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January 18th, 2008

Cyberlaw and cyberlawgs

Posted by [Corynne McSherry](#)

Eric Menhart may call himself a cyberlawyer, but we think he has a lot to learn about cyberlaw -- and common sense. Menhart is the author of a blog about cyberlaw issues called, logically if not innovatively, "[Cyberlawg](#)." (As he says in the top right corner, "Cyberlawg = Cyberlaw + blog.") And he is "principal attorney" in a firm called "[CyberLaw P.C.](#)" OK, OK, we get it, he practices technology law. Based on this, he's applied for a trademark on the use of the term "cyberlaw" in connection with the practice of, um, cyberlaw. That's like a soda company claiming a trademark in the use of the word soda in connection with the sale of soda. Or an apple farmer claiming a trademark in the use of the term apple in connection with the sale of apples. Or ... well, you get the picture.

What is worse, he's threatening other lawyers with legal action based on this silly "mark." Menhart has demanded that attorney Michael Grossman change the title of his blog about technology law, "[CyberBlawg](#)." Presumably [Stanford's Center for Internet and Society](#), with its [Cyberlaw Clinic](#), as well as the [Berkman's Center for Internet and Society](#), and Elliot Zimmerman's blog, [CyberLaw.info](#), are in Menhart's sights as well.

I wish I could say I was surprised by this one, but such overreaching invocations of IP rights are all too common -- even where, as in this case, there are no actual "rights" to speak of. But an IP lawyer should know that courts (and trademark examiners, and many tech companies that might be potential clients) don't look kindly on efforts to abuse trademark law to control everyday language. Here's hoping Menhart figures that out fast.

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