KEY READINGS IN INFORMATION LAW AND POLICY, SPRING 2007

E38.2083001 and L12.3515.001
Mondays 4:55-7:05pm Fuhrman Hall, Room 324
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In little more than a decade, scholarship in information law and policy has burgeoned, fueled by developments in technologies of computing and digital communications; new media forms; an evolving patchwork of controversial court decisions, laws, and regulations; landmark events; and a series of compelling issues evoked by the entry of digital technologies into life and society. The seminar will cover key readings in the field, selected on the basis of: 1) their influence on discourse, depth, rigor, aspirational ideals, creativity, contribution to foundational thinking, etc. and 2) their coverage of as broad a range of topics as possible, including privacy, online speech, Internet governance, intellectual property in digital media, information commons, and computer crime, recognizing that literatures in the sub-areas have not developed at equal pace. Recognizing that each topic could itself fill a course the seminar aims for a broad overview of issues and events, a sufficient grasp of basic concepts and principles (as articulated and developed by leading thinkers in the field) to provide a solid foundation for independent future explorations, and an ability to apply these concepts and principles to cutting edge research questions.

Seminar Website

The most up-to-date syllabus can be found on the Blackboard course homepage, which should be consulted frequently.

Readings

All articles are available through the seminar website. The following books are recommended, though the course will deal directly only with those marked with a “*”.


Requirements and Grading

The seminar assumes active participation on the part of all students, including turns as discussion leaders. It will require that students be willing and able to pursue independent research in areas of special interest to them, beyond assigned readings. Grades will be assigned as follows:

Term paper of approximately 20 pages (50%)
Participation (50%)
  +100% Attendance
  +Active participation in classroom discussion
  +One in-class presentation
  +Participation in online discussion forum
  +Attendance at three or more sessions of the ILI-ITS Colloquium
SYLLABUS

1/22 Introduction

This session will serve as an overview of seminar content, rationale, objectives, and expectations. We will discuss the assignment of paper and presentation topics toward the goal of matching students to topics by the end of the meeting. To prepare for this session, students should begin thinking about topics/readings of particular interest to them – ideally more than one. We will also review the seminar website and hopes for the discussion board.

1/29 Internet Governance 1

A decade ago, David Johnson and David Post broke ground declaring that Cyberspace was a new world ungovernable by the traditional institutions and processes of physical space. Their landmark article generated much attention in the scholarly and popular literatures, both laudatory and critical, including Larry Lessig’s famous book, Code and Other Laws of Cyberspace which, along with Reidenberg’s work, extended the discussion of governance of the online realm with the idea of governance through technology (“code”).


2/5 Internet Governance 2


or


Ed Felten. "Nuts and Bolts of Net Neutrality.”

2/12 Intellectual Property 1

This is the most developed of the subfields in Information Law and Policy. The seminar recognizes three sub-areas: 1) IP rights in software; 2) IP rights in creative works; 3) Conceptual rivals of IP including information commons and access to knowledge.

John Perry Barlow, The Economy of Ideas, 2.03 WIRED 84 (March 1994)


2/19 Presidents' Day

2/20 Intellectual Property 2


2/26 Intellectual Property 3

3/5   Civil Liberties: Speech

One of the earliest tests of civil liberties online was freedom of speech. The familiar constellation of challenges have demanded reappraisal in light of distinctive features of the new medium: threats, particularly to children, of rapid and uncontrollable spread of pornography and obscenity, hate speech, and other socially offensive speech; conflicts between copyright and free speech; the role of online speech in liberal democracies; the promise of private and public filtering; and liability for illegal speech. Courts, legislative bodies, and scholarship have sought to find the right balance between protecting freedom in speech and restricting it in the name of countervailing social and legal values.


Syllabus, Opinion, Concurrence.


3/12   Spring Recess

3/19   Intellectual Property 4

Guest: Professor Eben Moglen


3/26   Privacy 1

Threats to privacy due to information technologies come in a variety of forms. The law has struggled to respond not only because interests vested in the outcomes are divergent and competitive but because the concept is frustratingly muddy in both its descriptive and normative uses. Although legal scholarship on this subject is vast, it has yet to deliver a canon. Readings are clustered under topical headings: searching for a plausible moral and legal concept, challenges of information technologies, and meeting the challenges of information technologies.


With the entry of information technologies into key spheres of society, we have seen the rise of new intermediaries, predominantly in communications, creative production, and in the search and retrieval
of information. Alongside the rise of these new intermediaries, controversial questions have arisen about optimal regulations for them. Two will be considered in the seminar: ISP liability and the role and responsibilities of search engines.


