Legal Issues Guest Lecture

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2nd Year MPhil/PhD Web Science Candidates
Lecture Part I Overview

Aim of this part:
To give a very brief overview of some interesting legal issues that have arisen due to the creation of Web technologies – from intellectual property law to criminal law.

Topics:
Defamation, Hate Speech, Harassment, Data Protection, Privacy, Licensing, Criminality, Trade Marks and Copyright.
Brief Web Science Research Overview

Sarosh:

‘Defamatory liability for social web technology based remarks – The need for a more cyber-liberalist approach to govern moving forward.’

Laura:

‘Copyright is not enough. How can effective and appropriate academic research data reusability be better facilitated on the Web?’
Lecture Part II Overview

Aim of this part:
- To explore some of these issues in more depth by working in groups of 4 people.
- Each group will be given a set of articles, on one topic, to read and discuss.
- There will then be a class discussion.
- There will be around 10-15 minutes group reading and discussion time.

Topics:
1. Should Web Access be a Human Right?
3. Copyright Infringement.
Defamation

Publication by which other persons are likely to be induced to shun, avoid, ridicule or despise him
Berezovsky v Forbes, Inc 2000

‘Publication a two way process’.

‘Lex loci delicti...wherever harm has occurred those who are victims of the harm may raise an action’.
Responsibility for publication.

(1) In defamation proceedings a person has a defence if he shows that—

(a) he was not the author, editor or publisher of the statement complained of,

(b) he took reasonable care in relation to its publication, and

(c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

Mere conduit

(1) Where an information society service is provided which consists of the transmission in a communication network of information provided by a recipient of the service or the provision of access to a communication network, the service provider (if he otherwise would) shall not be liable for damages or for any other pecuniary remedy or for any criminal sanction as a result of that transmission where the service provider—

(a) did not initiate the transmission;
(b) did not select the receiver of the transmission; and
(c) did not select or modify the information contained in the transmission.

(2) The acts of transmission and of provision of access referred to in paragraph (1) include the automatic, intermediate and transient storage of the information transmitted where:
(a) this takes place for the sole purpose of carrying out the transmission in the communication network, and
(b) the information is not stored for any period longer than is reasonably necessary for the transmission.
Caching

Where an information society service is provided which consists of the transmission in a communication network of information provided by a recipient of the service, the service provider (if he otherwise would) shall not be liable for damages or for any other pecuniary remedy or for any criminal sanction as a result of that transmission where—

(a) the information is the subject of automatic, intermediate and temporary storage where that storage is for the sole purpose of making more efficient onward transmission of the information to other recipients of the service upon their request, and

(b) the service provider—
   (i) does not modify the information;
   (ii) complies with conditions on access to the information;
   (iii) complies with any rules regarding the updating of the information, specified in a manner widely recognised and used by industry;
   (iv) does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and
   (v) acts expeditiously to remove or to disable access to the information he has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.
Hosting

Where an information society service is provided which consists of the storage of information provided by a recipient of the service, the service provider (if he otherwise would) shall not be liable for damages or for any other pecuniary remedy or for any criminal sanction as a result of that storage where—

a) the service provider—

   (i) does not have actual knowledge of unlawful activity or information and, where a claim for damages is made, is not aware of facts or circumstances from which it would have been apparent to the service provider that the activity or information was unlawful; or

   (ii) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information, and

(b) the recipient of the service was not acting under the authority or the control of the service provider.
CyberPaternalism

- Berezovsky – ‘No reason why cyberspace should be treated differently’.

- Dow Jones – Would be wrong to treat dissemination via the Web differently to traditional publishing.

- Murray – Lack of understanding as to the Internet.
Social Web Technologies (I)
Social Web Technologies (II)

Twitter screen with various tweets and trends.

Trends: United Kingdom - change
#worldmentalhealthday
#ThingsPeopleShouldNotDo
#MyFavoriteSongsEver
Winces
Jagjit Singh
Dr Fox
Dart
Paul McCartney
Dexia
Good Morning

Activity: view all
Top Tweets: favorited 2 Tweets
Ian Collins followed Ian Abrahams
MVP: favorited a Tweet
Social Web Technologies (III)
Footballer Ryan Giggs had an extramarital affair with Big Brother star Imogen Thomas which lasted for 7 months. #superinjunction
Hate Speech

Who We Are

Racial Greetings White Brothers and Sisters!

The American Nazi Party is a Political-Educational Association, dedicated to the 14 WORDS. We are committed to bringing American National Socialism, first created and embodied by our late Commander George Lincoln Rockwell, out of the past Phase One activities which at the time served their purpose well, and into the 21st Century.

Although National Socialism encompasses many various issues of concern to Aryan Americans, including a healthy environment, children's welfare, and freedom of belief without fear of System persecution...the two main tenets of National Socialism embodies the Struggle for Aryan Racial survival, and Social Justice for White Working Class people throughout our land.

