

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.

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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

A YEAR IN REVIEW

A review of the year's top IP cases.

<http://www.law.com/servlet/ContentServer?pagename=OpenMarket/Xcelerate/View&c=LawArticle&cid=1039054489470&t=LawArticleIP>

- Tech year in review.
<http://www.washingtonpost.com/wp-dyn/articles/A38172-2002Dec25.html>

ONLINE & E-COMMERCE ISSUES

- Russian software company in Sklyarov trial is "not guilty." This is the first criminal trial under the Digital Millennium Copyright Act.
<http://news.com.com/2100-1023-978176.html>
<http://www.law.com/servlet/ContentServer?pagename=OpenMarket/Xcelerate/View&c=LawArticle&cid=1039054467587&t=LawArticleIP>
- Coming off this legal victory, Sklyarov discusses how the Digital Millennium Copyright Act is affecting computer programmers.
http://news.com.com/2100-1023-978497.html?tag=cd_mh
- Some feel that the Sklyarov case "defanged" the DMCA.
http://www.businessweek.com/technology/content/dec2002/tc20021219_4518.htm
- Web filters block important health information.
<http://www.nytimes.com/2002/12/11/technology/11FILT.html> (free registration required)
<http://www.washingtonpost.com/wp-dyn/articles/A37370-2002Dec10.html>
- The US Federal Trade Commission is putting together a national do-not-call registry for consumers to block telemarketers.
<http://www.washingtonpost.com/wp-dyn/articles/A3964-2002Dec17.html><http://www.nytimes.com/2002/12/18/technology/18TELE.html>
- The law of unintended consequences. Will the new FTC do-not-call list make spam more common? Aaarggghhh
<http://www.wired.com/news/privacy/0,1848,56912,00.html>
- Speaking of spam, AOL wins \$7 million in spam case.
<http://www.washingtonpost.com/wp-dyn/articles/A63456-2002Dec16.html>
<http://news.com.com/2100-1023-978019.html>
- Anti-abortion groups intercepting Planned Parenthood's e-mails. It turns out that a right-to-life activist had set up Planned Parenthood's computer system and knew several employee e-mails.
http://www.theindependent.com/stories/122202/new_exec22.shtml
- A city council that does business by email may be violating open meeting laws. At least, this city council was.
<http://www.washingtonpost.com/wp-dyn/articles/A24034-2002Dec21.html>
- Although the RIAA has blamed cyber piracy for the downturn in CD sales, a new report indicates that the downturn may have been caused by the Record Industry's slashing of production by 27% (even though year to year unit sales have only dropped 10.3%).
<http://www.theregister.co.uk/content/6/28588.html>
- President Bush signs law to make government more Internet friendly.
http://news.com.com/2100-1023-978297.html?tag=fd_top

- At the same time, the Bush Administration proposes monitoring the Internet. It is reputedly designed to stop cyber attacks, but critics worry about monitoring of an individual's activities.
<http://www.nytimes.com/2002/12/20/technology/20MONI.html> (free registration required)
<http://www.nandotimes.com/technology/story/683645p-5085676c.html> (free registration required)
- In an anxiously awaited decision, Australia's high court ruled that a lawsuit for defamation on Dow Jones' US website can be heard in Australia because the allegedly defamatory article was downloaded in Australia.
http://news.com.com/2100-1023-976630.html?tag=fd_top
<http://www.nytimes.com/reuters/international/international-media-australia-internet.html>
 (free registration required)
<http://www.washingtonpost.com/wp-dyn/articles/A39422-2002Dec11.html>
<http://www.nandotimes.com/technology/story/668788p-4996745c.html> (free registration required)
- A U.S. Court reaches the opposite conclusion. A Virginia court does not have jurisdiction over Internet libel case because the allegedly slanderous Connecticut newspaper's articles were not targeted at Virginia readers.
<http://www.nandotimes.com/technology/story/674265p-5031575c.html> (free registration required)
<http://pacer.ca4.uscourts.gov/opinion.pdf/012340.P.pdf>
- These decisions raise once again the critical questions of what law applies when Internet publishing can be read worldwide?
<http://www.nandotimes.com/technology/story/681560p-5073234c.html> (free registration required)
- This columnist proposes absolute immunity from linking liability.
<http://writ.news.findlaw.com/hilden/20021210.html>
- A law firm has been sued for breaking into the password-protected website of an adversary's expert witness. The law firm obtained the password from a co-defense lawyer who had guessed it. Material from the password-protected website was then used to discredit the expert witness in a high stakes trial.
<http://www.washingtonpost.com/wp-dyn/articles/A55951-2002Dec14.html>
- Is googling okay? NY Times Ethicist thinks so.
<http://www.nytimes.com/2002/12/15/magazine/15ETHICIST.html> (free registration required)
- Speaking of googling, *I-Law* loves this headline: Google vs. Evil.
<http://www.wired.com/wired/archive/11.01/google.html>
- Online shopping surpasses \$11 billion mark from November 1 until the middle of December, a 40% increase from last year.
http://news.com.com/2100-1017-978712.html?tag=fd_top

