

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](mailto: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](http://www.fennemorecraig.com).

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### TRADEMARKS

- US Patent and Trademark Office is considering a proposal for a fast track trademark application process. <http://www.uspto.gov/web/offices/com/strat21/action/p1t01.htm>
- Come on baby light my lawsuit. Jim Morrison's family is suing the new Doors, claiming trademark infringement. [http://story.news.yahoo.com/news?tmpl=story&u=/nm/20030425/music\\_nm/music\\_doors\\_dc\\_1](http://story.news.yahoo.com/news?tmpl=story&u=/nm/20030425/music_nm/music_doors_dc_1)
- Starbucks trying to stop use of "Haidabucks" for a coffee shop in a Canadian village of 700 people. [http://story.news.yahoo.com/news?tmpl=story&u=/afp/20030417/wl\\_canada\\_afp/canada\\_us\\_native\\_030417001159](http://story.news.yahoo.com/news?tmpl=story&u=/afp/20030417/wl_canada_afp/canada_us_native_030417001159)
- I guess calling them TIGER would have been too obvious. Jack Nicklaus is suing a golfing company for trademark infringement because the company is using JACK as a trademark for its line of golf balls. <http://www.sanluisobispo.com/mld/sanluisobispo/sports/5688438.htm>

- Intel thinks that "Art Inside" gallery infringes the chip giant's "Intel Inside" trademark.  
[http://www.boston.com/dailyglobe2/121/editorials/Brand\\_illusions+.shtml](http://www.boston.com/dailyglobe2/121/editorials/Brand_illusions+.shtml)  
<http://www.theinquirer.net/?article=9166>

## COPYRIGHTS

- Surprise, surprise. File swapping services (Morpheus and Grokster) win DMCA lawsuit. First two links are to media coverage; last link is to the judge's order.  
[http://news.com.com/2100-1027-998363.html?tag=fd\\_top](http://news.com.com/2100-1027-998363.html?tag=fd_top)  
<http://www.washingtonpost.com/wp-dyn/articles/A47853-2003Apr28.html>  
[http://www.eff.org/IP/P2P/MGM\\_v\\_Grokster/030425\\_order\\_on\\_motions.pdf](http://www.eff.org/IP/P2P/MGM_v_Grokster/030425_order_on_motions.pdf)
- But this is not stopping the recording industry: record companies sue Napster's VCs.  
<http://www.nandotimes.com/technology/story/864872p-6042774c.html> *(free registration required)*
- But this is not stopping the recording industry: State DMCA's are looming on the horizon.  
<http://www.wired.com/news/business/0,1367,58572,00.html>
- But this is not stopping the recording industry: Four students agree to pay \$\$ to recording industry to settle file-swapping lawsuit. Will it encourage other students to stop downloading music?? I-LAW is skeptical.  
<http://www.washingtonpost.com/wp-dyn/articles/A4895-2003May2.html>  
<http://www.nytimes.com/2003/04/23/national/23STUD.html> *(free registration required)*
- But this is not stopping the recording industry: The recording industry is now using instant messaging to try to shame file-swappers into stopping.  
<http://www.washingtonpost.com/wp-dyn/articles/A56869-2003Apr29.html>  
[http://news.com.com/2100-1025-998825.html?tag=cd\\_mh](http://news.com.com/2100-1025-998825.html?tag=cd_mh)
- But this is not stopping the recording industry: seeking to keep the world safe from illegal downloading, the Recording Industry Association of America is helping Iraq draft its copyright laws.  
<http://www.theregister.co.uk/content/6/30441.html>
- Maybe, it is. Literary references to Chekhov (the playwright, not the Trek helmsman) spice up this analysis of the looming downfall of today's recording industry caused by file-sharing technology.  
<http://www.latimes.com/news/opinion/commentary/la-oe-pink29apr29,1,7791049.story?coll=la%2Dnews%2Dcomment%2Dopinions> *(free registration required)*
- You can always count on Madonna. What has she done now? She is placing decoy sound files on file swapping sites. Rather than playing Madonna's latest music, the files say, "What the f--- do you think you're doing?"  
[http://seattlepi.nwsource.com/pop/118048\\_tf118x.html](http://seattlepi.nwsource.com/pop/118048_tf118x.html)
- Hackers react to Madonna's ploy by defacing her website and posting links to pirated versions of her work.  
<http://news.com.com/2100-1025-997856.html>
- Proof that copyright law is an engine for creativity. It turns out that the Simpsons characters came into existence because copyright lawyers would have made it very difficult for the creator of the Simpsons to use already existing comic strip characters, which was the original plan. (Scroll down to item #39).  
<http://www.observer.co.uk/review/story/0,6903,939751,00.html>
- It's a bird. It's a plane. No, it's Copyrightman! A comic book explaining the value of copyrights. Ugh!  
<http://www.wipo.int/publications/copyright/484/484e.pdf>

