Cyber Skills and Dispute Resolution
Hamline University School of Law – Fall 2013

Tuesday 2:30 – 4:40 p.m.   Law School 240A

Professor David A. Larson
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Required Reading:

1) Cyberjustice: Online Dispute Resolution (ODR) for E-Commerce by Lucille M. Ponte and Thomas D. Cavenagh, Pearson Prentice Hall (2005), ISBN 0-13-098636-4

2) Online Dispute Resolution: Theory and Practice: A Treatise on Technology and Dispute Resolution, editors Mohamed S. Abdel Waheb, Ethan Katsh, and Daniel Rainey, Eleven International Publishing, Publication Date: **January 1, 2012** | ISBN-10: **9490947253** | ISBN-13: **978-9490947255** (available at Amazon.com)

Class Meetings

This will be a hybrid course, which means that sometimes we will meet together **face-to-face (FtF)** in our classroom and sometimes classes and assignments will be completed online. We will begin the semester by meeting together for our first two classes.

Syllabus revisions that are made during the semester will be posted on TWEN, so please always refer to TWEN for the most up-to-date copy of the syllabus. Because the schedules of both the international competitions and the invited speakers may require us to make accommodations, it is likely that the syllabus will change during the semester.

Goals and Objectives: This course examines how technology can facilitate dispute resolution. This was the first full-semester, fourteen week ADR and Technology course taught in an American law school and still is one of the only courses of its nature. The Hamline University School of Law is universally acknowledged both nationally and internationally as a leader and innovator in the dispute resolution field and this course is an example of that leadership. This course truly is a hands-on, experiential course. Students will analyze online dispute resolution platforms that already exist and each student will have an opportunity to resolve disputes using those platforms.

Because Online Dispute Resolution is still relatively new and constantly evolving, a single comprehensive textbook does not exist. We will, however, read several

books written by pioneers in the field and those authors may make an appearance during this course via video conferencing.

In the past students have participated in the International Competition for Online Dispute Resolution (ICODR). Professor Larson was one of the founders of this competition and law schools from around the world participated, providing a unique cross-cultural international dispute resolution opportunity for the students. Participants' names and the competition results were published internationally on the website www.odr.info. (The website is maintained by the Center for Information Technology and Dispute Resolution (CITDR) at the University of Massachusetts.)

The ICODR has taken a sabbatical and there may not be an ICODR international competition this year. In the alternative, we may participate in an online international negotiation with foreign law students through the eNegotiation competition. Alternatively, we may arrange direct negotiations with students at the University of Hong Kong. In either situation we will review and analyze your technology mediated dispute resolution negotiation experiences

Students will use and critically evaluate different audio, video, and text based technologies that can assist in resolving disputes, will become familiar with several existing dispute resolution software programs that are available commercially, will study and discuss current literature concerning technology mediated dispute resolution, will participate in an international technology mediated dispute resolution negotiation, and will be expected to use video and audio technology for a presentation to the entire class.

Each student will submit a written paper (at least 4,000 words in length) and make a formal presentation to the class at the end of the semester. The student may select a particular subject that he or she finds interesting (subject to the approval of Professor Larson). The students are encouraged to use the technology and media that they believe will support their presentation.

Attendance Policy: We will not meet FtF every week. Therefore it is extremely important for students to attend the scheduled FtF classes. **Two or more absences from scheduled FtF classes will be considered excessive.** Attendance will be taken by circulating the Registrar's attendance sheet. If a student misses two classes, that student will be required to write and submit a 1,000 word paper that discusses one of the issues covered in the classes the student missed. The topic of that paper will be determined by Professor Larson. **Three or more absences from scheduled FtF classes will be brought to the attention of the Associate Dean and may result in a course withdrawal (W) or a failing grade (F).**

Testing and Grading: Students will be graded primarily based upon their written paper and presentation. Additional credit may be given for students who make significant substantive contributions during our weekly class meetings. Although

no changes are anticipated, if the grading criteria does change then any change will be brought to the students' attention during class and also posted on TWEN.

Papers must be at least 4,000 words in length and must be submitted to the TWEN website dropbox by 4:00 p.m. on November 26, two weeks after the last scheduled class for this course. ***If a paper is submitted after the deadline, the grade will be reduced as follows.)*** Late paper grades will be reduced one grade level for each day the paper is late. For example, a B+ will become a B if it is one day late. If a paper is two days late, then a B+ paper will be given a B-.

We will spend a substantial amount of time online. **If a student uses classroom time to read or send e-mail messages, visits web sites that the class has not been instructed to visit at that particular time, or engages in any other online or technology based activities (including cellular telephones and text messaging) not directly related to the current classroom discussion, that student will be warned one time. If there is a second violation of this policy, that student will be asked to drop the course and will not receive academic credit for the course.**

Assignments

August 27 – meet in room 240A

Learning Objectives

By the end of this class, students will be able to:

1. Understand what we are describing when we use the term "negotiation."
2. Understand generally accepted definitions of "mediation."
3. Appreciate that mediation models and processes can differ and that the purpose and goal of mediation can vary.
4. Understand what is meant by the term "arbitration".
5. Begin to understand and appreciate the creation and evolution of Online Dispute Resolution (ODR)

During this class Professor Larson will make a Cyber Skills and Dispute Resolution PowerPoint presentation. Professor Larson will explain both the goals of the course and his own experience with ADR and technology mediated dispute resolution (TMDR). He will explain why we need to be familiar with traditional off-line, face-to-face dispute resolution processes before focusing on Online Dispute Resolution (ODR) and Technology Mediated Dispute Resolution (TMDR). He also briefly will describe negotiation, mediation, and arbitration.

Reading Assignments:

A) [Technology Mediated Dispute Resolution (TMDR): A New Paradigm for ADR](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=944932) ,
available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=944932

The link above will take you to the abstract page. Click the "Download" link at the
top of the pages and you will be able to access and download the full article.

B) Read the *Introduction and Chapter One* in **Online Dispute Resolution:
Theory and Practice: A Treatise on Technology and Dispute Resolution**

B) "About Mediation and Other Methods of Dispute Resolution"
http://bostonlawcollaborative.com/blc/faqs/about-mediation-and-other-methods-
of-dispute-resolution.html

C) "Arbitration Answers"
http://www.arbitrationanswers.com/home/Arbitrationincontracts.aspx (please
click through all the links and sub-links on the left column of the pages)

D) "Getting Help with ADR: A Guide to the Main Players,"
http://www.adrforum.com/rcontrol/documents/ResearchStudiesAndStatistics/200
101DawsonStevensonBusinessLawToday.pdf

E) "Frequently Asked Questions About ADR,"
http://www.usdoj.gov/odr/article2.pdf

F) Students will be assigned separate chapters in **Online Dispute Resolution:
Theory and Practice: A Treatise on Technology and Dispute Resolution** and
then will present summaries and highlights of those chapters next week during
class

Sept. 3

Learning Objectives

By the end of this class, students will be able to:

1. Describe the advantages and disadvantages of different ADR processes
2. Begin to identify different technologies that can facilitate dispute resolution and
problem solving

A) Students will present brief summaries of their assigned chapters in the
textbook **Online Dispute Resolution: Theory and Practice: A Treatise on
Technology and Dispute Resolution**

B) **Read** Artificial Intelligence: Robots, Avatars, and the Demise of the Human
Mediator http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1461712

The link above will take you to the abstract page. Click the "Download" link at the top of the pages and you will be able to access and download the full article.

The articles also can be accessed at http://ssrn.com/author=709717

C) Go to http://www.aim.com/download.adp

We will use AOL instant messaging in-class for a negotiation exercise