

TABLE OF CONTENTS

Foreword	v
Introduction.....	vii

CHAPTER 1

The Constant Evolution of Information Technology

§ 1.01	Introduction	1-4.1
§ 1.02	Media Formats and Underlying Technologies...	1-5
	[1] Generally; Data Compression	1-5
	[2] Still Image Formats	1-6
	[3] Audio Formats	1-6
	[4] Video Formats	1-7
	[5] Streaming File Formats	1-9
	[6] E-Books and Other Text-Viewing Formats	1-9
	[7] Digital Rights Management Systems.....	1-11
	[a] Watermarking.....	1-12
	[b] Fingerprinting.....	1-13
	[c] Audio Scrambler	1-14
	[d] Content Identification Technologies...	1-15
	[e] Other Emerging DRM Technologies...	1-16
§ 1.03	Emerging Consumer Technologies and Products.....	1-19
	[1] Data Storage	1-19
	[a] CD-R and CD-RW	1-19
	[b] DVD	1-20
	[c] Memory Cards	1-20
	[d] Holographic Storage	1-21
	[2] Handheld Computing Devices.....	1-21
	[a] Text Messaging	1-22
	[b] Mobile Applications	1-23
	[3] Global Positioning System and Other Locational Technologies	1-24
	[a] Underlying Technology.....	1-24

EMERGING TECHNOLOGIES AND THE LAW

	[b]	Applications	1-24
	[i]	Geolocation	1-25
	[ii]	E911 (“Enhanced 911”)	1-27
	[iii]	Law Enforcement	1-27
	[iv]	Radio Frequency Identifier (RFID) Tags	1-29
	[v]	Related Technologies	1-31
[4]		Emerging Television Technologies	1-32
	[a]	DTV and HDTV	1-32
	[b]	Interactive Television	1-33
	[c]	3D Television.	1-34
	[d]	Digital Video Recorders	1-35
	[e]	Streaming TV Programming Using a Device Connected to the Internet.	1-36
	[f]	Streaming Internet Content and Other Programming Using a TV.	1-37
[5]		Games	1-38
	[a]	Console Based	1-38
	[b]	Massive Multiplayer Online Role-Playing Games	1-39
	[c]	Social Network Games	1-40
[6]		Virtual Property	1-40
[7]		Software Bots and Data Scraping	1-47
[8]		Other Emerging Technologies	1-52
	[a]	Virtual Reality Systems.	1-52
	[b]	Smart Appliances.	1-53
	[c]	Biometrics	1-54
	[d]	Satellite Radio	1-55
	[e]	HD Radio	1-57
	[f]	Building Information Management.	1-57
	[g]	Wayback Machine	1-58
	[h]	Print-on-Demand Publishing.	1-60
	[i]	Digital Modeling	1-60
	[j]	Digital Currency	1-61
	[k]	Autonomous Cars	1-62.9
	[l]	Unmanned Aerial Vehicles	1-62.11
	[m]	Quantum Computing	1-62.13
	[n]	Internet of Things (IoT)	1-62.14
[9]		Artificial Intelligence (“AI”)	1-62.16
	[a]	Generally	1-62.16
	[b]	Generative AI.	1-62.23
[10]		The Metaverse	1-62.27
§ 1.04		Technologies for Accessing Data Services	1-62.32
	[1]	The Internet and the World Wide Web	1-62.32

TABLE OF CONTENTS

xi

[a]	Generally	1-62.32
[b]	Regulation of Internet Traffic, Tiered Pricing and Net Neutrality	1-62.33
[2]	Communication Using TCP/IP	1-62.35
[a]	Historical Uses of TCP/IP	1-62.36
[i]	E-Mail—ASCII Only	1-62.36
[ii]	Newsgroups and Usenet; Mailing Lists	1-62.36
[iii]	Gopher	1-62.37
[iv]	Telnet	1-62.37
[b]	Common Uses of and Tools for TCP/IP	1-62.38
[i]	E-Mail—Content Rich	1-62.38
[ii]	Hypertext Markup Language (HTML)	1-62.38
[iii]	Hypertext Transfer Protocol (HTTP)	1-62.38
[iv]	File Transfer Protocol (FTP)	1-62.39
[v]	Internet Messaging Protocols (IM)	1-62.39
[vi]	Java/Javascript/ActiveX	1-62.40
[vii]	Rich Content Systems	1-62.42
[viii]	Streaming	1-62.42
[ix]	Virtual Reality Modeling Language (VRML)	1-62.42
[x]	Search Engines and Internet Directories	1-62.43
[xi]	Intranets	1-62.43
[xii]	Extensible Markup Language (XML)	1-62.47
[xiii]	Peer-to-Peer (P2P) Systems	1-62.48
[c]	Emerging Uses of and Tools for TCP/IP	1-62.49
[i]	Next Generation Instant Messaging	1-62.49
[ii]	Internet Telephony and Videoconferencing	1-62.50
[iii]	Gigabit Ethernet	1-62.51
[iv]	Electronic Numbering (ENUM)	1-62.54
[v]	CAPTCHA	1-62.54
[vi]	RSS Technology	1-62.55
[vii]	Podcasting	1-62.55
[viii]	Blogs	1-62.56
[ix]	Social Networks	1-62.56

	[d]	Web Services	1-62.57
	[i]	Limitations of the Web Server/ Web Browser Model	1-62.57
	[ii]	Web Services Model	1-62.58
	[iii]	Web Services Standards	1-62.59
	[iv]	Uses for Web Services	1-62.60
[3]		Technology for Connecting to the Internet . . .	1-62.61
	[a]	Dial-Up Access; Internet Service Providers and Online Services	1-62.61
	[b]	Broadband Access to the Internet	1-62.62
	[i]	Dedicated Access Lines	1-62.63
	[ii]	Cable Broadband	1-62.65
	[iii]	BPL	1-62.66
	[iv]	Satellite Broadband	1-62.68
	[c]	Wireless Data Access Technology	1-62.68
	[i]	Generally	1-62.68
	[ii]	Cellular Communications	1-62.70
	[iii]	Wireless Application Protocol (WAP)	1-62.73
	[iv]	Device Networking	1-62.74
	[v]	Wireless Instant Messaging	1-62.78
§ 1.05		The Content-Oriented Emerging Technology Application	1-63
	[1]	Content	1-63
	[2]	Drivers	1-64
	[3]	The Platform	1-64
	[a]	Computer Hardware	1-64
	[b]	Operating Systems	1-64
	[c]	Devices	1-65
	[d]	Middleware	1-65
§ 1.06		The Development Project	1-66.1
	[1]	Project Participants	1-66.1
	[a]	The Publisher/Producer	1-66.1
	[b]	Right Holder	1-67
	[c]	The Developer	1-68
	[2]	Development Structures	1-68
	[a]	Work Made for Hire	1-68
	[b]	Joint Venture	1-69
	[3]	Insurance	1-70
	[4]	The Role of Unions and Guilds in Application/Product Production	1-71
	[a]	The Screen Actors Guild	1-72
	[b]	The Writers Guild of America	1-75
	[5]	Project Planning Checklist	1-76