As Aryan Revolutionaries, we recognize the fact that behaving in the
Harassment (I)

Offence of harassment.

(1) A person who pursues a course of conduct in breach of section 1 is guilty of an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.
Harassment (II)

Stalking

In real life
Creepy

On Facebook
View Sarah's pool party album...

Socially acceptable
Jackpot.
Trade Secrets
Data Protection & Privacy

- Data may only be used for specific purposes.
- Data must not be disclosed to other parties without the consent of the individual to whom it relates.
- Individuals have the right to access information held about them.
- Personal info cannot be kept for any longer than necessary and kept up to date.
- It cannot be sent outside the EEA unless the individual to whom it relates has consented.
- Must have adequate security measures in place.
Be careful distinguishing between trademark (US Law) and trade mark (UK Law).

Trade Marks

Trade Marks Act 1994, Section 1(1) states:

“In this Act a “trade mark” means any sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings...”
Two Examples

• The Sale of Counterfeit Goods Online – Should Local Ads/Auction Sites be Liable?

(Interesting article: Anneka Bain, ‘Is it an infringement of trade mark law for the operator of an online marketplace (such as eBay) to allow counterfeit goods to be sold? As a matter of policy, should it be?’ European Intellectual Property Review 33 (3) (2011), 162-168)

• Cybersquatting
Criminality

Some examples:

- Identity theft;
- Fraud;
- Organised Crime (i.e. paedophile rings);
- Extremist Groups;
- Malware ...

Serious Organised Crime Agency
http://www.soca.gov.uk/

‘Smart phone malware highlighted by Get Safe Online Week’
Licences

• “Click-wrap” licences;
• unequal bargaining power;
• Does anyone actually actually read them?
• Can terms be changed unilaterally?
Some Useful Websites

• UK Intellectual Property Office - http://www.ipo.gov.uk/;


• Serious Organised Crime Agency - http://www.soca.gov.uk/;

The Copyright, Designs and Patents Act 1988 section 1(1) states that copyright subsists in accordance with Part one of the Act in eight categories of works.

- Original Literary Works
- Computer Programs/Databases
- Original Dramatic Works
- Original Musical Works
- Original Artistic Works
- Films
- Sound Recordings
- Broadcasts
- The Typographical Arrangement of Published Editions
On the Web we are all used to hearing about widespread copyright infringement, particularly of music and films ...

... But piracy is not new!
Copyright Infringement

CDPA 1988, s.16(2): “Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.”

Online Proclamations:

“I don’t own the rights to this – all credit goes to the author 😊!!!!!”

- That’s nice, but it’s still infringement!

Permitted Acts
“The Honest Musician's Fear of Accidental Plagiarism”

Available on BBC iPlayer

http://www.bbc.co.uk/programmes/b00xw21s

“As Noel Gallagher put it rather bluntly when confronted about his musical influences: "There's twelve notes in a scale and 36 chords and that's the end of it. All the configurations have been done before."

Singer and songwriter Guy Garvey [from Elbow], with the help of fellow songwriters Sir Tim Rice, Paul Heaton and John Bramwell, explores the legal pitfalls that can befall the honest musician and how to avoid them.”

(- BBC http://www.bbc.co.uk/programmes/b00xw21s.)
Creative Commons

“Share, Remix, Reuse – Legally”
(http://www.creativecommons.org.uk/)

• Creative Commons licensing is not an alternative to copyright law, but is compliant with the law!
Thesis Title:

Copyright is not Enough. How Can Effective and Appropriate Academic Data Reusability be Better Facilitated on the Web?

Supervisory Team:
Dr. Carr (Computer Science);
Professor Saxby (Law);
Professor Orr (Humanities).
RESEARCH DATA REUSABILITY

Determine:

• Quality – Accuracy, Timeliness, Reliability, Completeness;
• Trustworthiness;
• Boundaries of Use – Copyright, Licensing, Database Right, Embargoed?
‘Hans Rosling’s New Insights on Poverty’


Available online – TED Talks.

Two Layers

1) How can we facilitate access to data?

2) How can we embed principles of authorial links, quality and trust into the data?
Is it enough?

...Need Provenance.
PROVENANCE

“Provenance: information of all known origins, custody, and ownership of a particular item or collection.”

OBJECTIVES

To facilitate better academic research data reusability!

Are the data commons enough?
What are the social factors need to be changed?
How can technology best facilitate this?

Offering interdisciplinary based recommendations.
METHODOLOGY AND NOVELTY

• Empirical Research – Three Illustrative Case Studies;

• Interdisciplinary Research Methods – Law, IT and Empirical Research.
Lecture Part II: Group Discussion

There will be around 10-15 minutes for group reading and group discussion.

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