- Let your fingers do the shopping. Kroger's now allows shoppers to pay using fingerprints. <http://www.cnn.com/2002/TECH/ptech/12/26/kroger.fingerprint.reut/index.html>
- Psalm Pilots. You can now get a daily psalm delivered to your phone or pager. <http://www.nandotimes.com/technology/story/690338p-5126604c.html> (free registration required)
- Minority Report is here. Billboards will monitor nearby car radio usage and change advertisements accordingly. <http://www.nytimes.com/2002/12/27/business/media/27ADCO.html> (free registration required)

DEFAMATION, RIGHT OF PRIVACY, AND RIGHTS OF PUBLICITY

- Defamation, trade secret law and other laws relating to publishing apply to web logs (or Blogs), just like they apply to more traditional media. <http://www.washingtonpost.com/wp-dyn/articles/A9204-2002Dec18.html>
- Arizona law banning prisoners from placing information about themselves on the Internet has been ruled unconstitutional. <http://www.wired.com/news/culture/0,1284,56880,00.html>

DOMAIN NAMES

- Beginning December 15, non-Chinese businesses will be able to register .cn domain names. <http://biz.yahoo.com/iw/021209/049466.html>
- ICANN plans to approve many new generic domains (.com, .biz, etc.) this year. The plan is that the domains will be restricted to specific fields (like .edu for educational institutions). No word yet on how many or which fields. http://news.com.com/2100-1023-977921.html?tag=fd_top
<http://www.washingtonpost.com/wp-dyn/articles/A61306-2002Dec16.html>
<http://www.wired.com/news/business/0,1367,56879,00.html>
- Imagine James Earl Jones' voice when you read this: CNN wins 325 domain names in UDRP. <http://www.arb-forum.com/domains/decisions/117876.htm>
- No surprise here. eBay has sued ebaytoo.com. <http://www.nandotimes.com/technology/story/681383p-5072287c.html> (free registration required)
- Ebayupdates.com is a scam designed to mimic eBay and steal credit card info. <http://www.siliconvalley.com/mld/siliconvalley/news/4713932.htm>

PATENTS

- AOL gets patent on instant messaging application.
<http://news.com.com/2100-1023-978234.html>

COPYRIGHTS

- Another law firm sued for violating another lawyer's IP rights. This time its copyrights in a worker's comp manual.
<http://www.law.com/servlet/ContentServer?pagename=OpenMarket/Xcelerate/View&c=LawArticle&cid=1039054500831&t=LawArticleIP>

TRADEMARKS

- The USPTO is now allowing some documents in trademark dispute proceedings to be filed online.
<http://www.uspto.gov/web/offices/com/speeches/02-72.htm>
- A trademark owner is deemed to have consented to an alleged infringer's proposed new name by ignoring the alleged infringer's proposal to change to that name.
[http://ipcenter.bna.com/PIC/ippic.nsf/\(Index\)/0DF9BD468ED4B39D85256C870080819A?OpenDocument](http://ipcenter.bna.com/PIC/ippic.nsf/(Index)/0DF9BD468ED4B39D85256C870080819A?OpenDocument)
- Here is an article about the U.S. joining the Madrid Protocol.
<http://www.nytimes.com/2002/12/16/technology/16PATE.html> (free registration required)

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

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