

## Digital Property Spring 2024 Midterm

This assignment consists of **one question** and **four pages**, including this cover page. Your answer has a limit of **1,500 words**, which will be strictly enforced. It is due by **11:59 PM on Wednesday, March 13**.

Submit your answer by uploading a PDF to the Midterm assignment on Canvas. Your answer has a limit of **1,500 words**, which will be strictly enforced. Because the exam is blind-graded, keep your **name and other identifying information** out of the PDF you submit.

This is an **open-book** examination. You should not need to consult anything beyond the casebook, the slides, and your notes, but you can if you wish. You are free to discuss the general legal principles we have covered with anyone, including each other. You are free to post general questions about the material covered in the course or clarifying questions about the *facts* (not the law) in the problems on the exam in the designated discussion area on Canvas. I will answer all questions posted there before 11:59 PM on Sunday, March 10.

Aside from that, **you may not discuss the question** with anyone else until after I have returned your grades. Your work on this examination is subject to the Cornell Code of Academic Integrity, the Law School Code of Academic Integrity, and the Campus Code of Conduct.

Please make your answer as **specific** to the facts of the question as you can. Generic statements or suggestions, such as "Make sure that all employees follow proper security practices," will receive few or no points. Your answer should assume that I am already familiar with the facts of the problem and relevant law, and dive directly into your analysis. Use **simple citations** (e.g. "*see Kremen*") where appropriate. I include **spelling, grammar, clarity, and organization** in my grading, but unless they interfere with my ability to understand the substance of your analysis, you are better off focusing your time on the substance of your answer. I appreciate the use of headings to organize your answer, but they're not required. If you find the question **ambiguous** or need to **assume additional facts**, state

your assumptions and explain how they affect your answer. No reasonable resolution of an ambiguity will be penalized.

Assume for purposes of the examination that present-day law has been fully in effect at all relevant times. Unless otherwise noted, all names are fictitious. Please disregard any resemblance to actual persons, places, or institutions, unless they are specifically incorporated into a question.

### **Policy on the use of Generative AI Systems**

You are **allowed** to use **generative-AI** tools in researching and writing your answer, subject to four conditions:

1. The tools must be **entirely automated**. You may not circumvent the rule against discussing the question with anyone by using a hybrid human/computer system, asking someone to help you with your prompts, or doing anything else that puts a human in the loop.
2. The tools you use must be **freely and publicly available**. You may not use any tool for which you paid a usage or subscription fee (or someone else paid it on your behalf), or use any tool that has not been released to the general public.
3. You must **disclose** which tools you used and give a brief description of how you used them in an appendix to your answer. For example, "I input the question to Claude to generate ideas. I used ChatGPT to help clean up the answer." If you did not use any generative-AI tools, you can write "I did not use generative-AI tools in writing this answer" or words to that effect. This appendix does not count against the word limit.
4. Any use of generative-AI tools is entirely **AT YOUR OWN RISK**. You are fully responsible for anything you submit; I will not accept "the computer did it" as an excuse for mistakes of fact or law. Large language models are well known to confidently make blatantly false assertions, cite non-existent cases, and inaccurately summarize legal doctrines. In my experience, they are also bad writers; their outputs are often bland and wordy. **YOU HAVE BEEN WARNED.**

## **I am Become Death, Destroyer of Barbie Worlds**

The Los Alamos Project is a creative, media, and design firm with headquarters in Manhattan, New York. A few years ago, Los Alamos entered into a creative partnership with Millicent Roberts, an artist and designer based in Malibu, California. The partnership has recently devolved into acrimony.

Under the terms of the deal (signed by Oppenheimer on behalf of Los Alamos and Roberts for herself), Roberts would pay Los Alamos \$500,000 to create a rich social-media presence for a period of two years and create a website for Roberts. The contract provided that "all assets created under this contract will become the property of Roberts." Roberts provided Los Alamos with the password to her Instagram account, @millicent. Los Alamos created a new website to showcase Roberts's work, which it hosted on servers rented from Microsoft Azure. Los Alamos also registered the domain name millicentroberts.com with the domain-name registrar Skipper, Roberts went to her domain name registrar, Skipper, and used the controls to point millicentroberts.com to Los Alamos's Azure site. Finally, it created a Gmail account at millicent.roberts@gmail.com for correspondence related to the social-media presence.

Roberts's assistant Kenneth Carson called Los Alamos's controller, J.R. Oppenheimer, to arrange the payment. Unbeknownst to Carson, however, an unknown hacker had breached security at Verizon, which provides Los Alamos's telephone and Internet service, and was able to divert the call to their own number. A person claiming to be Oppenheimer answered the phone and gave Carson their own account number instead of Los Alamos's. Carson duly wired the \$500,000 to the account specified by "Oppenheimer."

Carson called Oppenheimer's number the next day to confirm receipt of the payment. The hacker diverted this call as well and assured Carson that the funds had been received. Carson asked "Oppenheimer" to initiate the domain-name transfer, and "Oppenheimer" promised to do so. By coincidence, Oppenheimer initiated the transfer of millicentroberts.com to Roberts that same day. Three days after that, concerned that the transfer payment had not taken place, Oppenheimer called Carson ~~Carson called Oppenheimer number again. This time he reached the real Oppenheimer,~~

and the two quickly realized that something was wrong. Carson immediately attempted to reverse the wire transfer, but was informed that the unknown party had transferred the \$500,000 onward to banks in six other countries and then withdrawn the money in cash.

Los Alamos demanded a second payment, but Roberts refused. In response, Oppenheimer immediately logged in to the @millicent Instagram account and changed the password. He also used Google's account controls to delete the millicent.roberts@gmail.com Gmail account. Roberts then logged into Skipper and modified the domain records to point millicentroberts.com to a basic website, hosted on a server at Amazon Web Services, which read "fight the patriarchy".

The changed website almost immediately raised questions among Roberts's fans. One of them, the journalist Allan Sherwood, called Roberts for comment, and she described what had happened, blaming everything on Oppenheimer and Los Alamos. Sherwood posted a series of messages on X giving Roberts's side of the story. Angered on Roberts's behalf, Gloria Mattel, the chief operating officer of the AEC social network (used by "Artists, Entertainers, and Creatives" to post portfolios of their work), decided that it would be appropriate payback to give the @losalamos handle on AEC to Roberts. Mattel changed Los Alamos's account from using the @losalamos handle to @jasdf610a, and created a new account for Roberts with the handle @losalamos.

(1) *Who owns:*

- *The @millicent Instagram account?*
- *The millicent.roberts@gmail.com Gmail account?*
- *The millicentroberts.com domain name?*
- *The @losalamos handle?*

(2) *Are any of the parties liable to each other for monetary damages?*

(3) *What non-monetary remedies, if any, are the parties entitled to?*

***You can limit your answer to the material we have discussed up through March 2. You can focus on the property issues. If you need to make assumptions about other areas of law, such as tort or contract, it is fine to write "I assume that ..." rather than giving a detailed explanation.***