

# Boston University Journal of Science & Technology Law

Editor's Note<sup>†</sup>

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1. Use of the Internet has expanded dramatically over the last few years.<sup>1</sup> Increasing reliance on the Internet and other electronic communications has raised a host of legal concerns.<sup>2</sup> Some of these concerns represent old issues in new clothing, such as free speech, while others are challenging basic concepts, such as standards for intellectual property ownership. The *Boston University Journal of Science & Technology Law* is one of several new, scholarly law journals that has emerged to examine the legal issues related to changing technology.<sup>3</sup> In fact, the very concepts of publishing, and, indeed, the law review model itself, are changing.<sup>4</sup> For example, the

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<sup>1</sup> For example, it is now estimated that over 9,400,000 computers are linked to each other through the Internet. See *ACLU v. Reno*, 929 F. Supp. 824, 831 (E.D. Pa. 1996); see also Jared Sandberg, *U.S. Households with Internet Access Doubled to 14.7 Million in Past Year*, WALL ST. J., Oct. 21, 1996, at B11 (discussing the growth of home Internet access).

<sup>2</sup> For example, this volume alone touches upon Internet related issues such as copyright, litigation, privacy, free speech, and taxation.

<sup>3</sup> Other science and technology law journals include: *Albany Law Journal of Science & Technology*, *Fordham Intellectual Property, Media & Entertainment Law Journal*, *Harvard Journal of Law & Technology*, *Richmond Journal of Law & Technology*, *Rutgers Computer & Technology Law Journal*, *Santa Clara Computer & High Technology Law Journal*, *Temple Environmental Law & Technology Journal*, and *Texas Intellectual Property Journal*.

<sup>4</sup> See Bernard J. Hibbitts, *Last Writes? Re-assessing Law Review in the Age of Cyberspace* (visited Apr. 1, 1997) <<http://www.law.pitt.edu/hibbitts/lastrev.htm>> (“[N]ew academic circumstances . . . and new computer-mediated communications technologies . . . are coming together in a way that may soon lead to the demise of the familiar law review . . . .”); see also M. Ethan Katsh, *Perspective: Law Reviews and the Migration to Cyberspace*, 29 AKRON L. REV. 115 (1996) (discussing how electronic publication will increase the layperson's access to legal scholarship). But see Howard A. Denmark, *The Death of Law Reviews Has Been Predicted: What Might Be Lost When*

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2. Volume 3 of the *Boston University Journal of Science & Technology Law* is a symposium issue dedicated to legal scholarship relating to the Internet. While this volume also includes articles on biotechnology and genetic research oversight, the majority of this volume's materials are the result of a five session symposium held at Boston University School of Law during the spring of 1996. The Internet Law Symposium was jointly sponsored by the Boston University Center for Law & Technology<sup>6</sup> and by the law firm of Testa, Hurwitz & Thibeault.<sup>7</sup> The Symposium brought together legal scholars to examine five specific areas: 1) Internet Entrepreneurs, New Traffic Patterns, and Policy Issues; 2) Protecting Software and Information on the Internet; 3) Pornography: Free Speech or Censorship in Cyberspace?; 4) Financial Services: Security, Privacy, and Encryption; and 5) Lawyers Online: Discovery, Privilege, and the Prudent Practitioner.

3. Recent legal scholarship related to the Internet has virtually exploded. Several other law journals have published symposium issues specifically related to many of the subjects included here. For example, in 1996, *Harvard Journal of Law & Technology*,<sup>8</sup> *Cardozo Arts & Entertainment Law Journal*,<sup>9</sup> *Connecticut Law*

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*the Last Law Review Shuts Down?*, 27 SETON HALL L. REV. 1 (1996) (arguing that law reviews provide legal discourse necessary to the evolution of the law).

<sup>5</sup> See *Journal of Science & Technology Law* (last modified Jan. 12, 1996) <[http://web.bu.edu/LAW/publications/science\\_technology.html](http://web.bu.edu/LAW/publications/science_technology.html)>.

<sup>6</sup> Faculty and students at Boston University School of Law's Center for Law and Technology engage in research, education, and public service focused on the role of law in shaping technological progress and the policy issues raised by science and technology.

<sup>7</sup> Testa, Hurwitz & Thibeault is a Boston-based law firm nationally renowned for its leadership in the fields of emerging technology, private equity, and venture capital. For more information on Testa, Hurwitz & Thibeault, see *Testa, Hurwitz & Thibeault* (visited Mar. 25, 1997) <<http://www.tht.com>>.

<sup>8</sup> James Boyle, *Intellectual Property Policy Online: A Young Person's Guide*, 10 HARV. J. L. & TECH. 47 (1996); Steven McGeady, *The Digital Reformation: Total Freedom, Risk, and Responsibility*, 10 HARV. J. L. & TECH. 137 (1996); Charles Nesson & David Marglin, *The Day the Internet Met the First Amendment: Time and the Communications Decency Act*, 10 HARV. J. L. & TECH. 113 (1997); David Nimmer, *Brains and Other Paraphernalia of the Digital Age*, 10 HARV. J. L. & TECH. 1 (1997).