CHAPTER 2

Rights Acquisition

§ 2.01	Introduction	2-3
§ 2.02	Future Technologies	2-5
	[1] Technologies Existing at the Time of the License	2-5
	[2] Technologies Not Existing at the Time of the Grant	2-7
§ 2.03	Drafting the License Agreement	2-15
	[1] Identification of Licensed Properties	2-15
	[2] The Grant	2-16
	[a] Rights Being Conveyed	2-16
	[b] Scope of Use and Competing Interests	2-17
	[c] Known and Unknown Future Technologies	2-18
	[d] Future Technologies for Distribution	2-19
	[e] Future Technologies for Exhibition	2-19
	[3] Reservation of Rights	2-19
	[4] Best Efforts Promotion	2-21
	[5] Reversion Provisions	2-22
	[6] Approvals	2-22
	[7] Representations and Warranties	2-22.1
	[8] Disclaimer of Warranties	2-24
	[9] Indemnification/Defense Against Third Party Claims	2-24
	[10] Ownership of Proprietary Rights	2-25
	[11] Infringement by Third Parties	2-25
	[12] Confidentiality	2-26
	[13] Term	2-27
	[14] Termination Provisions	2-27
	[15] Payment Provisions	2-28
	[16] Assignments and Subcontracting	2-29
	[17] Rights of First Refusal and Last Negotiation	2-29
	[18] Limitation of Liability	2-30
	[19] Trademark Provisions	2-31
§ 2.04	The Review of Existing Licensing Agreements	2-33
	[1] The Rights	2-33
	[2] Future Technologies	2-33
	[3] General Terms	2-33
§ 2.05	<i>Form: Literary Work License Agreement</i>	2-35

§ 2.06	<i>Form: Illustration License Agreement</i>	2-41
§ 2.07	<i>Form: Video License Agreement</i>	2-44
§ 2.08	<i>Form: Synchronization and Public Performance License Agreement</i>	2-50
§ 2.09	<i>Form: Photograph License Agreement</i>	2-54
§ 2.10	<i>Form: Cartoonist License and Merchandising Agreement</i>	2-60
§ 2.11	<i>Form: Celebrity License Agreement</i>	2-73
§ 2.12	<i>Form: Celebrity Promotion License Agreement</i>	2-84
§ 2.13	<i>Form: Art Work License Agreement</i>	2-88
§ 2.14	<i>Form: Narration Services and License Agreement</i>	2-94
§ 2.15	<i>Form: Graphics License Agreement</i>	2-97
§ 2.16	<i>Form: Option License Agreement for a Literary Work License</i>	2-103
§ 2.17	<i>Form: Trademark License Agreement for Use in the Educational Market</i>	2-106
§ 2.18	<i>Form: Trademark License Agreement</i>	2-112
§ 2.19	<i>Form: Licensor Oriented Content License Agreement for CD-ROMs</i>	2-119
§ 2.20	<i>Form: Clearinghouse Oriented Content License Agreement</i>	2-132
§ 2.21	<i>Form: Single Track Music License</i>	2-146
§ 2.22	<i>Form: Producer-Manager-Talent Agreement: Name and Likeness Release for Use in Product</i>	2-154
§ 2.23	<i>Form: Subject Matter Content License Agreement</i>	2-166
§ 2.24	<i>Form: Content License Agreement for Digital Product</i>	2-174
§ 2.25	<i>Form: Ring Tone License Agreement</i>	2-184
§ 2.26	<i>Form: Employee Certificate of Authorship</i>	2-190
§ 2.27	<i>Form: Content License Between a Magazine Publisher and a Website Publisher</i>	2-193
§ 2.28	<i>Form: Audiovisual Streaming/Downloading License Agreement</i>	2-206
§ 2.29	<i>Form: License Oriented Audiovisual Streaming Agreement Short Form</i>	2-213
§ 2.30	<i>Form: Audiovisual Program License Agreement</i>	2-215
§ 2.31	<i>Form: Exclusive Personal Management Agreement</i>	2-226

CHAPTER 3

Product Development Agreements

§ 3.01	Introduction	3-4
§ 3.02	Deliverables	3-5
	[1] Functional Design Specifications	3-5
	[2] Detailed Design Specifications	3-7
	[3] The Master Copies	3-7
§ 3.03	Implementation Schedule	3-8
	[1] Fixed Obligation	3-8
	[2] Guideline	3-9
§ 3.04	Progress Reports and Interim Approvals	3-10
§ 3.05	Payment Schedules	3-12
	[1] Fixed Fees with Milestones	3-12
	[a] Change Control Procedures	3-12
	[2] Time and Materials Development	3-13
§ 3.06	Acceptance Tests	3-15
§ 3.07	Definition of Ownership	3-16
	[1] Ownership of Software	3-16
	[2] Ownership of Other Aspects of the Product	3-17
	[3] Cooperation and Notices	3-18
§ 3.08	Producer Owned or Controlled Rights	3-19
§ 3.09	Third Party Rights	3-20
§ 3.10	Reservation of Rights	3-22
§ 3.11	Confidentiality	3-23
§ 3.12	Termination Provisions	3-24
§ 3.13	Rights of First Refusal and Last Negotiation	3-25
§ 3.14	Limitation of Liability	3-26
§ 3.15	Representations and Warranties	3-27
§ 3.16	Indemnification	3-28
§ 3.17	Insurance and Risk Management	3-29
	[1] Product Liability Insurance	3-29
	[2] Intellectual Property Risk Management	3-29
	[a] Intellectual Property Compliance Programs	3-30
	[b] Insurance Covering Risks to Intellectual Property	3-32
	[i] Commercial General Liability Policies	3-32.1
	[ii] Media Liability/Errors & Omissions Policies	3-32.2
	[iii] Patent and IP Infringement Policies	3-32.3

