

**Internet Law
Spring 2020
Final Examination**

This assignment consists of **two question** and **five pages**, including this cover page. Your answer has a limit of **1,500 words per question**, which will be strictly enforced. It is due by **noon on Friday, May 13**. Please submit your answers following the instructions provided by the law registrar. Your exam should not contain your name or any other identifying information.

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. But **you may not discuss the question** with anyone else until after the deadline. 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.

The question puts you in a role, but the genre for your answers should be "**law school examination.**" 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. Use **simple citations** (e.g. "*see Zeran*") where appropriate. I include **spelling, grammar, clarity, and organization** in my grading. 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.

Question 1: Venture Capitalists: What Do They Know? Do They Know Things?? Let's Find Out!

You are the general counsel of PB Enterprises, a venture-capital firm. Your current task is to review promising pitches for legal issues, so that the partners don't waste their time listening to pitches from startups with unsolvable legal problems.

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Cabracadabra is a ride-hailing app that distinguishes itself by hiring only women as drivers. This policy was designed to provide a safe space for female passengers and job opportunities for female drivers in a profession previously filled mostly by men. The state of Massachusetts has sued Cabracadabra, alleging that this policy violates state employment-discrimination law. In addition, six drivers have sued Cabracadabra, alleging that harassment from male passengers has created a hostile working environment. Cabracadabra has moved to dismiss both lawsuits, arguing (1) that its drivers are independent contractors rather than employees, (2) that it is fully protected by Section 230, and (3) the Cabracadabra app's terms of service require arbitration of all claims. You have examined the app: the splash screen, which displays for five seconds when the app is first opened before automatically going to the app home screen, includes the text, "Remember that your use of this app is governed by terms and conditions," where the underlined words are a hyperlink to the full terms and conditions on Cabracadabra's website.

Clentists will run a YouTube channel in which people dressed as clowns and wearing clown makeup will give tutorials on various dental procedures, such as fillings, cleanings, and root canal.

Oxnard is building an internet-connected smart spaghetti strainer. It has temperature, air pressure, and humidity sensors and a camera which takes pictures of the wet spaghetti. Using machine learning, the Oxnard strainer can tell you whether your spaghetti is overcooked, undercooked, or just right. All of the pictures it takes, together with the other data it gathers, are currently stored in cloud storage rented by Oxnard along with users' names, addresses, and telephone numbers. Oxnard's privacy policy states, "We never sell or disclose your personal information to third parties and we protect your data with industry leading security." You have

discovered, thanks to a little Googling, that on the security forum Hack-in4Dayz, a user with the username MeowMeowFuzzyface posted, “Oxnard securtiy is a jok! Main database unencrypted. I tried to tell them but they wrent intersted. Her’s 540GB of everything they got on tehir users.” Another user, VincentAdultman, posted a program with the description, “Their device security suxx0rs, too. Run this to brick an Oxnard so it won’t even turn on!”

Each week, **Hollywood Heist** will post on its website the name of a different celebrity. The first contestant who can prove that they have successfully hacked into that celebrity’s phone will win a \$10,000 prize. Common ways of demonstrating success are by sharing private content from the phone (e.g., photos, emails, or Snapchat messages) or by using the phone to impersonate the celebrity on social media.

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For each startup, explain why *yes*, it is legally on solid ground, *no*, it has unfixable legal problems, *maybe* it could be legally safe under certain conditions or with certain changes (and say what they are), or *you don’t know* because you’re missing essential facts (and say what they are and what the answers would be if you had them).

Question 2: A Very Famous TV Show

At great effort and expense, your company, Vim and Vigor Entertainment, has recently acquired the rights to *Horsin' Around*, a sitcom which ran from 1987 to 1996, but then languished in a mess of competing copyright ownership claims that kept it from being released in new formats for years. Vim and Vigor has finally is currently negotiating deals to bring *Horsin' Around* to digital platforms such as Amazon Prime Video.

Unfortunately, during the many years when no authorized version of *Horsin' Around* was available for purchase or streaming, unauthorized copies proliferated online. In particular, there are thousands of individual uploads of *Horsin' Around* episodes on YouTube. One particularly dedicated fan with the username PrincessCarolyn has uploaded the complete run of the show to YouTube, organized into playlists by season. It appears that she recorded the episodes onto videocassette during the show's original run, and then digitized those videocassettes into video files. Numerous other users have reposted one or more of the episodes to YouTube and to other video-sharing sites. One of them, Diane Nguyen, has uploaded all of seasons PrincessCarolyn's digitizations to Vimeo and put a [Creative Commons Attribution license](#) in the description of each video.

The website `horsinaround.show` contains nothing but *Horsin' Around* episodes. It consists of two forms. One form lets users select a season and episode and upload a video file; the other lets them select a season and episode and then shows a list of all the video files other users have uploaded for that season and episode. Users can upvote or downvote individual files; as a result, the highest-quality uploads of each episode have generally been upvoted to the top. The site bears a prominent notice on the front page that "All content is the responsibility of the respective uploaders. `horsinaround.show` does not take responsibility for any harmful or illegal content. You have checked, and the `.show` gTLD is subject to the UDRP. Based on its IP address, the site is hosted from a data center in Poland, and the whois information for `horsinaround.show` indicates that it is registered to someone named "Bojack" with an address in Poland. Posts to the site's associated Twitter account, however, seem to suggest that in fact "Bojack" is just the online identity used by an entrepreneur named Todd Chavez who lives in Los Angeles, California.

You have been asked to deal with *Horsin' Around's* piracy problem. The less competition the authorized versions of the show face from unauthorized ones, the better. At the same time, Vim and Vigor does not have an unlimited litigation budget, and it would like to avoid clouding the show's digital launch with any unfavorable publicity.

Write a memorandum discussing what Vim and Vigor can and should do about these unauthorized uploads.