Glossary of Words and Phrases Relating to the Internet and Internet Law

By Rob Hassett, Suellen Bergman, and Lori Brill
Hassett Cohen Goldstein Port & Gottlieb, LLP
990 Hammond Drive, Suite 990
Atlanta, GA 30328
(770) 393-0990
http://www.internetlegal.com

Analog - derived from the word "analogous" and refers to representing information, video and sound by continuously variable physical quantities. Conventional photography, stereo and television are "analog" systems. Quality degrades with serial copying.

Application Service Provider - a business model whereby a service provider allows its customers to use software applications over the Internet as opposed to supplying the applications for such customers to install on the customer's own computer systems.

Backbone - a larger transmission line that carries data gathered from smaller lines that interconnect with it. The Internet "backbones" are the transmission lines that provide long-distance interconnection and otherwise carry the major traffic on the Internet.

Bandwidth – the speed of data flow over any transmission medium. Any digital or analog signal has a bandwidth.

bits per second (bps) – in digital systems, bandwidth is expressed as data speed in bits per second.

Broadband - refers to high speed transmission of data, such as using cable modems for Internet access, as opposed to "narrow band."

Browser Wrap Agreement - an agreement set forth on a Web site that, unlike a clickwrap agreement, does not require an affirmative "click" to acknowledge assent.

Cable modem – a cable modem is a modem which operates via the ordinary television network cables. A cable modem functions more like a local area network (LAN) interface than a modem. For more information, visit www.cable-modems.org.

Clickwrap - an agreement formed by a purchaser manifesting assent to the terms of an agreement online by pointing and clicking a mouse.

1 Two valuable resources for looking up Internet-related terms are www.whatis.com and www.onelook.com. Both of those sites were referred to in creating this glossary.
Cookies - small files that a Web site server places on a Web site users' personal computer in which the Web site server stores its own information about the user which allows a Web site server to recognize the user and store the user’s preferences. Use of cookies can create privacy issues.

COPPA - Children’s Online Privacy Protection Act of 1998. The Act took effect on April 21, 2000, and is not retroactive. According to Senator Richard Bryan (D–NV), who introduced the Act, the primary goals of the legislation are to enhance parental involvement in children’s online activities, maintain the security of personally identifiable information of children collected online, and protect children’s safety and privacy.

COPA - Child Online Protection Act. This was an anti-pornography act that was enacted by Congress but was held unconstitutional the first time a court reviewed it for violating the free speech clause of the First Amendment.

Cybersquatter - one who attempts to profit by registering a domain name which incorporates the trademark of a trademark owner with the hope of selling the mark at a profit back to the owner. This term is also frequently used to describe anyone who registers domain names in bad faith.

Cybersquatting - the act of being a "cybersquatter."

Dark fiber – fiber optic cable that has been installed, but is not yet carrying a signal.

Data Transfer - the cumulative amount of data transferred over a specific period of time, such as during a month, which, for Internet purposes, is usually measured in megabytes as opposed to a data transfer rate which, for Internet purposes, is usually measured in megabits per second. A byte is composed of eight (8) bits.

Dead End - When a user attempts to download a file, such as a song, over a "P2P" or "Hybrid P2P" network and the download cannot be completed, the user has reached a "dead end." Reaching a "dead end" is very common when using "Napster Knockoffs," is frustrating to users and increases the chances that commercial Web sites providing music downloads, such as MusicNet (offering music from BMG, EMI, Warner Music, and others) and pressplay (offering music from Sony, Universal and others) will be successful.

Digital - electronic technology that generates, stores, and processes data in terms of two states: positive and non-positive (positive is expressed or represented by the number 1 and non-positive by the number 0). Audio, visual, and audio-visual works may be stored digitally (in other words as data), enabling one to create exact (quality does not degrade with serial copying) copies.

Dilution (trademark or service mark) - use of the same or a similar mark in a manner which may or may not be deceptive or confusing but which lessens the capacity of the mark to identify and distinguish goods or services or which tarnishes the mark. Such
action is not prohibited under federal law unless the mark meets the definition of "famous."

**DMCA** - Digital Millennium Copyright Act of 1998; among other things, designed to implement the treaty signed in December 1996 at the WIPO Geneva Conference.

**Domain names** - word names for Internet addresses (e.g., "www.ecommerce.gov") which map to unique Internet Protocol (IP) numbers (e.g., 98.37.241.30) that serve as the actual routing addresses on the Internet.

