

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

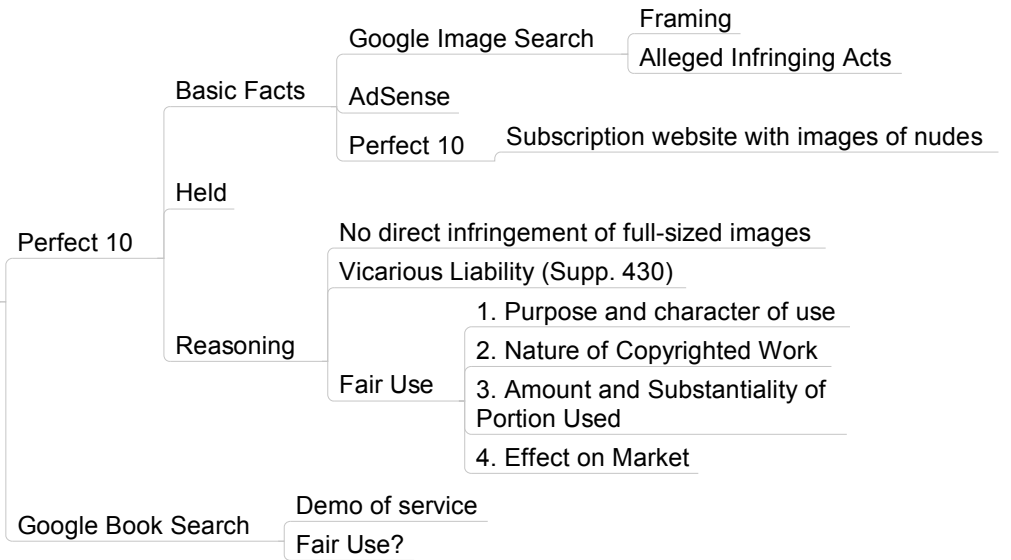
- Standard Q&A Answers in advance very appreciated
- Go over one past exam. Spring 2008

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