	[iv] Internet Insurance/Cyber-Risk Policies	3-32.4
	[v] Policies Limited to Patent Infringement Litigation Costs	3-32.4
	[vi] Open Source Insurance	3-32.5
§ 3.18	Software Licensing	3-32.6
	[1] Scope of License	3-32.6
	[a] Authorized Uses	3-32.7
	[b] Use Restrictions	3-32.8
	[2] Exclusive and Non-Exclusive Licenses	3-32.9
	[3] Revocable Licenses	3-33
	[4] Sublicensing/Third Party Usage	3-33
	[5] Ownership	3-34
	[6] Maintenance and Updates	3-35
	[7] Source Code	3-35
	[a] Bankruptcy	3-35
	[b] Source Code Escrow	3-37
	[8] Warranties	3-37
	[a] Ownership of Intellectual Property	3-37
	[b] Performance	3-38
	[9] Indemnification	3-39
	[10] Assignment Rights	3-39
	[11] Term	3-40
	[12] Modifications	3-40
	[13] Confidential Information and Trade Secrets	3-41
	[14] Open Source Software	3-41
	[a] Introduction	3-41
	[b] Open Source Software Products	3-42
	[c] “Copyleft”	3-42.1
	[d] The GNU General Public License	3-42.1
	[e] Other Open Source and Related Licenses	3-42.4
	[f] Infringement of Third Party Rights	3-42.5
	[g] Other Forms of Protection	3-42.8
	[h] Business Considerations and Risks	3-42.9
	[15] Electronic Health Records	3-42.10
	[a] Federal Law	3-42.10
	[b] Cloud Computing Usage Models	3-42.12
§ 3.19	Website Development and Hosting Agreements	3-42.14
	[1] Development Agreements	3-42.14
	[a] Scope of Services	3-42.14
	[b] Technical Considerations	3-42.14

TABLE OF CONTENTS

xvii

	[c] Promotion	3-42.15
	[d] Transitioning Services	3-42.15
	[e] Editorial and Artistic Control and Approval	3-42.16
	[f] Intellectual Property and Confidential Information	3-42.16
	[g] Development Credit	3-43
[2]	Hosting	3-44
	[a] Scope of Services	3-44
	[b] Domain Name Registration	3-44
	[c] Updates and Modifications	3-45
	[d] Limitations on Alteration and Copying	3-45
	[e] Performance Criteria	3-45
	[f] Customer Information	3-46
	[g] Termination and Transfer	3-46
	[h] Hosting Services Provider Warranties	3-47
§ 3.20	<i>Form: Letter of Intent for Development Agreement</i>	3-48
§ 3.21	<i>Form: Master Development Agreement</i>	3-50
§ 3.22	<i>Form: Royalty Based Development Agreement</i>	3-68
§ 3.23	<i>Form: Master Joint Development Agreement</i>	3-91
§ 3.24	<i>Form: Independent Consulting Agreement</i>	3-115
§ 3.25	<i>Form: Subcontractor Agreement</i>	3-119
§ 3.26	<i>Form: License and Customization Agreement</i>	3-122
§ 3.27	<i>Form: License and Development Agreement for Online Application with Server and Client Aspects</i>	3-135
§ 3.28	<i>Form: Software License Agreement (Broad)</i>	3-156
§ 3.29	<i>Form: Software License Agreement (Restrictive)</i>	3-162
§ 3.30	<i>Form: Software License Agreement for Use of Software to Create Access and Retrieval Software</i>	3-168
§ 3.31	<i>Form: Software License Agreement for Existing Access and Retrieval Software</i>	3-172
§ 3.32	<i>Form: Escrow Agreement</i>	3-176
§ 3.33	<i>Form: Focus Group Agreement</i>	3-182
§ 3.34	<i>Form: Start of Work Template</i>	3-189
§ 3.35	<i>Form: Website Development and Services Agreement</i>	3-191
§ 3.36	<i>Form: Vendor Oriented User Trial Period License Agreement</i>	3-213

§ 3.37	<i>Form: Client Oriented Website Development Agreement</i>	3-217
§ 3.38	<i>Form: Retail Website Development and Services Agreement</i>	3-234
§ 3.39	<i>Form: Live and Prerecorded Broadcast Streaming and Hosting Agreement</i>	3-250
§ 3.40	<i>Form: GNU General Public License, Version 2, June 1991</i>	3-265
§ 3.40A	<i>Form: GNU General Public License, Version 3, June 2007</i>	3-272.1
§ 3.41	<i>Form: GNU Lesser General Public License</i>	3-273
§ 3.42	<i>Form: Open Software License v. 2.0</i>	3-284
§ 3.43	<i>Form: Exclusive Age Verification Software License Agreement</i>	3-289
§ 3.44	<i>Form: Vendor-Oriented Website Hosting Agreement</i>	3-306

CHAPTER 4

Product and Service Distribution

§ 4.01	Introduction	4-3
§ 4.02	The Distribution Channels	4-4
	[1] Retail Channels of Trade	4-4
	[2] Direct Response	4-5
	[3] Bundled Distribution	4-5
	[4] Catalog Distribution	4-6
	[5] OEM Distribution	4-6
	[6] Internet and Wireless Direct Distribution Methods	4-7
	[a] Content and Software	4-8
	[i] Downloading: Shareware, Freeware, and Mobile Applications	4-9
	[ii] Streaming and Broadcasting	4-11
	[iii] File Sharing	4-11
	[b] Services	4-13
	[i] Application Services	4-13
	[ii] B2B Internet Marketplace	4-13
	[7] Future Distribution Methods	4-16
§ 4.03	The Third Party Distribution Agreement	4-18
	[1] Territory	4-18
	[2] “Best Effort” Obligations	4-18
	[3] Scope of Authority	4-18.1
	[4] Producer’s Marketing Assistance	4-18.1

TABLE OF CONTENTS

xix

	[5] Producer’s License	4-18.2
	[6] Compensation	4-18.2
	[a] Resellers	4-18.3
	[b] Sales Agents	4-18.3
	[7] Term	4-18.3
§ 4.04	Licensing Software to the United States	
	Government	4-18.5
	[1] Restricted Rights	4-18.5
	[2] Limited Rights	4-19
	[3] Unlimited Rights	4-20
	[4] Government Purpose Rights	4-20
§ 4.05	Exporting Regulations	4-21
	[1] Rationale and Implementation of	
	Export Regulations	4-21
	[2] The Wassenaar Arrangement and the	
	Export of Encryption Technology	4-22.1
§ 4.06	Products Licenses	4-22.3
	[1] Custom or Specialty Products	4-22.3
	[2] Shrink-Wrap Licenses	4-22.3
	[3] Click-Wrap Agreements	4-22.5
	[4] Browse-Wrap Agreements	4-22.10
§ 4.07	The Uniform Commercial Code	4-23
§ 4.08	The Uniform Computer Information	
	Transactions Act	4-24.2
§ 4.09	The Magnuson-Moss Act	4-24.5
§ 4.10	<i>Form: Reseller Distribution Agreement</i>	4-25
§ 4.11	<i>Form: Large Quality Sales Distribution</i>	
	<i>Agreement</i>	4-36
§ 4.12	<i>Form: Product Distribution Agreement with</i>	
	<i>Optional Duplication Services</i>	4-41
§ 4.13	<i>Form: Producer Favorable Distribution</i>	
	<i>Agreement</i>	4-51
§ 4.14	<i>Form: Original Equipment Manufacture</i>	
	<i>Distribution Agreement</i>	4-61
§ 4.15	<i>Form: Strategic Alliance Agreement</i>	4-66
§ 4.15A	<i>Form: Interactive Distribution License</i>	
	<i>Agreement</i>	4-80.7
§ 4.16	<i>Form: Publisher Oriented Product Marketing</i>	
	<i>and Distribution Agreement</i>	4-80.21
§ 4.17	<i>Form: Sales Representative Agreement</i>	4-89
§ 4.18	<i>Form: Individual or Network Use</i>	
	<i>Shrink-Wrap License Agreement</i>	4-93
§ 4.19	<i>Form: Product Bundling and Enhancement</i>	
	<i>Agreement</i>	4-96

