Copyright © 2017 by Jones & Bartlett Learning, LLC, an Ascend Learning Company

All rights reserved. No part of the material protected by this copyright may be reproduced or utilized in any form, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without written permission from the copyright owner.

The content, statements, views, and opinions herein are the sole expression of the respective authors and not that of Jones & Bartlett Learning, LLC. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not constitute or imply its endorsement or recommendation by Jones & Bartlett Learning, LLC and such reference shall not be used for advertising or product endorsement purposes. All trademarks displayed are the trademarks of the parties noted herein. Cyberethics: Morality and Law in Cyberspace, Sixth Edition is an independent publication and has not been authorized, sponsored, or otherwise approved by the owners of the trademarks or service marks referenced in this product.

There may be images in this book that feature models; these models do not necessarily endorse, represent, or participate in the activities represented in the images. Any screenshots in this product are for educational and instructive purposes only. Any individuals and scenarios featured in the case studies throughout this product may be real or fictitious, but are used for instructional purposes only.

This publication is designed to provide accurate and authoritative information in regard to the Subject Matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the service of a competent professional person should be sought.

08259-3

Production Credits
VP, Executive Publisher: David D. Cella
Publisher: Cathy L. Esperti
Acquisitions Editor: Laura Pagluica
Editorial Assistant: Taylor Ferracane
Director of Vendor Management: Amy Rose
Production Editor: Vanessa Richards
Senior Marketing Manager: Andrea DeFronzo
VP, Manufacturing and Inventory Control: Therese Connell

Library of Congress Cataloging-in-Publication Data
Spinello, Richard A., author.
Cyberethics : morality and law in cyberspace / Richard A. Spinello, Ph.D., Boston College, Dedham, Massachusetts. – Sixth edition.
pages cm
Includes bibliographical references and index.
1. Internet—Moral and ethical aspects. 2. Cyberspace—Moral and ethical aspects. 3. Computers and civilization. 4. Law and ethics. I. Title.
TK5105.875.85.357366 2016
303.48'34--dc23
2015029855
6048
Printed in the United States of America
20 19 18 17 16 10 9 8 7 6 5 4 3 2 1
In memory of my grandmothers,
Guiseppa Padrevita and Olga Spinello
CONTENTS

Preface ix

CHAPTER 1 The Internet and Ethical Values 1
  Cyberethics and the “Law of the Horse” 2
  Iron Cage or Gateway to Utopia? 8
  Ethical Values and the Digital Frontier 10
  Utilitarianism 12
  Contract Rights (Contractarianism) 14
  Moral Duty (Pluralism) 15
  New Natural Law 20
  Postscript on Moral Theory 22
  Floridi’s Macroethics 23
  Normative Principles 25
  Autonomy 26
  Nonmaleficence 26
  Beneficence 27
  Justice 27
  Discussion Questions 28
  References 28
  Additional Resources 30

CHAPTER 2 Regulating and Governing the Internet 31
  A Short History of the Internet 32
  The Internet’s Current Architecture 35
  Net Neutrality 37
  The World Wide Web 39
  Gatekeepers and Search Engines 41
  Social Networking 43
    Regulating the Infosphere 46
    A “Bottom-Up” Approach: Empowerment by Code 49
  Internet Governance 50
  Contested Sovereignty in Cyberspace 52
  Discussion Questions 54
  Case Studies: L’Affair Yahoo! 55
    American or Australian Libel Law? 58
    Google: The New Monopolist? 60
  References 62
  Additional Resources 64
Since the fifth edition of *Cyberethics: Morality and Law in Cyberspace* appeared several years ago, the social and technical landscape of cyberspace has undergone even more changes. In the United States, there is a new push for “net neutrality,” while the European Union now recognizes the digital right to be forgotten. A wave of security breaches has inspired new approaches to digital security. Social media has become a platform for all sorts of abusive speech, ranging from cyberbullying to terrorist threats. And there is a new “crypto war” brewing thanks to the strong encryption now being used in iPhones and other mobile devices. We have tried to take all of these developments into account in this new edition.

The growth of the Internet has been one of the most remarkable phenomena of the last century. In the early 1980s, the Internet was known to only a handful of scientists and academics, but it is now being regularly used by almost two billion people, and many predict that it will continue to revolutionize everything from the practice of medicine to education. The Internet is more than merely a communications network. It is an infrastructure, helping to create a new social and economic order characterized by global connectivity and the decentralization of authority.

The success of the Internet would not have been possible without the development of the World Wide Web, which has made a wide variety of media (such as text, video, and audio) available through a user-friendly interface. The Web has ignited electronic commerce and social networking, which have changed the face of Internet communications. Websites such as Twitter have already had a dominating influence on the culture.

This rapid development of the Web and the entire Internet economy is not without its social costs. If it is easier to publish and spread truthful and valuable information, it is also easier to spread libel, falsehoods, and pornographic material. If it is easier to reproduce and remix digitized information, it is also easier to violate copyright protection.
And if it is easier to build personal relationships with consumers, it is also easier to monitor consumers’ behavior and invade their personal privacy. Thus, the Internet’s vast capabilities can be misused to undermine private property and mock our traditional sense of moral propriety.