**DNS** - domain name system; translates Internet names into the IP numbers needed for the transmission of information across the network.

**DNSO** - refers to the domain name supporting organization of ICANN. It is divided into groups that are charged with the responsibility of providing advice and consultation to ICANN on various topics.

**DSL** (Digital Subscriber Line) - a technology that uses ordinary copper telephone lines to bring high-bandwidth information to homes and businesses. If the residence or business is very close to a DSL service telephone company **central office**, the data can be received at rates up to 6.1 megabits (millions of bits) per second (of a theoretical 8.448 megabits per second); this enables continuous transmission of motion video, audio, and even 3-D effects. Usually, the connections will provide from 1.544 Mbps to 512 Kbps downstream and about 128 Kbps upstream.

**DVD** - Digital Versatile Disk; an optical disk technology that holds 4.7 gigabytes of information on one of its two sides, or enough for a 133-minute movie.

**Ethernet** - a local area network (LAN) developed by Xerox; it is the most widely used LAN access method.

**EU** - European Union.

**European Union Privacy Directive** - Most countries in the European Union have constitutionally or statutory based restrictions on the use of personal information of individuals. Some years ago the European Union enacted the European Union Privacy Directive that mandates minimum standards that each country in the European Union must meet regarding protection of private information. This Act is important to companies in the United States because (1) it shows that the trend throughout the world is to restrict the use of personal information and (2) companies with offices in the European Union may not transfer personal information of European residents to companies that are not subject to the same standards regarding restrictions on the use of and disclosing personal information as apply in those countries. U.S. based companies can be deemed to be subject to similar standards by agreeing to be bound by the terms of a so-called "safe harbor" negotiated between the United States Department of Commerce and the European Union. Canada and Australia have also
recently enacted privacy legislation that may be interpreted to require U.S. companies that obtained personal information over the Internet from residents of Canada and Australia to comply with their privacy laws.

**Firewall** – a set of related programs located at a network gateway server that protects the resources of a private network from users from other networks. (The term also implies the security policy that is used with the programs.)

**Framing** - the act of splitting a browser window into multiple, independently controllable regions.

**Gramm-Leach-Bliley Act** - This Act became effective in July of 2001; it, among other things, restricts the use and disclosure of financial information by "financial institutions." The term "financial institution" has been interpreted to include any entity that regularly collects financial information, including credit card companies, banks and also tax preparation firms and financial advisers.

**Hijacking (of domain name)** - registration of a competitor’s mark as a domain name.

**HDML** - Handheld Device Markup Language; allows a Web site to be portable so visitors can view the site on their mobile phones, pagers, and other small devices.

**Home page** - the first Web page that is supposed to be displayed upon bringing up a Web site with a Web browser.

**HTML** - Hypertext Markup Language; the authoring language used to create documents on the World Wide Web which defines the structure and layout of a Web document.

**Http** - Hypertext transfer protocol; the underlying protocol used by the World Wide Web. Http defines how messages are formatted and transmitted and directs how Web browsers and servers should respond to various commands.

**Hybrid P2P** - Hybrid Peer to Peer; a peer to peer network that does not rely only on connectivity between computers but is made easier to use by the use of servers, such as "supernodes," which contain indexes of files on the computers connected to each "supernode."

**Hypertext** - a linkage between related text commonly used on World Wide Web pages.

**ICANN** - The Internet Corporation for Assigned Names and Numbers; the non-profit organization that is responsible for overseeing the domain name system and other Internet functions. (These responsibilities were assigned to ICANN by the United States government.)

- 4 -
Internet - an internet is a large network made up of many smaller networks; the Internet is comprised of interconnected networks in over seventy countries and connects individual, academic, commercial, government, and military networks.

Internet address - format for addressing a message to an Internet user.

ISP - Internet Service Provider; a company that provides access to the Internet.

Link (hyperlink) - a direct connection between Web sites, Web pages or places on the same Web page.

Markup Language - a computer language that describes how a Web page should be formatted.

Mbps - millions of bits per second or megabits per second; it is a measure of bandwidth (the total information flow over a given time) on a telecommunications medium.

