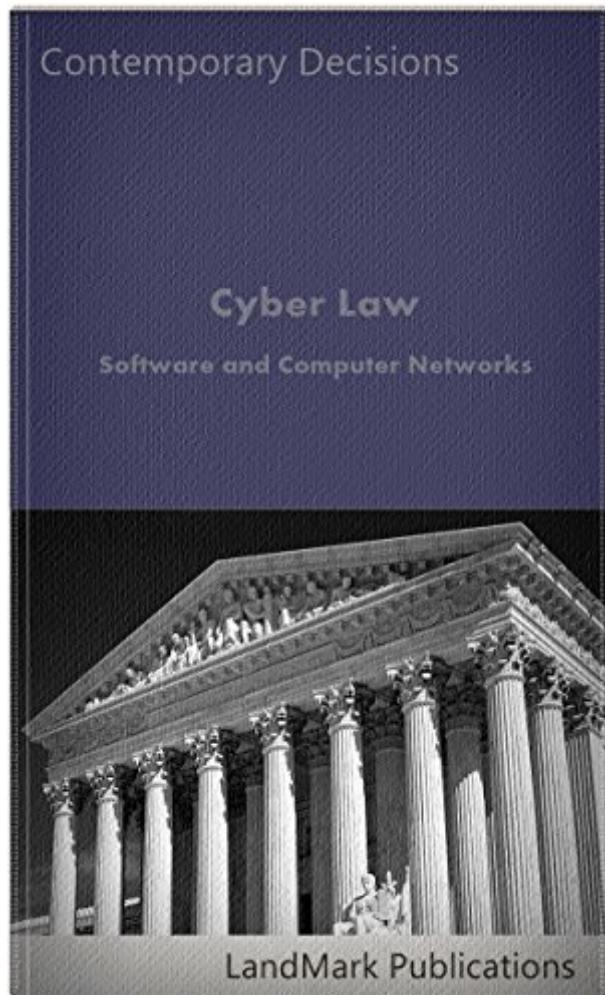


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# Cyber Law: Software And Computer Networks (Litigator Series)



## **Synopsis**

THIS CASEBOOK contains a selection of 132 U. S. Court of Appeals decisions that analyze and discuss issues surrounding cyber law. The selection of decisions spans from 2001 to the date of publication. The CFAA, 18 U.S.C. Â§ 1030, is primarily a criminal antihacking statute. However, Â§ 1030(g) provides a civil remedy for any person who suffers damage or loss due to a violation of Â§ 1030. *Fidlar Technologies v. LPS Real Estate Data Solutions, Inc.*, (7th Cir. 2016). To be timely, such a civil suit must be filed "within 2 years of the date of the act complained of or the date of the discovery of the damage." CFAA, *ibid*. *Sewell v. Bernardin*, *ibid*. Under the CFAA, "damage" is defined as "any impairment to the integrity or availability of data, a program, a system, or information...." Â§ 1030(e)(8). Hence, "causes damage" encompasses clearly destructive behavior such as using a virus or worm or deleting data. See, e.g., *Int'l Airport Ctrs., L.L.C. v. Citrin*, 440 F.3d 418, 419 (7th Cir. 2006). But it may also include less obviously invasive conduct, such as flooding an email account. See, e.g., *Pulte Homes, Inc. v. Laborers' Int'l Union*, 648 F.3d 295, 301-02 (6th Cir. 2011). *Fidlar Technologies v. LPS Real Estate Data Solutions, Inc.*, *ibid*. The CFAA imposes criminal and civil liability on one who, among other things, "intentionally accesses a computer without authorization or exceeds authorized access and thereby obtains information . . . from any department or agency of the United States." 18 U.S.C. Â§ 1030(a)(2)(B). "Without authorization" is not defined. However, "'exceeds authorized access' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter." *Id.* Â§ 1030(e)(6). *US v. Valle*, (2nd Cir. 2015). The critical term "authorization" is not defined in the statute, but we have previously recognized in construing the CFAA that "authorization" is a word "of common usage, without any technical or ambiguous meaning." *United States v. Morris*, 928 F.2d 504, 511 (2d Cir. 1991). The dictionary defines "authorization" as "permission or power granted by authority." *Random House Unabridged Dictionary* 139 (2001). [Footnote omitted.] Thus, common usage of "authorization" suggests that one "accesses a computer without authorization" if he accesses a computer without permission to do so at all. See, e.g., *LVRC Holdings LLC v. Brekka*, 581 F.3d 1127, 1133 (9th Cir. 2009). *US v. Valle*, *ibid*.

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