IT 881—Current Topics in IT Law: Online Dispute Resolution
The John Marshall Law School
Professor David E. Sorkin
Summer 2009

SYLLABUS

Overview

This course examines the use of the Internet and technology generally as methods of resolving online and offline conflicts. We will discuss the history and development of online dispute resolution (ODR); examine how ODR works, both generally and with regard to particular implementations; investigate a wide range of applications of ODR, including resolution of consumer and commercial disputes, domain name and other Internet-related disputes, and those arising in other specific sectors and contexts; and address ODR design and implementation considerations. Throughout the course we will consider ethical and other professional and practical implications of ODR for parties, counsel, neutrals, and other participants.

There are no particular prerequisites for this course, and no prior knowledge or experience in technology or alternative dispute resolution (ADR) is assumed. A rudimentary primer in negotiation, mediation, and arbitration will be presented early in the course, but the course is not intended to serve as a substitute for a foundational ADR course.

The course meets on Tuesday evenings from 6:00 to 9:00, on May 26 through July 21, 2009.

Instructor

David E. Sorkin, Associate Professor of Law
Office: Room 738
Telephone: (312) 987-2387
E-mail: 7sorkin@jmls.edu
Office hours: By appointment

Required textbook

Colin Rule, *Online Dispute Resolution for Business* (Jossey-Bass 2002) (ISBN 978-0-7879-5731-5, publisher's list price $34.95).

Recommended textbooks

The following optional textbooks are recommended for supplemental or background reading. Most or all of them are available in the law school's library. (Those without substantial previous exposure to alternative dispute resolution are likely to find the Ware text especially helpful.)

Ethan Katsh & Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (Jossey-Bass 2001) (ISBN 978-0-7879-5676-9, publisher's list price $45.00).

Julia Hörnle, *Cross-border Internet Dispute Resolution* (Cambridge U. Press 2009) (ISBN 978-0-521-89620-7, publisher's list price $120.00).

Stephen J. Ware, *Principles of Alternative Dispute Resolution* (Thomson West 2d ed. 2007) (ISBN 978-0-314-14907-7, publisher's list price $41.00).

Jacqueline M. Nolan-Haley, *Alternative Dispute Resolution in a Nutshell* (Thomson West, 3d ed. 2008) (ISBN 978-0-314-18014-8, publisher's list price $29.00).

Dispute Resolution Ethics: A Comprehensive Guide (Phyllis Bernard & Bryant Garth eds., American Bar Ass'n 2002), ISBN 978-1-57073-934-7.

Course requirements and grading

This course is taught using an interactive seminar format. For this reason, regular attendance at and active participation in seminar meetings is expected and required; notes and videotapes are not an adequate substitute for in-person attendance and participation. (Class meetings will not be recorded except by advance arrangement in exceptional circumstances.) Students who miss more than the maximum number of class meetings, as provided by law school policy, will not be eligible to receive credit for the course.

In-class participation will constitute 10% of the final course grade. In lieu of a major paper or final examination, students will prepare and submit a series of five papers on various topics. The first two papers should be short (approximately 500 to 1,000 words in length, excluding citations). They may be based largely upon the assigned reading material, supplemented by class discussion and other sources if desired, and each will be worth 10% of the course grade. The last three papers should be somewhat longer (approximately 1,000 to 2,000 words), should address more focused topics, and will very likely require research in sources beyond the required reading assignments; each will be worth 20% of the course grade. Each paper should include a list of references used, along with footnoted citations as appropriate.

Semester schedule

May 26   **ADR background; ADR ethics; introduction to ODR**
Read preface and pp. 1-85 in *Online Dispute Resolution for Business* and ABA *Model Standards of Conduct for Mediators* and *Code of Ethics for Arbitrators in Commercial Disputes* (links on course website)

June 2   **Business-to-consumer e-commerce, including ethical considerations**
Read pp. 89-120 in *Online Dispute Resolution for Business* and eBay (India) *Community Court FAQs* (link on course website)

June 9   **Business-to-business e-commerce; insurance and employment disputes**
Read pp. 121-172 in *Online Dispute Resolution for Business*
Paper #1 due. (Topic: ADR and ODR, *or* Advantages of ODR.)

June 16   **ODR in government, health care, and finance**
Read pp. 173-202 in *Online Dispute Resolution for Business*
Paper #2 due. (Topic: ODR for B2C Disputes.)

June 23   **Transnational and other applications of ODR**
Read pp. 203-226 in *Online Dispute Resolution for Business* and ICANN *Uniform Domain Name Dispute Resolution Policy* and *Rules for Uniform Domain Name Dispute Resolution Policy* (links on course website)

June 30   Paper #3 due. (Specific topic of your choice; must relate to ODR in insurance, employment, government, health care, or finance.) Be prepared to present and discuss Paper #3 in class.

July 7   **ODR design, practice, and ethical considerations**
Read pp. 227-301 in *Online Dispute Resolution for Business* and ABA reports *Addressing Disputes in Electronic Commerce* and *Recommended Best Practices for ODR Service Providers* (links on course website)

July 14   Paper #4 due. (Specific topic of your choice; must relate to transnational disputes.) Be prepared to present and discuss Paper #4 in class.

July 21   Last scheduled class meeting. Be prepared to present and discuss Paper #5 in class.

July 28   No class meeting. Paper #5 due. (Specific topic of your choice; must relate to ODR design, practice, or ethical considerations.)