§ 4.20	<i>Form: Vendor-Friendly Customer Referral Agreement</i>	4-112
§ 4.21	<i>Form: Application Services Provider (ASP) Agreement</i>	4-122
§ 4.22	<i>Form: Clickwrap End-User Product License Agreement</i>	4-132
§ 4.23	<i>Form: License and Distribution Agreement (Utilizing “Push” Technology)</i>	4-136
§ 4.24	<i>Form: Content Provider Oriented Wireless Content License and Distribution Agreement</i>	4-148
§ 4.25	<i>Form: Internet Audio Distribution and Marketing Agreement</i>	4-159
§ 4.26	<i>Form: Content Provider Oriented Webcasting and Radio Broadcast Agreement</i>	4-172
§ 4.27	<i>Form: Vendor Exchange Member Agreement</i>	4-201
§ 4.28	<i>Form: Vendor Services Terms and Conditions of Use</i>	4-210
§ 4.29	<i>Form: Web-Based Services Reseller Agreement</i>	4-215
§ 4.30	<i>Form: Program Support and Maintenance Agreement</i>	4-226

TABLE OF CONTENTS

CHAPTER 5

Copyright, Attribution and Integrity Rights and the Development of Emerging Technology Products

§ 5.01	Introduction	5-4
§ 5.02	Copyright Analysis Checklist	5-6
§ 5.03	The Rights Protected by Copyright	5-11
§ 5.04	International Protection of Intellectual Property	5-12.1
	[1] WIPO Agreements	5-12.1
	[2] Anti-Counterfeiting Trade Agreement	5-16
§ 5.05	European Union	5-19
	[1] Copyright Harmonization Directive	5-19
	[2] Database Directive	5-20
§ 5.06	Determining Whether a Work Is Copyrightable	5-20.2
	[1] Generally	5-20.2
	[2] The Copyrightability of Factual Compilations	5-20.7
	[a] The Copyrightability of Compilations Before <i>Feist</i>	5-21
	[b] The <i>Feist</i> Decision	5-21
	[c] The Emerging Technology Implications of <i>Feist</i>	5-23
	[3] The Copyrightability of Fonts	5-24
§ 5.07	Duration of Protection	5-26
	[1] Works Created On or After January 1, 1978	5-26
	[2] Works Created Before January 1, 1978	5-27
	[3] The Copyright Renewal Act of 1992	5-27
	[4] Copyright Restoration	5-28
§ 5.08	Copyright Notices	5-30
§ 5.09	Ownership of Copyright	5-31
	[1] Works Made for Hire	5-31

	[a] Works Made for Hire in the Emerging Technology Industry . . .	5-32
	[b] Work Made for Hire and Tracing the Chain of Copyright Ownership	5-32
	[2] Collective Works	5-36
	[3] Joint Works	5-38
	[4] Derivative Works	5-38.1
	[5] Transfer of Copyright.	5-38.4
	[a] Transfer Under the Act of 1909	5-38.4
	[b] Transfer Under the Copyright Act of 1976	5-38.4
	[c] Termination of Copyright Transfers . . .	5-38.5
§ 5.10	The Fair Use Doctrine	5-38.7
§ 5.10A	Educational Use Copyright Exemption (The “Teach Act”)	5-39
§ 5.11	Attribution and Integrity Rights	5-41
§ 5.12	Art Collections, Copyright Issues and Emerging Technologies	5-42.2
§ 5.13	Identification of Copyright Owners	5-42.3
	[1] Copyright Office Records	5-42.3
	[2] Unions, Guilds and Collective Bargaining Associations.	5-42.3
	[3] Professional Rights Clearance Organizations	5-42.3
§ 5.13A	Television Copyright Issues	5-44
§ 5.14	Music Copyright Issues	5-50.2
	[1] Public Performance License.	5-50.3
	[2] Synchronization License	5-50.6
	[3] Mechanical License	5-50.7
	[4] Music Publishing License	5-50.8
§ 5.15	Copyright Registration Procedures.	5-50.9
§ 5.16	Registration of Computer Programs and Databases Not Fixed in CD-ROM.	5-50.11
	[1] Computer Programs	5-50.11
	[2] Databases	5-51
§ 5.17	Registration of Machine Readable Multimedia Works (Other Than Computer Programs, Databases or CD-ROM Products)	5-52
	[1] Pictorial or Graphic Works	5-52
	[2] Audio-Visual Works.	5-52
	[3] Musical Compositions	5-52
	[4] Sound Recordings.	5-53
	[5] Literary Works	5-53

TABLE OF CONTENTS

vii

§ 5.18	Registration of Multimedia Works Fixed in CD-ROM Format	5-54
§ 5.19	Registration of Certain Multimedia “Kits”	5-55
	[1] Deposit Requirements	5-56
	[a] Generally	5-56
	[b] Authorship Fixed Only in Machine-Readable Form	5-56
	[2] Registration Forms	5-56
§ 5.20	Rental of Multimedia and Other Emerging Technology Applications	5-57
§ 5.21	Copyright Infringement.	5-59
	[1] Direct, Contributory and Vicarious Infringement	5-60
	[2] Remedies	5-65
	[3] The No Electronic Theft (NET) Act	5-68.2
§ 5.22	Proving Infringement	5-69
	[1] <i>Prima Facie</i> Case	5-69
	[2] Direct Liability	5-70.1
	[3] Secondary Liability	5-70.3
	[4] Active Inducement	5-70.4
§ 5.23	Copyright Infringement of Computer Software	5-70.6
	[1] Literal and Non-Literal Copying and Elements	5-70.7
	[2] Early Approaches	5-70.8
	[3] The <i>Altai</i> Test and Variations	5-70.9
	[a] Protection of the User Interface	5-70.14
	[b] User Interfaces and Virtual Reality	5-70.17
§ 5.24	Technological Methods of Preventing Infringement	5-71
	[1] The Audio Home Recording Act of 1992	5-72
	[2] The WIPO Treaties Act	5-73
	[3] Copyright Management Information	5-74
	[4] The Threat of Circumvention and the Digital Millennium Copyright Act	5-75
	[5] Remedies	5-78
§ 5.25	Copyright on the Internet	5-80
	[1] Introduction	5-80
	[2] Copyright Infringement on the Internet	5-80
	[3] Liability	5-80
	[a] Electronic Bulletin Boards	5-80
	[b] Individuals	5-82
	[c] Internet Service Providers	5-83
	[d] Website Operators	5-86
	[e] Internet File-Sharing	5-88

