



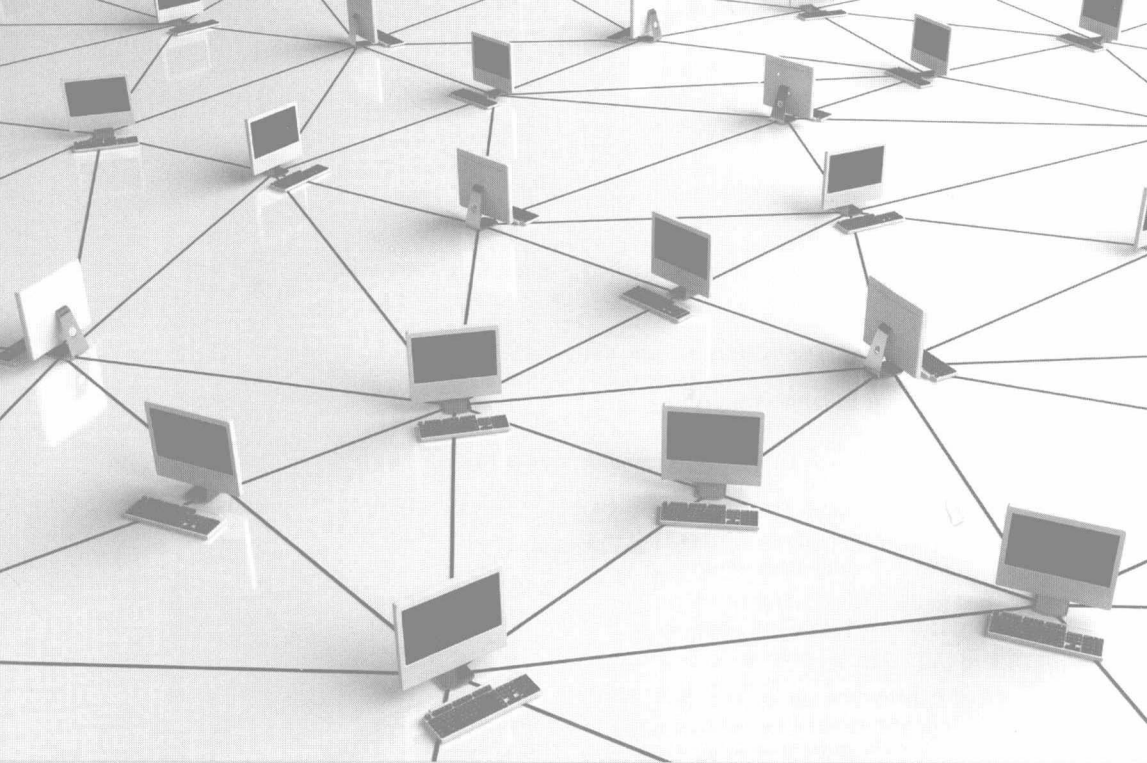
OXFORD

Information Technology Law

The law and society



Andrew Murray



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PREFACE

The study of Information Technology Law is often seen by students as complex and technical. This is often because students perceive the subject as being one driven by technology with complex buzzwords and concepts such as Web 2.0, Virtual Environments and Augmented Reality driving the subject. In truth the subject is like any study of law, a study of people and relationships and how the law interacts with them and regulates their activity.

The subject is still, especially at undergraduate level, in its infancy: as are the textbooks which explain and develop our understanding of it. The first book which looks like an information technology law textbook was Colin Tapper's book *Computer Law* published in 1978. Since then a number of great academics have published a series of textbooks, many with OUP, including Ian Lloyd's bestselling *Information Technology Law* series, David Bainbridge's *Introduction to Computer Law* series and Chris Reed and John Angel's *Computer Law* series. It is the aim of this book to add and to build upon this illustrious series of books. The title of this book is slightly different to those which have gone before. It is *Information Technology Law: The Law and Society*. The key is the social element of the study of information technology law employed throughout. Unlike previous texts this book does not place the technology of the information society at its heart. All too often when one discusses Information Technology the emphasis is placed on the technology aspect with discussions of computers, MP3 players, Smartphones or internet connections. This book places the emphasis on the information aspect of the phrase. We live in the Information Society with value in Informational Products, yet there is little focus on the law of information, in particular digital information. This book sets out to remedy this.

The book is divided into seven parts: (I) Information and Society; (II) Governance in the Information Society; (III) Digital Content and Intellectual Property Rights; (IV) Criminal Activity in the Information Society; (V) Ecommerce; (VI) Privacy in the Information Society and (VII) Future Challenges for Information Law. It is designed to be read consecutively, that is if you read the book from page one of Chapter 1 to the final page of Chapter 22 you will have a complete understanding of the issues, challenges, threats and opportunities of the information society for lawyers, lawmakers and students of the law as I understand them. Equally though each chapter is designed as a 'stand-alone' essay on the subject in question. As such the chapters may be read in any order to meet the structural needs of whichever course of study the reader is following. Pedagogically the chapters have a series of boxed content bringing key examples and topics to the fore: there are Highlight boxes, used to highlight key issues; Case Study Boxes used to highlight examples and issues drawn from the real world; and Example Boxes used for imagined examples. Each chapter closes with a short list of proposed further readings. In addition a number of diagrams and tables explain and illustrate key concepts.

The nature of this subject is that it is fast-moving and always developing. The law in the text is up-to-date as of 30 October 2009. Even as I write this introduction though developments continue with Lord Mandelson announcing a 'three-strike' policy for

UK file sharers on 28 October 2009. That development arrived too late to be added to Chapter 10, instead it will no doubt become one of many developments that will be discussed in the Online Resource Centre: a vital responsive tool for any book attempting to crystallise the law in such a fast-moving subject.

