

**17-562, 17-662, 17-762 Law of Computer Technology. Prof. Shamos
MiniHomework 1. Due Friday, September 6, 2019, 11:59 p.m.**

This homework is worth 40 points and counts for 4% of your grade in the course. Its purpose is familiarize you with the kind of homework you will be getting in a setting in which you can practice without your grade being unduly affected. You have one week for this homework – you will have two weeks for subsequent homeworks.

Homework policy: You may (and are encouraged to) work with other students on homework assignments provided that (1) each person's written submission is his or hers alone; and (2) you identify on the homework each person with whom you worked in connection with the assignment. For example, you may work in pairs or groups to research, discuss and debate the homework, but then each person must go off and write their own paper. BUT: you may NEVER hand in work of another person even if you state that you have worked with that person. If you quote or paraphrase from external sources, such as web pages or another person, you must use quotation marks to identify the quotation and must cite the source of such material. Violations of these rules will be dealt with harshly to the fullest extent of University policy.

It is very useful to work in groups. Experience has shown that students produce better work when they can share ideas with colleagues. The objective of the course homework is to promote learning, not merely to serve as a grading mechanism.

Homework must be submitted through CMU Canvas as a Microsoft Word file (.doc or .docx) having a filename containing your surname. PDF files are not acceptable because it is very difficult to add comments to them.

You must ALWAYS explain your answers. Failure to do so will result in a ZERO for the question, regardless of your answer. You should realize that there are no "right" or "wrong" answers to the homework questions. The fact patterns are realistic but artificial and have never been decided by any court, even though they may be similar to those of actual cases. You will not find the homework scenarios on the Internet. They were constructed for the purposes of this course. However, the legal citations and statutes are real. The fact that a court may have decided a similar case in a particular way does not make that decision the "right" answer. Your grade will depend on the degree to which you follow the methods taught in the course for analyzing cases of this type.

These problems require thought. You will need to decide which facts are relevant and which are not. **DO NOT USE YOUR PERSONAL SENSE OF JUSTICE TO DECIDE WHICH WAY THE CASES SHOULD TURN OUT. How you feel things should be resolved is COMPLETELY IRRELEVANT.** You MUST apply the principles of legal reasoning discussed in the course. You will find it impossible to write effective answers to these questions if you wait until the last night before the homework is due. Your answers do not need to be long but they should be thorough.

If you find that there is some factual information you need that is not stated in the question, then make a reasonable assumption about that information and state and justify your assumption.

1. AI Video Interviews [40 points]

On August 9, 2019, the Governor of Illinois signed into law the “Illinois Artificial Intelligence Video Interview Act.” The full text of the law is reproduced at the end of this homework. The law takes effect January 1, 2020, so assume the facts below occur starting in February 2020.

Lickety-Split¹ (LS) is an Illinois ice cream maker having a store in Chicago, Illinois. It is trying to hire a store manager. Joe Scoop learned about the position and applied for it. Without being asked, he sent in a video of himself explaining his background and why he would be a good fit for Lickety-Split. LS has a policy of transcribing the audio portion of videos into pdfs using a speech recognition program called Dragon NaturallySpeaking from Nuance. It does this so executives involved in hiring do not have to watch a lot of videos, but can simply read the transcripts. Nuance advertises its products this way:

*Leverage Nuance **Deep Learning** technology.*

*With a next-generation speech engine powered by Nuance **Deep Learning technology**, Dragon achieves high recognition accuracy while dictating, even for users with accents or those working in open office or mobile environments; making it ideal for diverse work groups and settings.*²

*Leverage our decades of experience delivering **award-winning AI***³

LS ran Joe’s video through Dragon NaturallySpeaking and distributed the resulting transcript to several hiring executives. They decided not to extend him an offer. Joe called a recruiter at LS and asked why he wasn’t hired. She told him, “A few of our people weren’t happy with your transcript.” This was the first Joe learned that his words had been transcribed, so obviously LS did not have Joe’s consent.

Joe Scoop hired a lawyer and brought suit against LS in state court in Chicago for \$100,000 for violating the Artificial Intelligence Video Interview Act. LS asks the court to dismiss the case before trial on the following grounds:

1. LS never asked Joe to submit the video, as required by the law.
2. The video was not an “interview,” as required by the law.
3. Transcribing an audio track into text is not an “artificial intelligence analysis,” as required by the law.
4. The law is unconstitutionally vague because it doesn’t define “artificial intelligence.” (A law is unconstitutionally vague if it does not inform “a person of reasonable intelligence of the nature of the prohibited conduct.”)
5. The law does not provide any penalty for a violation and surely not \$100,000.

¹ Several businesses in the U.S. are named Lickety-Split, including one in Chicago. This one is fictional.

² <https://www.nuance.com/dragon/business-solutions/dragon-professional-group.html>

³ <https://www.nuance.com/omni-channel-customer-engagement/technologies/artificial-intelligence.html>

Joe's lawyer responds to each of the points as follows:

- a. LS didn't ask Joe to submit the video, but they used AI to analyze the video after he submitted it.
- b. An "interview" doesn't have to be question-and-answer. It can be solo speech by the applicant.
- c. Nuance advertises its NaturallySpeaking product as using AI and Deep Learning.
- d. The law is not vague even though it doesn't give a specific definition of AI. People of reasonable intelligence know what AI is, and even Dragon says that it uses AI.
- e. A penalty is implied – there would be no point to having the law if anyone could violate it without consequences.

QUESTION: You are the judge. Write an opinion explaining why the case against Lickety-Split should be dismissed or why the case should be allowed to go to trial. You must analyze all five arguments made by Lickety-Split, taking into account Joe Scoop's corresponding responses. A simple answer of "dismiss" or "don't dismiss" is worth NO CREDIT. Your opinion does not have to be long, but it should be insightful. Remember, your personal idea of what is "right" or "just" in this situation is irrelevant. You are being asked about the law.

Illinois Artificial Intelligence Video Interview Act

AN ACT concerning employment.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Artificial Intelligence Video Interview Act.

Section 5. Disclosure of the use of artificial intelligence analysis. An employer that asks applicants to record video interviews and uses an artificial intelligence analysis of the applicant-submitted videos shall do all of the following when considering applicants for positions based in Illinois before asking applicants to submit video interviews:

(1) Notify each applicant before the interview that artificial intelligence may be used to analyze the applicant's video interview and consider the applicant's fitness for the position.

(2) Provide each applicant with information before the interview explaining how the artificial intelligence works and what general types of characteristics it uses to evaluate applicants.

(3) Obtain, before the interview, consent from the applicant to be evaluated by the artificial intelligence program as described in the information provided.

An employer may not use artificial intelligence to evaluate applicants who have not consented to the use of artificial intelligence analysis.

Section 10. Sharing videos limited. An employer may not share applicant videos, except with persons whose expertise or technology is necessary in order to evaluate an applicant's fitness for a position.

Section 15. Destruction of videos. Upon request from the applicant, employers, within 30 days after receipt of the request, must delete an applicant's interviews and instruct any other persons who received copies of the applicant video interviews to also delete the videos, including all electronically generated backup copies. Any other such person shall comply with the employer's instructions.