## ONLINE & E-COMMERCE ISSUES

- Not much VC money out there right now.  
<http://www.washingtonpost.com/wp-dyn/articles/A10942-2003May3.html>
- Not many tech jobs either.  
<http://www.nandotimes.com/technology/story/878269p-6123300c.html>
- But dot-com stocks reviving. Is it just another bubble?  
<http://www.washingtonpost.com/wp-dyn/articles/A60650-2003Apr30.html>
- Fraud is a big part of online auctions. States and Fed to crack down.  
<http://www.nytimes.com/2003/05/01/technology/01ONLI.html> *(free registration required)*  
<http://www.washingtonpost.com/wp-dyn/articles/A62592-2003Apr30.html>
- Supreme Court declines to hear case on Internet jurisdiction.  
[http://www.usatoday.com/tech/news/techpolicy/2003-04-28-web-legal\\_x.htm](http://www.usatoday.com/tech/news/techpolicy/2003-04-28-web-legal_x.htm)
- Email makes participation in government processes easier and more convenient for the public. Government officials are increasingly viewing it as a headache. In this case, the US Forest Service wants to be able to ignore public comment sent by email.  
<http://www.siliconvalley.com/mld/siliconvalley/5695813.htm>
- First the Air Force Academy had a sex scandal, now it appears a senior cadet was using the Internet to organize group sex. This can't be the new military information advantage can it?  
<http://www.washingtonpost.com/wp-dyn/articles/A4327-2003May2.html>

## SPAM

- You mean it won't really be bigger?! The FTC says that 66% of spam contains lies.  
[http://news.com.com/2100-1029-998750.html?tag=cd\\_mh](http://news.com.com/2100-1029-998750.html?tag=cd_mh)
- So what is being done about it? Spam fight expands in states and at the federal level.  
<http://www.nytimes.com/2003/04/29/technology/29SPAM.html> *(free registration required)*
- For example, FTC gets man to stop sending pornographic emails that contained misleading subject lines.  
<http://www.stltoday.com/stltoday/news/stories.nsf/News/CD65DE08A438637986256D11000F53B3?OpenDocument>
- But State Attorneys General are concerned that possible federal anti-spam legislation would weaken state anti-spam laws.  
<http://www.washingtonpost.com/wp-dyn/articles/A60659-2003Apr30.html>
- For example, new Virginia felony penalties become law. Send fraudulent spam; go to jail.  
[http://news.com.com/2100-1029-998888.html?tag=fd\\_top](http://news.com.com/2100-1029-998888.html?tag=fd_top)
- Also, Oklahoma enacts new spam law.  
[http://www.usatoday.com/tech/news/techpolicy/2003-04-23-spam-ok\\_x.htm](http://www.usatoday.com/tech/news/techpolicy/2003-04-23-spam-ok_x.htm)
- Companies are trying to stop it too. AOL, Yahoo and Microsoft band together to go after spam.  
<http://www.washingtonpost.com/wp-dyn/articles/A45816-2003Apr27.html>
- Of course, none of this stuff seems to be slowing it down.  
<http://www.nytimes.com/2003/04/22/technology/22SPAM.html> *(Archive fee required to view article)*

- Indeed, Spammers are now suing anti-spammers, claiming defamation, libel and conversion (!). The anti-spammers are allegedly taking away the servers of the spammers by use of certain filters.  
<http://research.yale.edu/lawmeme/modules.php?name=News&file=article&sid=1102>
- Also, some are claiming the need to distinguish between bulk emailers (good) and spammers (bad). Yeah, that's going to work.  
<http://www.washingtonpost.com/wp-dyn/articles/A31748-2003Apr24.html>

## PRIVACY

- Verizon is again ordered to reveal the identity of a file-swapper.  
[http://news.com.com/2100-1027-998268.html?tag=fd\\_top](http://news.com.com/2100-1027-998268.html?tag=fd_top)  
<http://www.washingtonpost.com/wp-dyn/articles/A36780-2003Apr25.html>
- Suit claims that Amazon.com violates online children protection laws.  
<http://www.washingtonpost.com/wp-dyn/articles/A17782-2003Apr22.html>

## BIOTECH ISSUES

- Ordinary cells turned into eggs in laboratory dish.  
<http://www.washingtonpost.com/wp-dyn/articles/A2931-2003May1.html>
- EPA fines seed company for spread of gene-altered corn.  
<http://www.washingtonpost.com/wp-dyn/articles/A27846-2003Apr23.html>
- Meanwhile, farmers worry about biotech crops.  
<http://www.washingtonpost.com/wp-dyn/articles/A7480-2003Apr21.html>

## DOMAIN NAMES

- ICANN is going to require domain name owners to update their contact info annually.  
<http://www.vnunet.com/News/1140432>
- Court can order .org domain name registry to transfer domain name in an "in rem" case once foreign registrar refuses to do so.  
<http://ipcenter.bna.com/pic2/jp.nsf/id/BNAP-5M4M5K?OpenDocument>
- ".pro" domain names soon available.  
<http://www.reuters.com/newsArticle.jhtml?storyID=2614887>
- Noted cybersquatter Toeppen actually wins a UDRP. He gets to keep Monticello.com.  
<http://arbiter.wipo.int/domains/decisions/html/2002/d2002-1157.html>
- Windowscasino.com is not transferred to Microsoft, even though UDRP arbitrators found confusion likely. The arbitrators found that the domain name registrant had a legitimate interest in the name.  
<http://arbiter.wipo.int/domains/decisions/html/2003/d2003-0044.html>
- PuertoRico.com is not transferred to Puerto Rico government's tourism entity.  
<http://arbiter.wipo.int/domains/decisions/html/2002/d2002-1129.html>
- Birdie. Tiger Woods Foundation wins TigerWoodsFoundation.org domain name after registrant offered to sell it to the foundation for \$350,000.  
<http://www.arbforum.com/domains/decisions/145284.htm>

## PATENTS

- The patent system is based on national law, so global protection is very expensive. Some think there should be a single worldwide patent system.  
<http://www.technologyreview.com/articles/schwartz0503.asp>

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