

Class 23: Software Contracts

Administrative

Next Time 649-76; section 301(a) and (b)

Drafting Exercise Due next class, at start

Past Final Exams Posted on website
Save Spring 2008 for just before review session

Review Sessions

- Scheduling
 - Exam (6 Hour) is Tuesday, 4/27, at 8:15 am
 - Our last class is Wednesday, 4/21
 - Candidates for review session
 - Saturday, 4/24, afternoon 0
 - Sunday, 4/25, all day 4
 - Monday, 4/26, all day OUT
 - Friday, 4/23, 11 AM to 1:30 PM 3

Formats

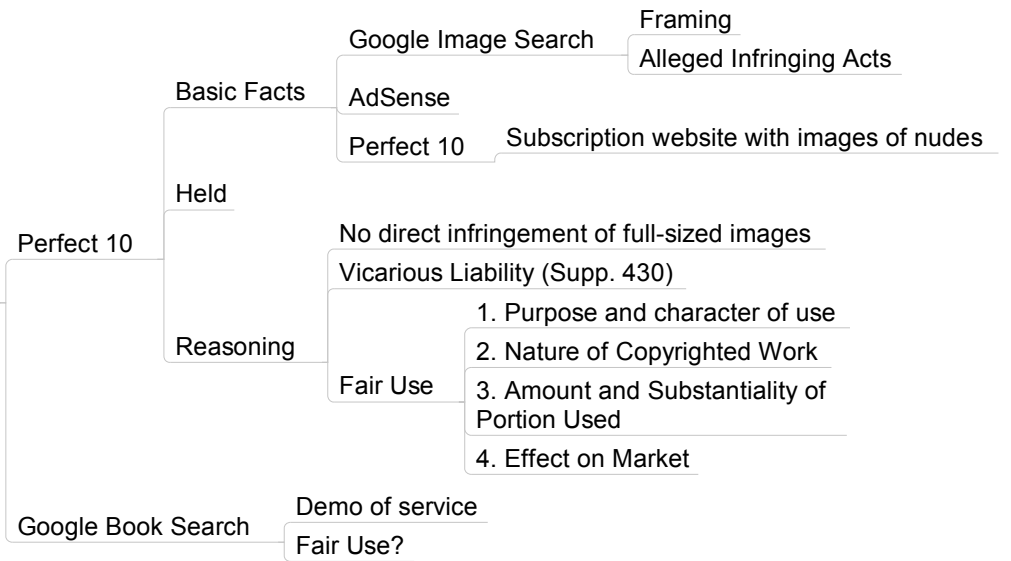
- Standard Q&A Answers in advance very appreciated
- Go over one past exam. Spring 2008

FCQs End of class

Class 23: Software Contracts

Summarizing Third Party Liability and Fair Use

Search Engines



Class 23: Software Contracts

Software Contracts

ProCD

Facts

P has compiled more than 3000 phone books into computer DB

Copyrightable? Court says no.
But points out how it's different from Feist
\$10 Million to create Sweat of the brow doctrine
Sells on CD-ROM

Business model: Price Discrimination

Defined?
General public pays relatively low price (\$150)
Commercial buyers pay much more

Arbitrage

Price Discrimination depends on successful arbitrage
Airplane ticket example: Saturday stay-over to discriminate between buyers

The Contract

Outside box/shrink-wrap: Restrictions inside
License found in three places
1. File on CD-ROM
2. Printed in manual
3. On screen each time software runs. Can't use software until you click "I agree"

D: Bought consumer package and resold it on the Internet for a fee.

District Court: Unenforceable contract

Held:
Reasoning
O'Rourke quote on 710
Open Source and Creative Commons?

SoftMan