

Exam Number: \_\_\_\_\_

**GEORGETOWN UNIVERSITY LAW CENTER  
EXAMINATION IN  
INFORMATION PRIVACY LAW  
IN-CLASS EXAM (3 hours)**

Professor Marc Rotenberg

May 3, 2011

INSTRUCTIONS:

1. This is an OPEN book, IN-CLASS exam.
2. You should select three of the following four questions. Each question will receive equal weight. There will be no additional credit for answering a fourth question.

This exam consists of 3 pages, including this cover page. Please be sure your exam is complete.

Please be sure that you use your exam number (not your student ID number or social security number).

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Question 1

You are chief counsel for a US Senator.

The Senator is concerned about the collection and use of “location data” that is collected by telephone companies and companies that provide mobile devices. She understands that mobile phone provide useful services, such as simple GPS functionality as well the ability to locate local movie theaters and restaurants. She is also aware that mobile companies gather this data to improve the functioning of the device, by for example, noting the location of wi-fi hotspots and cell towers. At the same time, she is aware that there are privacy and security risks associated with the collection and use of this data, which may include the specific date and time that a device is in a particular location, as well as the application that may be running on the device.

She has asked you to outline a draft bill, the Location Privacy Act of 2011, and to briefly explain the key provisions of the Act.

Question 2

You are an attorney advisor to a Commissioner of the Federal Trade Commission.

The Commission has recently concluded an investigation involving a popular gaming device, Acme FunStation. There was a significant security breach and the personal information of more than 40 million users, including home addresses, passwords, and credit card information, were obtained by a data thief who exploited weaknesses in the Acme network. The Commission has found a violation of Section 5 of the FTC Act, which prohibits unfair or deceptive trade practices, based on Acme’s failure to implement sufficient security measures

The Commissioner has asked you to outline the basic elements of the Consent Order and to briefly explain the purpose of each provision that you recommend,

Question 3

You are a clerk for a Justice on the US Supreme Court.

You have been asked to write a memo outlining an opinion in *Sorrell v. IMS Health*, the prescription record data mining case pending before the Court. The Justice has asked you to focus exclusively on the privacy and free speech interests in the case. He has also asked you to briefly note any views that Justice Brandeis has expressed that may be relevant to the case.

Outline the draft opinion with brief explanations of the key points that support your conclusion, as well as any relevant views of Justice Brandeis.

#### Question 4

You are an attorney advisor in the Department of State.

The Secretary of State has asked you to advise her on emerging privacy issues. She is specifically interested in the relevant legal frameworks, particularly in Europe, that may impact the practices of US companies and US federal agencies, as well as some of the new privacy issues that the United States might need to consider.

She would like you to briefly summarize the major legal instruments in the privacy field and to outline your views on new privacy issues. She is a busy person so it is important that you clearly organize your answer and clearly explain your recommendations.

END OF EXAM