[4]	The Digital Millennium Copyright Act. . . .	5-99
	[a] Routing and Intermediate Storage. . . .	5-101
	[b] Network Caching.	5-101
	[c] Storing, Referring to, or Linking to Infringing Material	5-102
	[d] Other Provisions	5-109
	[e] Copyright Management Information . . .	5-110.1
	[f] Exemptions to Circumvention.	5-110.4
	[i] Generally.	5-110.4
	[ii] Jailbreaking	5-110.7
[5]	The Family Entertainment and Copyright Act.	5-110.8
[6]	Sound Recordings.	5-110.10
[7]	Legal Issues Arising from Hyperlinking. . .	5-111
	[a] Types of Hyperlinks	5-111
	[i] Hypertext Links.	5-111
	[ii] Inline Links	5-112
	[iii] Framing	5-112
	[b] Implications of Linking.	5-112.1
	[i] Hypertext.	5-112.1
	[ii] Inline Linking and Framing	5-112.3
	[iii] Copyright and Trademark Concerns	5-112.6
[8]	Search Engines and Digital Cataloging. . . .	5-112.7
	[a] Online Library Projects	5-112.7
	[b] Databases and Thumbnails	5-112.12
	[c] Infringement and Fair Use	5-112.13
[9]	Hot News Misappropriation.	5-112.14
§ 5.26	<i>Form: Copyright Assignment.</i>	5-113
§ 5.27	<i>Form: Work Made for Hire—Author Contract . . .</i>	5-115
§ 5.28	<i>Form: Interim Designation of Agent to Receive Notification of Claimed Infringement</i>	5-117
§ 5.29	<i>Form: Copyright Ownership Agreement</i>	5-118
§ 5.30	<i>Form: Copyright Transfer Agreement.</i>	5-120
§ 5.31	<i>Form: Producer Digital Millennium Copyright Act Policy</i>	5-128
§ 5.32	<i>Form: DMCA Takedown Notice</i>	5-132
§ 5.33	<i>Form: Exclusive License Agreement.</i>	5-134

CHAPTER 6

Trademark Law and the Development of Emerging Technology Products

§ 6.01	Introduction	6-3
§ 6.02	Emerging Technology Trademark Checklist	6-4

TABLE OF CONTENTS

ix

§ 6.03	Overview of Trademark Law and Emerging Technology	6-7
§ 6.04	Categories	6-10
	[1] Fanciful and Arbitrary Marks	6-10
	[2] Suggestive Marks	6-11
	[3] Descriptive Marks	6-12
	[4] Generic Marks	6-12.2
§ 6.05	Identifying Characteristics Subject to Protection	6-13
	[1] Abbreviations and Nicknames	6-13
	[2] Slogans	6-13
	[3] Titles	6-13
	[4] Characters	6-14
	[5] Celebrities	6-15
	[6] Trade Dress	6-16
	[a] Generally	6-16
	[b] Website Look and Feel	6-18
	[7] Internet Domain Names	6-22
	[a] Domain Name System	6-22
	[b] Strategies for Registering Domain Names as Trademarks	6-24
	[i] Choosing a Mark	6-25
	[ii] Clearing a Mark for Use	6-26
§ 6.06	Federal Trademark Registration	6-26.1
§ 6.07	Selecting Marks for Emerging Technology Products	6-26.5
	[1] Descriptive vs. Suggestive Marks	6-26.5
	[2] Conducting a Trademark Search	6-26.6
§ 6.08	Emerging Technology Trademark Applications	6-26.7
	[1] Preparing an Application	6-26.7
	[2] Prosecuting an Application	6-29
	[3] Principal and Supplemental Registers	6-30
	[4] Notice of Registration	6-31
§ 6.09	Trademark Related Actions	6-32
	[1] Infringement Generally	6-32
	[a] Strength of the Mark	6-37
	[b] Similarity Between the Marks	6-37
	[c] Relatedness of the Goods	6-38
	[d] Evidence of Actual Confusion	6-38
	[e] Sophistication of Buyers	6-41
	[f] Defendant's Intent	6-41
	[g] Likelihood of Expansion	6-42
	[h] Marketing Channels	6-43

EMERGING TECHNOLOGIES AND THE LAW

	[2] Contributory Trademark Infringement.	6-44
	[3] Unfair Competition.	6-45
	[a] False Advertising.	6-45
	[b] Reverse Passing Off.	6-46.2
	[c] Trademark Disparagement.	6-46.2
	[d] False Designation of Origin.	6-46.3
	[4] Dilution.	6-46.6
	[a] State Trademark Dilution Statutes.	6-46.6
	[b] Federal Trademark Dilution Act of 1995.	6-46.9
	[5] Causing Marks to Become Generic.	6-46.10
	[6] Free Speech.	6-46.12
§ 6.10	Proper Use of Emerging Technology Marks.	6-47
§ 6.11	Trademark Protection on the Internet.	6-49
	[1] Domain Names and Domain Name Disputes.	6-49
	[a] The ICANN Domain Name Dispute Resolution Policy (UDRP).	6-50.1
	[b] Anticybersquatting Consumer Protection Act of 1999.	6-54
	[2] Trademark Infringement in Website Content, Metatags, Search Terms and Search Engine Keywords.	6-56.5
	[a] Website Content.	6-56.11
	[b] Metatags, Search Terms and Uniform Resource Locators (URLs).	6-56.15
§ 6.12	<i>Form:</i> Trademark Assignment.	6-56.22
§ 6.13	<i>Form:</i> Cease and Desist Letter for Trademark Infringement in Internet Domain Name.	6-57
§ 6.14	<i>Form:</i> Settlement Agreement Providing for Transfer of Domain Name.	6-59
§ 6.15	<i>Form:</i> Sample Trademark Opinion.	6-64

