



Chapter IX

Internet Jurisdiction: The International Perspective

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ABSTRACT

The Internet is not defined by the geographic boundaries that govern nations and laws of the non-virtual world. Without a clear jurisdictional framework for the Internet, scholars, businessmen, and laypersons have been left to decipher in a piecemeal fashion what set of laws and norms, if any, shall govern this forum. With an expected global explosion of online activity, questions of international Internet jurisdiction are certain to arise with increasing frequency in the coming years. It leaves one to question what online jurisdictional principles are currently being followed and what these trends indicate for the next decade. The present situation warrants a scholarly discussion of the online jurisdictional principles currently being followed, alternative policy mechanisms that have been proposed, and what these trends indicate for the next decade of Internet activity.

INTRODUCTION: A GLOBAL NETWORK OF NETWORKS

Millions of computers, servers, and local area networks (LANs) are connected by billions of miles of cable that transport in seconds images, content, and messages to all reaches of the world. The medium to create this complex system consists of information and communications equipment including: e-mail, newsgroups, websites, databases, satellites, switches, and routers. Once connected to any part of this vast web, an individual may communicate with all of it. This composite of data and technology is known today as the Internet and has been hailed as the most significant computing advance of the 20th century. Yet to see it as a single, static invention is to altogether miss the point (Markoff, 2000).

Rooted in projects sponsored by the United States Department of Defense, the Internet began as a decentralized method of communication in the 1960s and 1970s. The first international connection was made in 1973 between the U.S. and England, and similar global online activities were tied to this growing network over the next two decades. It soon evolved into a dynamic electronic network of networks that extended beyond the military to research labs, universities, international institutions, corporations, and eventually to individuals. In 1982, approximately 200 sites were connected and accessible online; by 1986 this number rose to approximately 3,000 sites, and just over three years later that number markedly grew to 150,000 sites (Freiburger & Swaine, 2000, p. 208). The 1990s were marked with online milestones nearly every year; by the end of this decade, online computing had spread to nearly every country in the world and its possibilities were still considered in a state of infancy.¹ Since its inception more than 30 years ago, the evolution of the Internet has not slowed; it continues to exceed expectations of use and expansion across the globe.

Today's Internet is utilized for commerce, business and personal communications, unraveling complex scientific hypotheses, fighting crime, expanding educational opportunities, and a host of activities not imaginable five years ago. It is estimated that more than 762 million people will have access to the Internet in almost all countries of the world by the end of 2003, and connectivity is expected to swell to almost half the global population within a few years (Global Reach, 2002).

As the Internet has developed to create a forum for infinite amounts of international content and activity over the past decade, so have the methods by which it can be used and misused. The *I Love You Virus* originating in the Philippines in 2000, recent cases of online steganography² by terrorist groups, the sale of Nazi paraphernalia on the Internet, virtual offshore gambling schemes, and e-commerce taxation best manifest the pervasiveness of the problem. Given the litigious nature of modern society, it comes as little surprise that Internet activities face legal scrutiny across the globe. However, as the online environment has become increasingly ubiquitous throughout the world, basic principles of jurisprudence, most notably principles of jurisdiction, are not clearly applicable to networked activities.

The Internet is not defined by the geographic boundaries that govern the nations and laws of the physical world. Without a clear jurisdictional framework for the Internet, scholars, businessmen, and laypersons have been left to decipher in a piecemeal fashion which set of laws and policies, if any, shall govern this forum. Presently, the United Nations recognizes 190 sovereign countries throughout the world, each with its own

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