This leaves me to fulfil that most pleasurable of experiences offered to an author: the chance to thank in print those who have assisted me. Foremost these thanks go to all the students of Information Technology Law and Internet Law at the LSE. These are the students of LL.210: Information Technology Law between 2000–2010; the students of LL.420: Legal Regulation of Information Technology between 2002–2010; the students of LL.421: New Media Regulation between 2003–2010; and finally the students of LL.4B5: Internet and New Media Law between 2005–2010. This book is born out of all the discussions and debates I have had with all of you over the years: it is the distillation of all our experiences and knowledge and I thank you all. From among the students I have taught it seems unfair to excerpt a few for special thanks. I must though thank in particular my doctoral students Net Le, Jiabo Liu, Emily Laidlaw and Paul Bernal, especially to Emily and Paul who have more recently become co-teachers on some of my courses.

This brings me neatly on to colleagues who have provided support and encouragement. I should thank Professors Chris Reed and Roger Brownsword for general support and advice. My thanks also to Dr Carlisle George who provided useful advice and support as well as providing essential teaching cover to allow me to take leave to complete this mammoth task on time. Finally particular thanks to Dr Mathias Klang who is as always a guiding light on much of my thinking.


I must also thank all those at OUP who got me to this stage. In particular thanks to Paula Harris who did an exemplary job of managing the writing and reviewing process and to Tom Young and his team of production and marketing staff.

Finally most importantly one person read this book in a number of drafts giving tireless feedback as well as proof-reading the entire text. This person is my wife Rachel. She deserves praise and thanks for her patience, attention to detail and encouragement throughout the writing process. She has probably read this book in its entirety in at least four forms. I hope she is pleased with the end product, as I hope are all readers of this book.

Andrew Murray, London, 30 October 2009.

GUIDE TO THE BOOK


Information Technology Law: The law and society contains a range of useful features, which have been designed to enhance your understanding of the subject.

 **Highlight** Thomas Jefferson's Letter to Isaac I

If nature has made any one thing less susceptible than all other action of the thinking power called an idea, which an individual as he keeps it to himself; but the moment it is divulged, it forces every one, and the receiver cannot dispossess himself of it. Its no one possesses the less, because every other possesses the whole idea from me, receives instruction himself without lessening mine, receives light without darkening mine.

Highlights


Featuring definitions of crucial concepts, ideas and principles, the highlight boxes give you an insight into the debates that surround the relationship between law and the information society. They may be a quotation from a leading figure, an outline of a legal term or procedure, or an extract from a case. In every instance they will help you to focus on and understand the key elements of the topic under discussion.

 **Example** Contempt of Court

In 2007 two men attempted to blackmail a member of the UK Parliament granted under the Contempt of Court Act 1981 meaning it was the person involved (it still is). Despite this it is extremely easy for a person involved with a quick Google search as the name of several overseas news organisations and gossip sites which are all even be possible for a UK resident to publish this person's name.

Examples

How do the legal rules developed to meet the challenges of the information society operate in practice? The example boxes use short fictional examples to demonstrate the application of the law clearly and concisely.

 **Case Study** Napster

Everyone knows at least part of the story of Napster. In June 1999 Boston's Northeastern University, released his 'Napster' protocol. Fanning created Napster out of frustration: he, like many college fan who was strapped for cash. He was frustrated for several search for digital music files but the only option available at the engines which would search the entirety of a library with no speed.

Case studies

From Napster to the economics behind recent US Presidential elections, the case study boxes illustrate the real-life examples that have shaped the development of information technology law.

FURTHER READING

Books

F.H. Cate, *Privacy in the Information Age* (1997)

I. de Sola Pool, *The Technologies of Freedom* (1983)

H. Jenkins, *Convergence Culture: Where Old and New Media Collide*

Chapters and Articles

Further reading

Select and seek out titles from the further reading sources at the end of each chapter in order to broaden your knowledge of the individual topics covered.

GUIDE TO THE ONLINE RESOURCE CENTRE

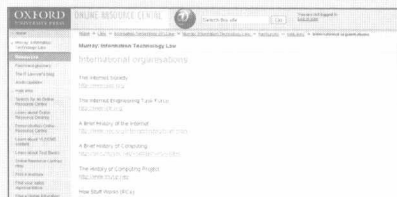
This book is accompanied by an **Online Resource Centre** – a website providing free and easy-to-use resources which complement and support the textbook.

<http://www.oxfordtextbooks.co.uk/orc/murray/>



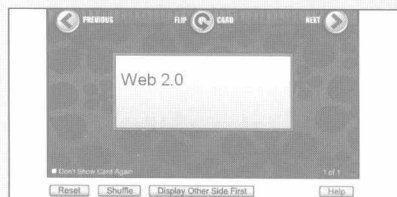
Audio updates

Regular audio updates from the author cover the latest developments in IT law which have occurred since publication of the book.



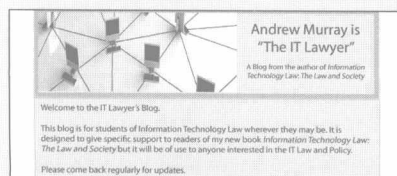
Web links

A list of useful websites enables you to click straight through to reliable sources of online information, and efficiently direct your online study.



Flashcard glossary of key terms

Test your knowledge and understanding of the specialised terminology used in information technology law, using this useful revision tool which can be downloaded to iPods and other portable devices.



A link to an IT law blog

Keep up to date with the latest developments in the subject by following an information technology law blog, which is written by Andrew Murray.

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