CHAPTER 7

Trade Secret Law and the Development of Emerging Technology Products

§ 7.01	Introduction.	7-2
§ 7.02	Emerging Technology Trade Secret Checklist.	7-3
§ 7.03	Trade Secrets and Emerging Technology.	7-5
	[1] Confidential Business Information.	7-5
	[2] Software.	7-6
	[3] The Entire Application.	7-6
	[4] Works Incorporated into the Application.	7-7

TABLE OF CONTENTS

xi

§ 7.04	Overview of Trade Secret Law	7-8
§ 7.05	Mass-Marketed Emerging Technology Applications Containing Trade Secrets	7-13
§ 7.06	Misappropriation	7-14
	[1] Determining Misappropriation	7-14
	[2] Employee Misappropriation	7-15
	[a] The Doctrine of Inevitable Disclosure	7-18.1
	[b] Covenants Not to Compete	7-18.3
	[3] Third Party Misappropriation	7-19
	[4] Section 337 Investigations	7-20.1
§ 7.07	Establishing Trade Secrets in Emerging Technologies	7-20.3
§ 7.08	Criminal Liability	7-20.5
	[1] State Law	7-20.5
	[2] Economic Espionage Act of 1996	7-20.5
	[3] Defend Trade Secrets Act of 2016	7-20.8
§ 7.09	<i>Form</i> : Evaluation Nondisclosure Letter Agreement Between Company and Potential Distributor	7-21
§ 7.10	<i>Form</i> : Employee Confidentiality and Assignment of Interventions Agreement	7-24
§ 7.11	<i>Form</i> : Exit Interview Form	7-26
§ 7.12	<i>Form</i> : Employee System Use Warning	7-27

CHAPTER 8

Patent Law and the Development of Emerging Technology Products

§ 8.01	Introduction	8-2
§ 8.02	Overview of Patent Law	8-4
	[1] The Public Use and On Sale Bars	8-6
	[2] Participation in Standards Setting Bodies	8-9
§ 8.03	Examples of Emerging Technology Related Patentable Subject Matter	8-11
	[1] Software	8-11
	[2] Data Transmission and Data Compression	8-12
	[3] Television	8-12
	[4] Multimedia	8-13
	[5] Internet-Based and Electronic Commerce	8-13
§ 8.04	Emerging Technology Patent Checklists	8-14

	[1] Checklist to Minimize Likelihood of Infringement	8-14
	[2] Patent Protection Checklist	8-16
§ 8.05	Patentable Subject Matter and Emerging Technology	8-21
	[1] Generally	8-21
	[2] The Patentability of Emerging Technology Software	8-24
	[3] The Patentability of Emerging Technology Methods of Doing Business	8-28
	[4] The Patentability of Emerging Technology Database Structures	8-38
	[5] The Patenting of Emerging Technology: Risks of Aging Out	8-38
§ 8.06	Novelty, Nonobviousness, and Definiteness Requirements	8-40
	[1] Novelty	8-40
	[2] Nonobviousness	8-45
	[3] Definiteness	8-47
§ 8.07	Patent Applications	8-48.2
	[1] The Application Process	8-48.2
	[2] Enablement and Best Mode Requirements	8-48.3
	[3] Submission of Source Code	8-48.5
	[4] Drafting of Claims	8-49
	[5] International Patent Protection	8-50
§ 8.08	Claim Construction	8-54
§ 8.09	Patent Infringement	8-56.1
	[1] Standards	8-56.2
	[2] Remedies	8-62
	[3] Options for Potential Infringers	8-68
	[4] Infringement and Imported/Exported Software	8-68.4
	[a] Exported Software	8-68.4
	[b] Section 271(f)	8-68.4
	[c] Litigation	8-68.5
	[d] Imported Software	8-68.9
	[5] Patent Assertion Entities	8-68.12
§ 8.10	Design Patents and Emerging Technology	8-68.21
	[1] Overview	8-68.21
	[2] Designs Displayed as Part of Content	8-69
§ 8.11	Ownership	8-72
	[1] Inventorship	8-72
	[2] Assignment	8-73

TABLE OF CONTENTS

xiii

[3]	Licensing	8-75
[4]	Cross-Licensing	8-76.2
[5]	Patent Licensing and the Development of Open Standards	8-76.5
§ 8.12	<i>Form</i> : Patent Assignment	8-77
§ 8.13	<i>Form</i> : Patent License Agreement (Exclusive)	8-80
§ 8.14	<i>Form</i> : Patent License Agreement (Non-Exclusive)	8-84
§ 8.15	<i>Form</i> : Assignment of Patent Application	8-93

CHAPTER 9

Rights of Privacy and Publicity; Defamation

§ 9.01	Introduction	9-4
§ 9.02	Rights of Privacy and Publicity	9-5
	[1] Overview	9-5
	[2] Privacy and Publicity Checklist	9-5
§ 9.03	Right of Privacy	9-8
	[1] Intrusion Upon Seclusion	9-8
	[2] Public Disclosure of Private Facts	9-9
	[3] False Light	9-10
	[4] Appropriation of Name or Likeness	9-11
	[5] Survival and Transfer of Right of Privacy	9-11
§ 9.04	Privacy Rights and Emerging Technologies	9-13
	[1] The Scope of the Personal Information Problem	9-13
	[a] Locational Technologies	9-13
	[b] Data Mining	9-15
	[c] Surveillance and Security Technologies	9-17
	[d] Internet Technology	9-22
	[i] Clickstream Data	9-23
	[ii] Tracking Technology	9-23
	[iii] Unauthorized Interception and Access	9-27
	[iv] Voluntary Provision of Private Information	9-28
	[v] Spyware	9-28
	[vi] Data Security Concerns	9-33
	[vii] Credential Stuffing	9-38
	[e] User Provided Information	9-41
	[i] Generally	9-41