Metatag - a hidden word or label in a file of a Web site used to draw the attention of Internet search engines to that Web site. United States District Judge Shira A. Scheindlin summarizes it nicely in Bhari v. Gross, 119 F. Supp. 2d 309, 56 U.S.P.Q.2d (BNA) 1489, as follows: "A metatag is hypertext markup language ("HTML") code, invisible to the Internet user, that permits web designers to describe their webpage. There are two different types of metatags: keyword and description. The keyword metatag permits designers to identify search terms for use by search engines. Description metatags allow designers to briefly describe the contents of their pages. This description appears as sentence fragments beneath the webpage's listing in a search result." Id. at 312.

MP3 - MPEG-1 Audio Layer-3; a standard technology and format for compressing a sound sequence into a very small file (about one-twelfth the size of the original file) while preserving close to the original level of sound quality when it is played.

MP3 Player - Many users download their MP3 files onto their hard drive and listen to them on their computers. Others burn them onto CDs. A third possibility is to transfer them onto MP3 players which generally are very small, hold one to two hours of music (which music can be replaced by the user at any time), and operate only with earphones. They are very convenient for walkers and joggers as, unlike CD players, they are not affected by motion. Although they typically cost in the $200 to $300 range, Diamond Multimedia and Intel now have products available for much less. The recently released Intel Personal Audio Player is currently being sold for about $120 and has received rave reviews.

Napster - available at www.napster.com, this software could be used to find and download MP3 versions of freely available music (legal) and/or commercial proprietary music (illegal). Because of a decision by the United States District Court for the
Northern District of California, upheld by the Ninth Circuit Court of Appeals, which prohibited Napster from facilitating the exchange of proprietary music of which it was given notice, the Napster network is, at least temporarily, shut down. Napster was a "Hybrid P2P" network.

Napster Knockoffs - There are many systems that have sprung up, both before and after Napster was shut down, that work in a fashion similar to Napster. Most of these knockoffs allow users of their network to exchange both music and other files such as audio-visual files. Some, such as Gnutella, are pure peer-to-peer networks which do not utilize "supernodes" or other servers and therefore do not provide indexing of files available on the connected computers. Users therefore pass their requests on to computers they are connected to which pass those requests further onto other computers in a daisy-chain fashion which works in a slow and cumbersome way. Other knockoffs, such as "morpheus," the software for which is available at musiccity.com, kazaa, available at www.kazaa.com, winmx, available at winmx.com, and audiogalaxy, available at audiogalaxy.com, appear to be Hybrid P2P networks in that they utilize "supernodes" that may be on sites offered by the same entity that provides the software and/or located on servers run by users which index the files available on connected computers and make using the systems much easier and more efficient. With most of these knockoffs, the files on these indexes are encrypted so that, unlike with Napster, the operators of the supernodes do not know which files (or even that proprietary files) are being exchanged. Most of the entities offering Napster knockoffs have been sued.

NSI - Network Solutions, Inc.; the largest domain name registrar and the manager of the registry for the gTLD's.

Peer-to-Peer (P2P) - a system where each computer on a network serves as both a workstation and a server; for example, information stored on desktop computers on a peer-to-peer network can be shared among the users of those desktop computers.

Power, Pipe and Ping - about the minimum that a Web host can provide. This refers to only the basics: electrical power, bandwidth to the Internet, and the ability to check to see if the server is connected.

RAM - Random Access Memory; a computer’s primary work space.

Register - to reserve a domain name.

Register.com - the second largest registrar of domain names (after NSI).

Registrar - companies, such as NSI and Register.com, that have been authorized by ICANN to register top level domain names for the public.

Registry - a database of top level domain names. NSI manages the "registries" for .com, .net and .org, among others.
Ripper - software which enables the user to digitally copy songs from a CD into MP3 and other formats.

Rio - a brand of portable MP3 player.

ROM - Read Only Memory; a memory chip which permanently stores instructions and data.

SDMI - Secure Digital Music Initiative; the SDMI was established to protect music companies' copyrights on the Web and was designed to prevent serial copying.

Search engine - a directory which retrieves Web sites responsive to a user's search request.

Shrinkwrap license - license agreements included under the shrinkwrap covering of software packages.

SLA's or Service Level Agreements - provisions in Internet and other computer-related contracts that provide for certain standards of service to be met, such as, for a Web hosting company, agreeing that access to a Web site shall not be down more than a certain percentage of the time in any one month such as one-half (1/2) of one (1%) percent.

Spam - unsolicited bulk e-mail.

