

Cybersecurity and Cyberlaw

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For Andrea, Edythe, Jennifer, and Melissa—A.W.

For Heyden, Theodore, and Celia—N.R.

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Preface

In the beginning, so to speak, the Defense Department’s Advanced Research Projects Agency, or ARPA, as it was known then, undertook the development of ARPAnet in the 1960s as a technical experiment in network optimization, with no dream that it would ever evolve into cyberspace and the largest media revolution since the invention of moveable type in the 16th Century. The few nodes on the “net” were all hard wired; access to the net was limited to mainframe computers and terminals connected to them; users were a limited number of scientists and system administrators; and there was scarcely any content on the original net to steal or hack. There were no legal issues or cases at the time.

The transition from the ARPAnet to the public Internet after 1989 created a new world with many unanticipated consequences. Along with the base network technology, lower cost hardware, other technologies and revolutionary software caused cyberspace to evolve in a way and scale never anticipated—at ARPA (which had now become DARPA) or anywhere else. Local and wide area nets quickly spread through the government, commercial enterprises, and educational institutions. During these years, the field of communications merged with that of information technology into the world now known as cyberspace. New technologies enabled remote access for users, while commercial service providers emerged to meet a rapidly expanding user base. More recently, these technologies have come to include “social media” along with media of every other type.

Development of the “web” and browser software enabled easy access to a rapidly growing set of content and applications. Growth of cyberspace during the 1990s was clearly exponential and were the “Wild West” days of the Internet. Just as there was very little law in the Wild West, there was very little in the way of either statute or case law to support the myriad legal issues now arising, including matters of intellectual property, communications, privacy, security, theft, espionage, sovereignty, national security, and others.

Apart from the exponential growth in the net, as well as net-connected technologies, the impact on all aspects of modern life have been truly astounding. The population from youngsters to the elderly are all in possession of connected devices such as smartphones, which they utilize constantly for communications as well as a wide range of services. At the same time, cyberspace has become a new domain for warfare, terrorism, and criminal activities. Without question, this has all taken place at a breathtaking pace, and in many areas, the law has been confronted with myriad challenges and is hard-pressed to catch up and deal with the realities of the

information age. Traditional concepts of “privacy” have taken on an entirely new meaning as users no longer have control over their personal data, and new forms of data and its storage have rapidly emerged.

It is hard to imagine an area of the law and legal study that is moving this rapidly and is more challenging. New issues and concerns arise quickly, and often there is little in the way of statute or case law to support discussion. The present volume brings together materials from the technology space as well as the most recent cases and commentary possible that enable law students to gain a sound background and understanding of this important area. Clearly, the demand for students with this training is dramatically increasing for law firms, courts, government agencies, and others. We hope that these materials will help meet this need.

ABRAHAM WAGNER

NICHOLAS ROSTOW

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