EMERGING TECHNOLOGIES AND THE LAW

	[ii] Search Engines and Data Retention	9-42
	[iii] Social Networks and Behavioral Advertising	9-44
[2]	Selected Privacy Laws	9-44.5
	[a] Privacy-Related Federal Laws in the United States	9-44.5
	[i] Gramm-Leach-Bliley Act	9-44.6
	[ii] Health Insurance Portability and Accountability Act of 1996 (HIPAA)	9-44.7
	[iii] Children’s Online Privacy Protection Act (COPPA)	9-44.8
	[iv] The Electronic Communications Privacy Act (ECPA)	9-44.12
	[v] Fair Credit Reporting Act (FCRA)	9-49
	[vi] Computer Fraud and Abuse Act (CFAA)	9-51
	[vii] The Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM)	9-56.3
	[viii] Identity Theft Penalty Enhancement Act (ITPEA)	9-56.8
	[ix] Telephone Consumer Protection Act (TCPA)	9-56.10
	[x] Video Privacy Protection Act	9-56.19
	[b] Privacy-Related State Laws in the United States	9-56.20
	[c] Privacy-Related International Laws	9-56.31
	[i] European Union (EU)	9-56.31
	[ii] Data Protection Laws in Canada	9-56.42
[3]	Constitutional Protections	9-56.43
[4]	Electronic Banking Security	9-56.46
	[a] Fraudulent Electronic Funds Transfers	9-56.46
	[b] Online Banking Security Procedures	9-56.48
	[c] Litigation	9-56.50
[5]	Government Actions and Industry Self-Regulation	9-56.51
	[a] World Wide Web Consortium	9-56.57
	[b] The TRUSTe Privacy Program	9-56.58
	[c] The ANA Guidelines	9-56.59

TABLE OF CONTENTS

xv

	[d] Children’s Advertising Review Unit Guidelines	9-56.61
	[e] Payment Card Industry Data Security Standards	9-56.62
§ 9.05	Right of Publicity	9-56.66
	[1] Consent to Use Names or Likenesses in Content	9-56.69
	[2] Incidental Use in Content	9-56.72
	[3] First Amendment Protection for Emerging Technology Products	9-56.73
	[4] Survival and Transfer of Right of Publicity	9-56.76
	[5] Right of Publicity on the Internet	9-56.77
§ 9.06	Defamation	9-56.80
	[1] Defamation Checklist	9-56.80
	[2] Elements	9-56.82
	[a] Statement	9-56.83
	[b] Defamatory in Nature	9-56.83
	[c] Reference to or Concerning the Party	9-56.84
	[d] Falsity and Capability of Being Proven False	9-56.85
	[e] Publication to a Third Party	9-56.86
	[f] Injury	9-56.89
	[g] Fault by the Person Publishing the Statement	9-56.89
	[3] First Amendment Limitations	9-56.90
	[a] Standards for Defamation of Private Persons	9-56.91
	[b] Standards for Defamation of Public Figures	9-56.92
	[c] Responsibilities of a Producer	9-56.94
	[4] Libel and Defamation on the Internet	9-56.98
	[a] Application of Traditional Defamation Law to Internet Communications	9-56.98
	[b] Single Publication Rule	9-56.100
	[c] Revealing the Identity of Anonymous Speakers	9-56.103
§ 9.07	Liability for Inaccurate Data	9-56.107
	[1] Negligence	9-56.107
	[2] Product Liability	9-56.108
§ 9.08	The Role of Indemnification and Insurance	9-59
§ 9.09	<i>Form: Picture and Name Release</i>	9-60.3
§ 9.10	<i>Form: Talent Contract</i>	9-62

§ 9.11	<i>Form: User Protective Website Data Collection Policy</i>	9-64
§ 9.12	<i>Form: Website Privacy Policy</i>	9-66
§ 9.13	<i>Form: Sample Privacy Policy Notice Provisions Appropriate for Website Directed Toward Children</i>	9-69
§ 9.14	<i>Form: Gramm-Leach-Bliley Act Model Privacy Notice Form (with Opt-Out)</i>	9-71
§ 9.15	<i>Form: Cookie Policy</i>	9-73
§ 9.16	<i>Form: Sample Privacy Policy</i>	9-76

CHAPTER 10

The Internet and Data Access Networks

§ 10.01	Regulating Online Indecency	10-3
	[1] Communications Decency Act of 1996 (CDA)	10-3
	[a] Background	10-3
	[b] Section 230	10-4
	[c] Other Defenses	10-14.6
	[i] The Good Faith Defense	10-14.7
	[ii] The Access Provider Defense	10-14.7
	[iii] The Good Samaritan Defense	10-14.7
	[2] Limiting Access to Obscene and Indecent Content	10-15
	[3] Transmission of Obscenity Over Bulletin Boards	10-16.2
§ 10.02	Corporate Internet Access Policies	10-16.3
	[1] Initial Procedures	10-16.3
	[a] Security	10-16.3
	[b] Limited Access	10-16.4
	[c] Viruses	10-16.4
	[2] E-Mail, Confidentiality and a Workplace Policy	10-16.5
	[a] Generally	10-16.5
	[b] Electronic Communication and Privacy Act (ECPA) Concerns	10-16.6
	[c] State Law	10-16.9
	[d] Attorney-Client Privilege	10-16.10
	[e] E-Mail Use Policies	10-16.14
	[3] Offensive and Obscene Communications	10-16.15
	[4] Trade Secrets and Unsolicited Ideas	10-16.15
	[5] Online Copyright Infringement	10-16.17
	[6] Website Privacy Policies	10-16.17

TABLE OF CONTENTS

xvii

[a] Generally	10-16.17
[b] FTC Enforcement Actions.	10-16.21
[7] Social Media Policies.	10-16.22
§ 10.02A The Federal Records Act, Electronic Records and E-Mail	10-16.26
§ 10.03 Internet and Wireless Commerce	10-17
[1] Electronic and Digital Signatures	10-17
[a] Enforceability Prior to Federal and State Legislation.	10-18
[b] UETA and Other State Electronic Signatures Legislation.	10-20
[c] Electronic Signatures in Global and National Commerce Act (E-Sign).	10-22
[i] Purpose and Scope	10-22
[ii] Requirement of Consumer Notice and Consent	10-23
[iii] Reasonably Demonstrating the Consumer’s Ability to Access	10-25
[iv] Effect of E-Sign’s UETA Preemption Provisions on Consent	10-26
[v] Withdrawal of Consent.	10-27
[vi] Electronic Agents	10-28.2
[vii] Exemptions from E-Sign	10-28.2
[d] ABA Digital Signature Guidelines	10-28.3
[e] International Recognition of Electronic Signatures.	10-28.3
[f] Security Issues.	10-28.3
[2] Export Restrictions on Encryption.	10-28.5
§ 10.04 Wrongful Conduct on the Internet.	10-29
[1] Identity Theft	10-29
[2] Disclosure of Embarrassing or Private Information.	10-32
[3] Click Fraud	10-36
[4] Catfishing	10-39
[5] Cyberstalking	10-41
[6] Deepfakes	10-44
§ 10.05 Internet Jurisdiction.	10-46
[1] Online Contract Formation	10-46.4
[2] Websites and Jurisdiction: Is a Website Enough?	10-46.9
[3] Conduct Directed Toward the Jurisdiction	10-46.17
[4] Jurisdiction Across National Boundaries.	10-46.20

