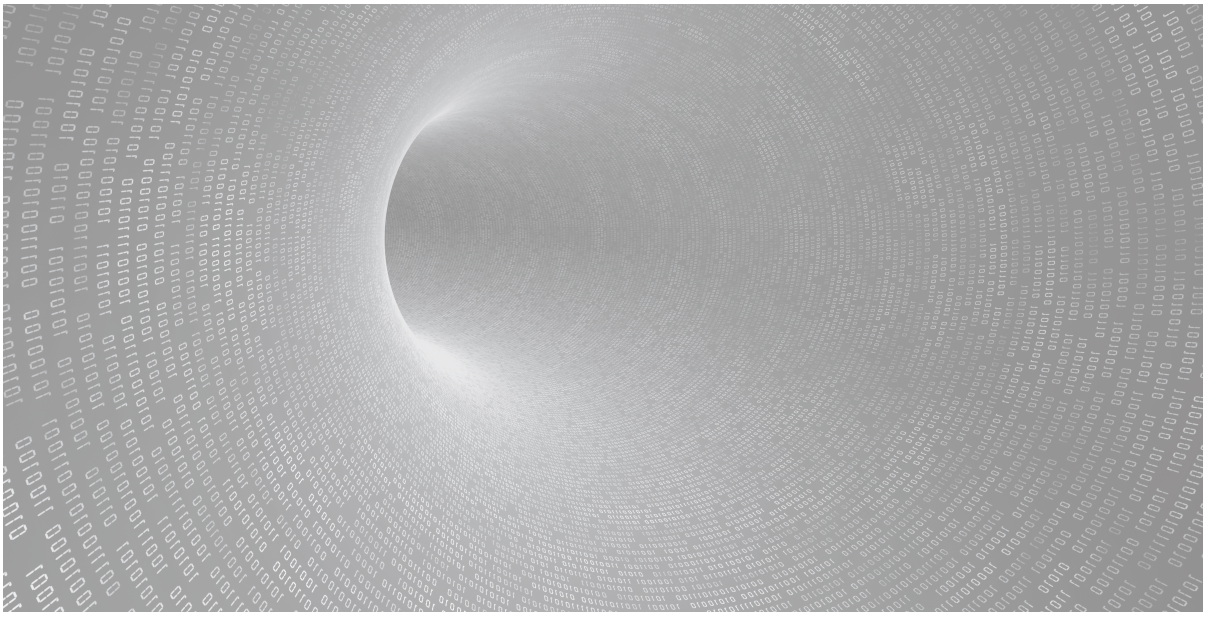

CYBERETHICS

Morality and Law in Cyberspace

FIFTH EDITION

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In memory of my grandmothers,
Guiseppa Padrevita and *Olga Spinello*

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PREFACE

Since *CyberEthics: Morality and Law in Cyberspace* first appeared twelve years ago, the social and technical landscape of cyberspace has undergone remarkable changes. There are new technologies, for example, that make it easier to download and disseminate digital music and movies. There are also many new virtual communities such as craigslist.com, which are helping to create a "sharing" economy. At the same time, there have been extraordinary legal developments—new laws like the Children's Internet Protection Act and various court decisions (such as *MGM v. Grukster*)—defining new constraints for web surfers. 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 2 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 fifth 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. For example, thanks to tools such as digital cookies and beacons, there is an unprecedented level

of surveillance in cyberspace that causes new threats to privacy rights. We subject these technologies along with the policies of companies such as Facebook to careful normative scrutiny.

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 Foucault. 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 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 treat 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 non-Democratic countries like China.

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. Also discussed is the growing reliance on digital rights management systems, an electronic means of ensuring that copyright protections are followed.

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 trespass in cyberspace. We dwell on what constitutes trespass and why it can be so damaging. 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 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.

Finally, 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 on and that the final outcome is still in doubt.

Additional Resources

New to the *Fifth Edition*, Power Point Lecture Outlines and an Instructor Manual are available for instructor download. Visit go.jblearning.com /Cyberethics5e to request access.

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