Law, Society, and the Internet: An Evolutionary Snapshot

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Agenda

- Society’s view of technology
- How the law works
- Jurisdiction
- Public information and Privacy
- Q&A Tuesday
- Adult material and the First Amendment
- Defamation and harassment
- Intellectual property
- Q&A Thursday
The Swing
“Security” Specs from Society

- Authorization
  - This material not suitable for minors
- Privacy
  - No e-mail monitoring without a court order
- Data integrity
  - Copyright notice must accompany Web page
- Data distribution
  - Offer not valid in Tennessee, Montana
- Data ownership
  - Copyright John Smith; all rights reserved
Society loves technology, but ...

- When did the net start having social problems?
  - Communication not computation
  - CU-SeeMe®
  - Culture shift
  - The Law Where There Is No Land
    - Amy Harmon, The New York Times
- What should technologists know about these problems?
- What should technologists do with this information?
What does society worry about?

- Illegal activities
  - Copyright infringement
  - Harassment, defamation
  - Obscenity, pornography
  - Hacking (got Melissa?)
- On the job
  - Surfing instead of working
  - Data integrity and confidentiality
  - Electronic record retention
- It’s a free country
  - Fair use
  - Free Speech
  - Privacy
  - Open records laws
- Anticipating the future...
Past Predictions

- “Everything that can be invented has been invented.” – Charles H. Duell (1899)

- “I think there is a world market for maybe five computers.” – Thomas Watson (1943)

- “There is no reason anyone would want a computer in their home.” – Ken Olson (1977)

- “640K ought to be enough for anybody.” – Bill Gates (1981)
“On the Internet, nobody knows you’re a dog.”
I am not sure who to direct this e-mail to, but I got this address from Cornell University's web site.

I am currently a high school junior looking around at different colleges. My question concerns the dorms at Cornell. Do most of the dorms have ethernet connections (with Internet access) available in each room? What percentage? What percentage of freshman dorms?

Thanks, and I'm sorry if I am sending this to the wrong person. If you could direct me to a certain web page or e-mail address, it would be greatly appreciated.

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M------ I------
“For a good time e-mail joan@loa.com”
Steve Jobs on the Internet

“The Web is exciting for two reasons:

One, it’s ubiquitous, and

Two, I don’t think Microsoft will figure out a way to own it.”
Judges Look at the Internet
(from 1996 preliminary CDA ruling)

- “The Internet may fairly be regarded as a never-ending worldwide conversation.”

- “…the most participatory form of mass speech yet developed.”

- “The strength of the Internet is chaos.”
Wanted: Good Metaphors

- Real world
  - Telephone calls
  - Public squares
  - Campus quadrangle
  - First-class mail
  - Postcards

- Cyberspace
  - Web pages
  - E-mail
  - Listservs
  - Chat rooms
  - Newsgroups
Technoculture

- Technology changes fast
- Culture changes slowly but massively
  - “Ask your kids if you don’t know what it means.”
    – Dan Rather, CBS Evening News (January, 1999)
- Law changes very slowly
  - “It depends”
Old Laws for New Technology: The Betamax Timeline

- 1974: VCR technology hits consumer market
- 1976: Universal files against Sony
- 1979: Universal loses
- 1981: 9th Circuit reverses “with unusual speed”
- 1983: Supreme Court hears Sony appeal (January)
- 1983: Supreme Court term ends without decision
- 1984: Supreme Court finds for Sony (5-4)
Important Legal Concepts

- Legislation
  - What laws are on the books?
  - Which laws apply to your company?
  - Old laws applied to new situations vs new laws
  - Federal vs State law

- Case law
  - What have courts ruled?
  - Which decisions matter to your company?

- Jurisdiction
State Jurisdiction Beyond State Boundaries

- Well-established in physical space
  - Because bullets fly across boundaries
  - And so do threats, fraud, etc.
- “Long Arm” Statutes
  - Constitutional requirements
    - “Minimum contacts”
    - Traditional notions of “fair play” and “substantial justice”
  - Typical language
    - “Transacting any business”
    - “Committing any tortious act”
Federal Jurisdiction (but local standards)

U.S. v. Thomas (Tennessee)
Trends of Internet Jurisdiction Cases

- Active website
  - Jurisdiction likely
- Passive website
  - Jurisdiction unlikely
- Gray area
  - Case by case analysis
International Jurisdiction: What if you annoy the Ayatollah?

- “The First Amendment is merely a local ordinance on the Internet.” – Timothy May
- Examples
  - “Germany Forces Online Service to Censor Internet” (LA Times)
  - Georgia Tech web & the French language cops
    - Case dismissed; translations added anyway
  - Godfrey case
    - Your tuition dollars at work
The Godfrey Case

- British lecturer in physics and computer science posted to soc.culture.canada
- Cornell graduate student in biochemistry
  - Michael Dolenga
- Posted five messages in response
- Suit pending against the University of Minnesota
- Previous litigation
  - Godfrey v. Halam-Baker
  - Carlton University and Brock University of Ontario v. Godfrey
  - Australia defamation case
Internet Service Provider Liability: Society Struggles to Get It Right

- 1991: Cubby v. CompuServe
  - ISP as distributor (e.g., bookstore, library)
- 1994: Stratton Oakmont v. PRODIGY
  - ISP as publisher (e.g., newspaper)
  - Section 230 of the CDA
  - No liability