<sup>9</sup> See Niva Elkin-Koren, *Cyberlaw and Social Change: A Democratic Approach to Copyright Law in Cyberspace*, 14 CARDOZO ARTS & ENT. L.J. 215 (1996); Marci A. Hamilton et al., *Regulating the Internet: Should Pornography Get a Free Ride on the Information Superhighway?*, 14 CARDOZO ARTS & ENT. L.J. 343 (1996).

*Review*,<sup>10</sup> *Emory Law Journal*,<sup>11</sup> *Villanova Law Review*,<sup>12</sup> and *Oregon Law Review*<sup>13</sup> published symposia on Internet law.

4. The field of Internet-related legal scholarship is far from saturated. On the contrary, more analysis and debate is needed before many of the legal questions surrounding this changing technology will be resolved. Legislative and judicial decision- and policy-making will be assisted by academic debate, perhaps more so with the Internet than any other emerging technology.

5. This Internet Law Symposium is unique in that it covers a variety of legal issues and it brings together the differing views of many individuals. This volume also provides several new technological features. At the click of a button, the readers of our compact disc will be able to see photographs of the symposia, view video clips placed in the body of the text, or gain access to reference materials contained in appendices and on Internet web sites.

6. The *Boston University Journal of Science & Technology Law* has attempted to edit the spoken words of the individual participants with care. In addition, the materials are presented with a substantial amount of substantive authority to

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<sup>10</sup> See Dan L. Burk, *Federalism in Cyberspace*, 28 CONN. L. REV. 1095 (1996); Robert B. Charles & Jacob H. Zamansky, *Liability for Online Libel After Stratton Oakmont, Inc. v. Prodigy Services Co.*, 28 CONN. L. REV. 1173 (1996); M. Ethan Katsh, *Dispute Resolution in Cyberspace*, 28 CONN. L. REV. 953 (1996); Julie E. Cohen, *A Right to Read Anonymously: A Closer Look at "Copyright Management" in Cyberspace*, 28 CONN. L. REV. 981 (1996); Mark A. Lemley, *Antitrust and the Internet Standardization Problem*, 28 CONN. L. REV. 1041 (1996); Bruce W. Sanford & Michael J. Lorenger, *Teaching an Old Dog New Tricks: The First Amendment in an Online World*, 28 CONN. L. REV. 1137 (1996).

<sup>11</sup> See Scott Charney & Kent Alexander, *Computer Crime*, 45 EMORY L.J. 931 (1996); Lawrence Lessig, *Reading the Constitution in Cyberspace*, 45 EMORY L.J. 869 (1996); Joel R. Reidenberg, *Governing Networks and Rule-Making in Cyberspace*, 45 EMORY L.J. 911 (1996); John K. Halvey, *The Virtual Marketplace*, 45 EMORY L.J. 959 (1996).

<sup>12</sup> See J. Beckwith Burr, *Competition Policy and Intellectual Property in the Information Age*, 41 VILL. L. REV. 193 (1996); Robert M. Gellman, *Can Privacy Be Regulated Effectively on a National Level? Thoughts on the Possible Need for International Privacy Rules*, 41 VILL. L. REV. 129 (1996); Charles R. McManis, *Taking Trips on the Information Superhighway: International Intellectual Property Protection and the Emerging Computer Technology*, 41 VILL. L. REV. 207 (1996); Henry H. Perritt, Jr., *Jurisdiction in Cyberspace*, 41 VILL. L. REV. 1 (1996).

<sup>13</sup> See Keith Aoki, *Foreword: Innovation and the Information Environment: Interrogating the Entrepreneur*, 75 OR. L. REV. 1 (1996); A. Michael Froomkin, *The Essential Role of Trusted Third Parties in Electronic Commerce*, 75 OR. L. REV. 49 (1996); Peter Jaszi, *Caught in the Net of Copyright*, 75 OR. L. REV. 299 (1996); Jessica Litman, *Revising Copyright Law for Information Age*, 75 OR. L. REV. 19 (1996); Barry Schrader, *Electronic Studio Art and the Internet*, 75 OR. L. REV. 339 (1996); Vibeke Sorensen, *Thoughts of a Computer Artist*, 75 OR. L. REV. 309 (1996); Richard Stallman, *Reevaluating Copyright: The Public Must Prevail*, 75 OR. L. REV. 291 (1996); E. Walter Van Valkenburg, *The First Amendment in Cyberspace*, 75 OR. L. REV. 319 (1996); Alfred C. Yen, *Entrepreneurship, Copyright and Personal Home Pages*, 75 OR. L. REV. 331 (1996).

support the participants' points. While including extensive research increased the production time for this volume, the *Boston University Journal of Science & Technology Law* believes that this material is necessary to provide the foundation necessary to understand the issues discussed and to provide an avenue for further research. We believe these materials will constitute one of the building blocks in a substantial new body of scholarship on Internet law.