

Exam No. _____

INTERNET LAW

Professor Crouch

Spring 2013

Instructions: This is a **3 hour examination**. Students may pick up the exam in Rm. 203 beginning at 8:30 on May 10 - May 17. Exams must be returned within 3 hours to Rm. 203, but in no case later than 4:30 pm on the same day.

The examination covers concepts derived from the assigned reading and in-class discussions. The best answers will rely upon those concepts to provide a full explanatory answer to each question presented.

Materials allowed. This is an open book, open note, and open computer examination. You may use class notes or outlines, commercial outlines, the Internet, or any other material. You may not rely on contemporaneous communications with any other person (either via local or remote communication). The honor code applies to this take-home examination. You must perform all work on your own and abide by the instructions on this page. <http://law.missouri.edu/students/policies/conduct.html>.

Avoid Plagiarism. Please take steps to avoid plagiarism or even the appearance of plagiarism.

Write your blind examination number in the space indicated above on this page. Do not put your name on anything in connection with this examination. **At the end of the exam, you must return this paper as well as your answers.**

GOOD LUCK!

Crouch recently started a new company that scrapes data from the Missouri CaseNet website for information regarding each person involved in a Missouri lawsuit (both civil and criminal). Basically, the site creates a particular webpage for each person. On the site, the CaseNet file information (including prior lawsuit data) is aggregated with other personal information including mug shots; publicly available social network information (including photos, email addresses, and links to FaceBook pages); a map to the person's house and an image of the person's house (via Google StreetView); marriage, mortgage, liens and vehicle registration information (all available from the county recorder of deeds); and relevant home phone numbers (if listed). Crouch has figured out how to gather and publish this data with an automated computer program that runs once each day. In addition, the webpages for each person allow for online user comments that are then incorporated into the page itself without any filtering other than automatically blocking the use of predefined curse words.

The site is popular and is regularly used by potential employers, business partners, love interests, and even the police.

Questions:

- (a) Is there a cause of action under the Computer Fraud and Abuse Act for the scraping of CaseNet? 18 U.S.C. § 1030(a)(2). (10 points)
- (b) Does the site violate the rights of anonymity and privacy of the persons whose profiles are posted? Does it matter that the site is run by a private individual rather than a government entity? (10 points)
- (c) The Missouri legislature is considering creating a law that provides an individual with the right to block this type of aggregated data from being posted online. Would such a law survive first amendment scrutiny? (10 points)
- (d) Assuming that Crouch's posting was an unlawful trespass on the privacy rights of the persons whose profiles are posted but that the site was never shut down – Should the police then be required to obtain a warrant in order to access the site when searching for information on a particular person whose profile is posted on the site? (10 points)
- (e) Does either the State or the Person whose Profile is Posted have a cause of action for copyright infringement? (10 points)
- (f) How does the Communications Decency Act protect Crouch in this case? 47 U.S.C. § 230. (10 points)
- (g) What do you think of this idea as an actual business? (3 points)