§ 10.06	<i>Form: Corporate Internet Use Policy</i>	10-46-27
§ 10.07	<i>Form: Web Linking Referral Fee Agreement</i>	10-49
§ 10.08	<i>Form: Retail Internet Site Agreement</i>	10-58
§ 10.09	<i>Form: Web Hosting Agreement</i>	10-63
§ 10.10	<i>Form: Search Engine Services Agreement</i>	10-77
§ 10.11	<i>Form: Withdrawal of Consent to Electronic Notices and Records</i>	10-88
§ 10.12	<i>Form: Wireless Services Enterprise Agreement</i>	10-91
§ 10.13	<i>Form: Employee Internet Use Policy Statement</i>	10-123

CHAPTER 11

Joint Ventures in Emerging Technologies

§ 11.01	Introduction	11-3
§ 11.02	Form of Joint Venture	11-4
	[1] Introduction	11-4
	[2] Corporation	11-4
	[a] Introduction	11-4
	[b] Regulatory and Reporting Requirements	11-5
	[c] Governing Documents	11-5
	[d] Creation	11-5
	[e] Taxation	11-5
	[f] Management	11-5
	[3] Partnership	11-6
	[a] Introduction	11-6
	[b] Taxation	11-6
	[c] Management	11-6
	[d] Liability	11-6
	[e] Partnership Agreement	11-7
	[f] Reporting Obligations	11-7
	[g] Formation Costs	11-7
	[h] Term of Existence	11-7
	[4] Limited Liability Company	11-7
	[a] Introduction	11-7
	[b] Management	11-8
	[c] Operating Agreement	11-8
	[d] Formation	11-8
	[e] Liability	11-8
	[f] Fiduciary Duty	11-8
	[g] Advantages Over Other Forms	11-8
§ 11.03	Contributions	11-10
	[1] Introduction	11-10

TABLE OF CONTENTS

xix

	[2] Form of Contributions	11-10
	[3] Intellectual Property	11-10
	[4] Contractual Relationships	11-11
	[5] Other Assets	11-11
§ 11.04	Intellectual Property Licensing	11-12
	[1] Introduction	11-12
	[2] Technology License	11-12
	[a] Definition of Licensed Technology	11-12
	[b] Term of Licensed Technology	11-12
	[c] Scope of License	11-12
	[d] Source Code	11-13
	[e] Title to Technology	11-13
	[f] Warranties	11-13
	[g] Indemnity and Limits on Liability	11-14
	[h] Delivery Schedule	11-14
	[i] Maintenance	11-14
	[3] Content Licensing	11-14
	[a] Identification of Licensed Properties	11-15
	[b] Grant of Rights	11-15
	[c] Reservation of Rights and Exclusivity	11-15
	[d] Approvals	11-15
	[e] Representations and Warranties	11-16
	[f] Disclaimer of Warranties	11-16
	[g] Indemnification/Defense Against Third Party Claims	11-16
	[h] Limitation of Liability	11-17
§ 11.05	Confidentiality	11-18
§ 11.06	Management and Employees	11-19
	[1] Personnel	11-19
	[2] Non-Solicitation of Employees	11-19
	[3] Equity Options for Management and Employees	11-20
§ 11.07	Financial Provisions	11-21
§ 11.08	Services Agreements	11-22
§ 11.09	Non-Compete and Exclusivity Issues	11-23
	[1] Non-Competition Agreements	11-23
	[2] Exclusivity Agreements	11-23
§ 11.10	Transfers of Interest	11-24
	[1] Introduction	11-24
	[2] Restrictions	11-24
	[a] Right of First Offer	11-24
	[b] Right of First Refusal	11-24
	[c] Buy/Sell	11-25

§ 11.11	Promotion	11-26
§ 11.12	Antitrust Issues	11-27
§ 11.13	Termination	11-28
§ 11.14	<i>Form</i> : Emerging Technology Joint Venture Checklist	11-29
§ 11.15	<i>Form</i> : Memorandum of Understanding for Emerging Technology Joint Venture ABC, INC.	11-31
§ 11.16	<i>Form</i> : Non-Exclusive Online Affiliate Form . . .	11-58

CHAPTER 12

Regulation of Emerging Technology

§ 12.01	Introduction	12-2
§ 12.02	Federal Trade Commission	12-3
	[1] Introduction	12-3
	[2] Antitrust	12-3
	[a] Antitrust Laws	12-4
	[b] Antitrust Limits on the Licensing of Intellectual Property	12-5
	[i] Duty to License to Third Parties	12-6
	[ii] Price Restrictions in Licensing Agreements	12-7
	[iii] Exclusive Licensing and Exclusive Dealing	12-8
	[iv] Cross-Licensing and Pooling Arrangements	12-8.1
	[v] Grantbacks	12-10
	[vi] Tying	12-11
	[vii] Enforcement of Invalid Intellectual Property Rights	12-11
	[c] Antitrust Concerns Arising from E-Commerce Collaborations	12-13
	[i] Antitrust Issues in Collaborations	12-14
	[ii] Collaboration Guidelines	12-16.2
	[d] Standard Setting	12-16.3
	[3] Protection of Consumers	12-17
§ 12.03	International Trade Commission	12-21
	[1] Introduction	12-21
	[2] Proceedings Under Section 337	12-22
§ 12.04	Department of Commerce	12-24
§ 12.05	Federal Communications Commission	12-25

TABLE OF CONTENTS

xxi

[1]	Introduction	12-25
[2]	Bureaus and Offices	12-26
	[a] Bureaus	12-27
	[i] Media	12-27
	[ii] Wireless Telecommunications	12-27
	[iii] Wireline Competition	12-27
	[iv] Enforcement	12-27
	[b] Offices	12-28
	[i] Engineering and Technology	12-28
	[ii] General Counsel	12-28
	[iii] Administrative Law Judges	12-28
	[iv] Managing Director	12-28
	[v] Legislative Affairs	12-29
[3]	Regulation of Specific Emerging Technologies	12-29
	[a] Television	12-29
	[i] Digital Television (DTV)	12-29
	[ii] V-Chip	12-30
	[b] Voice-Over-Internet Protocol (VoIP)	12-31
	[c] E911	12-34
	[d] Spectrum Allocation	12-35
	[i] Leasing	12-37
	[ii] Cognitive Radio	12-37
	[e] Broadband	12-38
	[i] BPL	12-38
	[ii] Net Neutrality	12-40

Appendices

APPENDIX A: Copyright Materials	A-1
APPENDIX B: Trademark Materials	B-1
APPENDIX C: Patent Materials	C-1
APPENDIX D: Privacy and Publicity Statutes	D-1
APPENDIX E: Glossary of Terminology for Emerging Technologies	E-1
INDEX	I-1

