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Articles

Digital streaming capabilities have enabled real-time Internet transmission of video signals. The advent of "Webcasting" will potentially change the way in which programming reaches audiences—increasing diversity in content as well as customer choice. Currently, cable and satellite systems secure retransmission rights to broadcast programming through statutory copyrights, and debate has ensued over whether online retransmitters should benefit from the same. This Article describes the evolution of streaming video over the Internet and examines the economic exploitation of such technology. After offering an overview of the compulsory copyright system, the Article analyzes the applicability of statutory licenses to Internet retransmissions of broadcast video signals. It concludes that compulsory copyrights and attendant regulatory restrictions should extend to real-time secondary transmissions of over-the-air broadcast programming (Internet TV). However, a free market system of negotiation would be more appropriate for Webcasting in a pay-per-view video library model.

Section 230 of the Communications Act provides online service providers (OSPs) with immunity from liability for harms arising from third-party content that is made available through an OSP's services. Some courts have recently held that section 230 immunity covers not only defamation but any tort claim that would make an OSP liable for information originating from the OSP's users or commercial partners. This Article argues that section 230 has been properly interpreted by the courts and that, contrary to the claims of critics, those decisions have not created a disincentive for OSPs aggressively to monitor their sites for defamatory or otherwise harmful content.

Miller and Biggerstaff address the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, they point out that because the TCPA does not preempt state law and Congress expressly intended it to coexist with state laws regulating intrastate telemarketing and fax advertising, confusion has evolved regarding the application of the TCPA to intrastate telemarketing calls and fax advertisements. This Article breaks the analysis into two questions: (1) did Congress intend intrastate calls to be covered by the statute; and (2) if Congress intended the statute to cover intrastate calls, is it constitutionally permissible for Congress to regulate

New electronic media—including CD-ROMs and online services such as LEXIS/NEXIS—offer new outlets to which traditional publishers can disseminate the content of their publications. Recently, in *Tasini v. New York Times*, freelance authors claimed that the publishing industry allegedly infringed their copyrights in the underlying works of authorship. In absence of express agreements to the contrary, the authors maintained that section 201(c) of the Copyright Act gives the publishers only the limited privilege of publishing an article as part of a "particular collective work, any revision of that collective work, and any later collective work in the same series" and that republication in electronic media does not fit within this definition. Publishers disagree and seek a more liberal interpretation of section 201(c). This Note examines the existing bases for interpreting the section 201(c) revision privilege with respect to electronic media, including the Act's plain language, legislative intent, and broader issues of public policy. This Note ultimately agrees with the Second Circuit Court of Appeal's reversal in *Tasini*, which held that that revision privilege does not include the unauthorized republication in certain electronic media (including NEXIS) and suggests a comprehensive analysis that supports the Copyright Act and the U.S. Constitution's policy goals of copyright incentive.

Cyberspace changed communication in the workplace. Now that employees are on employers' e-mail systems, union organizers can contact employees in the workplace, during working hours, without any of the obstacles that more traditional forms of union communication impose. Of course this new technologically-advanced labor organizing is ideal for the labor organizers, but it also interferes with the rights of employers. Which groups interests' prevail? Unfortunately there is no precedent. Normally, adherence to the National Labor Relations Board (NLRB) decisions is the answer but no case has come before the NLRB that solves this issue. Therefore, employers and employees are left wondering what uses of e-mail are permissible. This Note focuses on the next step the NLRB must take to bring labor law up to speed with technology and demonstrates, with guidance from the NLRA and previous NLRB and court decisions, that employees' personal use of company e-mail systems may be prohibited. This is the efficient and effective solution for both the employer and employee.

Comment

The Uniform Computer Information Transaction Act (UCITA) has been presented to the states for their ratification. Patterned after the Uniform Commercial Code (UCC), UCITA began as an addition to the UCC, but differences between the statutes required UCITA to emerge as a separate

entity. The National Conference of Commissioners of Uniform State Laws (NCCUSL) drafted UCITA and approved the Act in Summer 1999. The Act now awaits approval by state legislatures. This Comment analyzes UCITA and argues that the states should ratify the Act. The Comment favorably compares the UCC and UCITA. The UCC follows the principle of "freedom of contract", and UCITA shares that principle as it permits parties to the contract to decide many of the default rules. However, UCITA also takes heed of the information industry and proposes several provisions specific to the industry. This Comment also surveys the positive and negative commentary surrounding UCITA. After reviewing the commentary, the Author concludes that states should approve the Act. He notes that UCITA provides the standardization and uniformity that the industry demands. The Author also refutes the critics complaints that the Act fails to provide enough protections for software users.

Book Review