Spider - a program that visits Web sites and reads their pages and other information in order to create entries for a search engine index. The major search engines on the Web all have such a program, which is also known as a "crawler" or a "bot." Spiders are typically programmed to visit sites that have been submitted by their owners as new or updated, and they can selectively visit and index entire sites or specific pages. "Spiders" are called "spiders" because they usually visit many sites in parallel at the same time, their "legs" spanning a large area of the "web."

Storage - The ability to store data on a hard drive, DVD, CD ROM or other media.

Subscription Download Sites - are Web sites that offer downloads and streaming of content (currently just music) for a monthly fee. Currently, MusicNet, available through AOL and Real Networks and offering music from BMG and Warner, and pressplay, available on the Microsoft Network, offering music from Universal and Sony, offer downloads and streaming of content on a subscription basis. Supposedly music downloaded from the MusicNet system cannot be burned onto CD's. Music from the pressplay system can be burned onto CD's.

Sub-woofer - sub-woofers produce rich bass sounds. Using sub-woofers greatly improves the sound from computer speakers.
TCP/IP or Transfer Control Protocol/Internet Protocol. - A communications protocol developed under contract from the U.S. Department of Defense to internetwork dissimilar systems. It is currently used to connect computers over the Internet.

Tier I Internet Companies - the companies owning major networks of the Internet that handle the greatest amount of traffic. The Tier I Internet companies are Genuity, AT&T, Cable & Wireless, UUnet, and Sprint. Other companies such as PSI Net, now out of business, and Level 3 do not handle the same levels of traffic and therefore are not considered Tier I Internet companies, but they do also own major networks of the Internet.

TLD - Top level domain name; the Internet domain name space is constructed as a hierarchy which is divided into top-level domains (TLDs), with each TLD then divided into second-level domains (SLDs), and so on. More than 200 national, or country-code, TLDs (ccTLDs) are administered by their corresponding governments or by private entities with the appropriate national government's acquiescence. A small set of gTLDs (generic TLDs) do not carry any national identifier, but denote the intended function of that portion of the domain space (for example, .com was established for commercial users, .org for not-for-profit organizations, and .net for network service providers). For .com, .org and .net, Registrars do not screen for the actual function of the entity and will register gTLDs to entities without regard to whether the domain space properly corresponds to the identifier; i.e. many commercial entities have registered an Internet address ending in " .org."\(^2\)

UCITA - Uniform Computer Information Transactions Act; a proposed uniform commercial law for the information economy that would apply to computer software licensing and certain online transactions. Maryland was the first state in which a version of UCITA became effective (as of October 1, 2000). A version of UCITA has also been adopted in Virginia, but has not been adopted in any other state. See, http://wsun4.infoworld.com/articles/op/xml/01/07/02/010702opfoster.xml.

UETA - Uniform Electronic Transactions Act. UETA grants legal recognition of electronically produced and transmitted signatures, records, transactions, and contracts. A version of UETA has been enacted in several states, including Arizona, California, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, and Virginia. Georgia has adopted similar legislation. A federal law has also been enacted which essentially provides that the principles set forth in UETA apply to most kinds of transactions in the United States.

\(^2\) In addition, Network Solutions has been inconsistent in enforcing the rules for the " .edu" domain; over 200 community colleges have obtained " .edu" addresses, but other community colleges have been denied such an address. See Jeffrey R. Young, Community Colleges Step Up Fight to Use " .edu" Internet Addresses, CHRONICLE.COM, Nov. 21, 2000.
URL - Uniform Resource Locator; identifies the address where a Web page is stored.

Web browser - a computer program which allows a user to view pages on the World Wide Web.

Webcasting - live or delayed streaming of audio or video on the Internet.

Web hosting – housing, serving, and maintaining files for one or more Web sites.

Web page - a document on the World Wide Web. Each Web page is identified by a unique URL.

Web server - a computer with software that can respond to a Web browser’s request for a page and sends the page to the Web browser through the Internet.

Web site - a related collection of Web pages and files that includes a home page.

WIPO - World Intellectual Property Organization. An agency of the United Nations. WIPO is responsible for promoting the protection of intellectual property throughout the world and administers international intellectual property conventions and various multilateral treatises dealing with administrative and legal aspects of intellectual property.

World Wide Web - an Internet system that links documents by providing hypertext links from server to server.