given to bank.
<http://arbiter.wipo.int/domains/decisions/html/2003/d2003-0166.html>

PATENTS

- eBay guilty of willful patent infringement for the "buy it now" price of \$35 million.
http://news.com.com/2100-1018_3-1010397.html?tag=fd_top
<http://www.washingtonpost.com/wp-dyn/articles/A48271-2003May28.html>

TRADEMARKS

- Here is an analysis of the recent Supreme Court trademark dilution decision in the Victoria's Secret case and how it might affect trademarks on the Internet.
<http://www.gigalaw.com/articles/2003-all/baroni-2003-05-all.html>
- You all remember hearing about the Democrats in the Texas State Legislature that left Texas and went to Oklahoma so that there were not enough legislators left in Texas to conduct legislative business (and pass an unprecedented Republican-crafted redistricting plan). Well, those Dems have taken to calling themselves WD-40 (white Democrats over the age of 40). The owners of the WD-40 trademark are objecting.
<http://www.cbsnews.com/stories/2003/05/27/politics/main555572.shtml>
- Rosa Parks objects to moving to the front of a rap song. The civil rights icon claims that a rap group violated her privacy and trademark rights by using her name in the title of a song. The Court of Appeals has reversed the lower courts dismissal of Parks' suit.
<http://ipcenter.bna.com/pic2/ip.nsf/id/BNAP-5MYL8Y?OpenDocument>
- Hate group may be charged with trademark infringement. Yes, the only charge the feds could come up with after a midnight raid was related to the hate group's use of the Nike swoosh on a t-shirt where the word "Nike" was replaced with "Nazi."
<http://www.washingtonpost.com/wp-dyn/articles/A7672-2003May18.html>

COPYRIGHTS

- Copyright office considers exempting printer cartridges from DMCA.
<http://ipcenter.bna.com/pic2/ip.nsf/id/BNAP-5MPHY6?OpenDocument>

Contacts

C. OWEN PAEPKE	(602) 916-5384
ANNE L. KLEINDIENST	(602) 916-5392
RAY K. HARRIS, <i>Chair</i>	(602) 916-5414
RICHARD E. ONEY	(602) 916-5303
STEPHEN R. WINKELMAN	(602) 916-5407
SUSAN STONE ROSENFELD	(602) 916-5317
STACIE KEIM SMITH	(602) 916-5451
JAMES M. SHINN	(602) 916-5436

DISCLAIMER: The information contained in this e-mail has been prepared by Fennemore Craig for informational purposes only and is not legal advice. It is provided only as general information which may or may not reflect the most current legal developments. This information is not provided in the course of, and receipt of it does not constitute, an attorney-client relationship, and it does not substitute for obtaining legal advice from an attorney licensed in your state. Legal advice should take into account the specific facts of your situation, and you should not draw any particular conclusions from the information presented here. You should seek professional legal counsel before acting upon any of the information contained in this e-mail. Before sending information to us; however, please speak with one of our lawyers and get authorization to send that information to us.