Our primary purpose in this Sixth Edition is to carefully review the social costs and moral problems that have been triggered by the underlying technologies that support this vast information network. How can we exploit the benefits of these technologies and deal with these costs through legal rules and social norms? How can we distinguish good from bad behavior?

Our second purpose in this edition is to stimulate the reader’s reflection on the broad issues of Internet governance and its control by the state. The Internet was designed as a borderless global technology, resistant to territorial law, but it has been gradually transformed into a bordered place where geography still matters.

To accomplish these objectives, we first lay out some theoretical groundwork drawn from the writings of contemporary legal scholars like Larry Lessig and philosophers such as Kant, Finnis, and Floridi. We then focus on four broad areas: content control and free speech, intellectual property, privacy, and security. For each of these critical areas, we consider the common ethical and public policy problems that have arisen and how technology, law, or some combination of the two would resolve some of those problems.

The first of these four topics concerns the fringes of Internet communication such as pornography, hate speech, and spam (unsolicited commercial email). We review the history of public policy decisions about the problem of pornography and consider in some depth the suitability of automated content controls. Are these controls technically feasible, and can they be used in a way that is morally acceptable to the relevant stakeholders? We also consider other prominent free speech issues such as appropriate standards for bloggers and the censorship that has arisen in countries like China and India.

We then review the new breed of intellectual property issues provoked by the digitization of information. These include ownership of domain names and peer-to-peer networks, open source software, and the phenomenon of remixing. There are new critiques of copyright laws that insist that the Internet should be a place without digital locks or anti-copying devices.

Perhaps the most notorious and widely publicized social problem is the ominous threat that the Internet poses to personal privacy. The Internet seems to have the potential to further erode our personal privacy.
and to make our lives as consumers and employees more transparent than ever before. What, if anything, should be done about data brokers who aggregate personal information from online and offline sources? Also, to what extent does social networking pose a threat to privacy?

Finally, we treat the critical area of security with an initial focus on the perennial problem of hacking in cyberspace. We dwell on the issue of hacktivism and the conditions for its moral acceptability. Also discussed is the vulnerability of the Internet to cyberspies. In this context we treat encryption technology as a means of ensuring that transmitted data are confidential and secure. The encryption controversy, which has now spread to the iPhone, epitomizes the struggle between government control and individual rights that is shaping many of the public policy debates about the Internet. The chapter also considers the issue of hacktivism, the use of hacking as a tool for civil disobedience.

Throughout the book we implicitly embrace the philosophy of *technological realism*, which sees technology as a powerful agent for change and forward progress in society. But, unlike more utopian views, this position does not ignore the dangers and deterministic tendencies of technology along with its potential to cause harm and undermine basic human rights and values.

In our view, corporations and individuals, although heavily influenced by information technology, are not yet in its thrall—they still have the capacity to control its use and curtail its injurious side effects. Such control requires prudent decision making, which will help to ensure that computer technology is used wisely and cautiously, in a way that enhances the human condition and the opportunity for human flourishing. It also demands that all information technologies, including those targeted at the social problems of cyberspace, be implemented with respect for standards of justice and fairness.

Like most traditional books on ethics, this one is optimistic about the tenacity of the human spirit and the depth of moral conviction, even in cyberspace. The technology determinists believe that the forces of technology have already won the war, but the realists contend that the struggle continues and that the final outcome is still in doubt.

**Additional Resources**

For the *Sixth Edition*, a Test Bank, Slides in PowerPoint format, an Instructor’s Manual, and a Sample Syllabus are available for instructor download. Visit go.jblearning.com/Cyberethics6e to request access.
Acknowledgments

I am most grateful to those who have adopted the first five editions of this book. They have given me valuable feedback and suggestions that are incorporated into this new edition. Specifically, I’d like to thank Richard Bair, PhD, Frostburg State University; Dr. Alfreda Dudley, Towson University; Barbara Edington, PMP, MBA, DPS, Center of PM and St. Francis College; Sander Eller, MS, California State Polytechnic Institute, Pomona; Terry Linkletter, MS, Central Washington University; Joseph H. Moskowitz, PhD, New Jersey City University; James Purtilo, PhD, University of Maryland; Frances Rampey, Wilson Community College; Yenumula Reddy, PhD, Grambling State University; Vance A. Ricks, PhD, Guilford College; George Rudolph, PhD, The Citadel; Jay-Evan J. Tevis, PhD, LeTourneau University; and Kristen Waughen, PhD, Elizabethtown College for their thoughtful reviews. I am indebted to Michael Smith and Ezabel Lynch in the Carroll School of Management at Boston College for their assistance in helping me handle some of the mechanics involved in publishing this manuscript. Many thanks also to several individuals at Jones & Bartlett Learning, especially Laura Pagluica, Amy Rose, and Taylor Ferracane, for their help in publishing this Sixth Edition. Finally, I owe a great debt of gratitude to my wife, Susan T. Brinton, for her patience and continued tolerance for the lonely life of an author.

Richard A. Spinello
Dedham, MA