Legal Issues in Digital Media

Basic Concepts
Ethics:

• Values relating to human conduct, with respect to the rightness and wrongness of certain actions

• Also known as moral philosophy

• Discussion: What are some examples of ethics pertaining to digital media?
Areas of Ethical Concerns in Digital Media:

• Social networking
• Blogging
• Gaming
• Instant messaging
• Downloading music/movies/media
• Uploading and sharing original creations
• Using work from another company, service, individual, or product, such as photography, logos, or any other copyrighted, patented, or trademarked material.
Copyright:

• A form of intellectual property that gives the author of an original work exclusive right for a certain time period in relation to that work.

• After this period of time expires, it is the original work is considered public domain.

• Note that in order for an original work to be considered copyright, the idea must be expressed first.
Rights protected by a copyright:

1. Reproduction
2. Adaptation
3. Distribution
4. Public performance
5. Public display
To Qualify for Copyright Protection:

1. **Originality** – The work has to be original, though it does not have to be completely different from all other creations and can be a transformed version of something that was produced previously.

2. **Minimal Creativity** – A new work based on a previous product or item must change the original creation in a significant way.

3. **Fixation** – Only ideas that are “fixed in a medium” (piece of paper, electronic file, audio tape, photo, video, etc.) can be copyrighted... not the ideas themselves but the tangible product.
Copyright can protect things like:

- Photos
- Stories
- Illustrations
- Cartoons
- Advertisements
- Novels
- Internet publications
- Marketing campaigns
Difficult or Impossible to Copyright:

- Ideas
- Facts
- Most federal, state and local government records
- Slogans
- Titles
- Short phrases
- Names
- Familiar symbols
- Lists of ingredients
- Basic instructions
Purpose of Copyright:

Copyright is recognized in the U.S. Constitution in order to:

- Encourage progress through advancement of arts and sciences
- Reward creative efforts
- Promote societal knowledge
Penalties for Copyright Violations:

• Copyright violation is also called copyright infringement.

• Penalties are as minor as paying the actual dollar amount of the goods or could involve jail time.

• Some cases involve paying a violation fee of $200 to $150,000 for each infringed good.

• Activity could be subject to future monitoring.
Intellectual Property in Digital Media

Basic Concepts
Patent:

- A set of exclusive rights granted by a state to an inventor for a limited period of time in exchange for public disclosure.

- The process of granting a patent and the requirement of the patentee varies between countries.

- A patent is meant to protect the patented idea from unauthorized making, using, selling or distributing the invention without permission.
WTO:

- Stands for World Trade Organization

- An organization created to supervise and liberalize international trade.

- Has 153 participating members who represent 97% of the total world trade.
WTO (cont.):

- Agreement on Trade-Related Aspects of Intellectual Property Rights:
  - Patents will be protected for a minimum of 20 years
  - WTO has approved access to all patents for any inventions, regardless of the specified field of technology that invention represents.
Trademark:

- Type of intellectual property typically associated with a name, word, phrase, logo, symbol, design, image, or combination of these elements.

- There are three different kinds of trademark:
  - TM: Unregistered trademark – used to brand or promote goods
  - SM: Unregistered service mark – used to brand or promote services
  - R: Registered trademark
Plagiarism:

• To steal and pass off the ideas or work of another as one’s own
• To use another’s production without crediting the source
• To present as new an original idea or product derived from an existing source
Copyright vs. Plagiarism:

- Plagiarism indicates posing as the creator or a work that is not originally yours
- Plagiarism is not a legal term
- Plagiarism is an academic crime with varying definitions
Invasion of Privacy in Digital Media

Basic Concepts
Invasion of Privacy:

• Considered tort law

• Four types of invasion of privacy laws:
  1. Intrusion
  2. Appropriation
  3. False light
  4. Public disclosure of embarrassing facts
Invasion of Privacy

**Intrusion:**

- Classified as spying on or intruding into another person’s affairs where that particular person has a right to privacy.
- Can occur at the home or at a business setting.
- In certain states, there are no laws protecting someone’s invasion of privacy when it comes to intrusion of solitude when a person is in a public place.
Invasion of Privacy

Intrusion (cont.):

• General rule: You have the right to photograph anything from a reasonable distance in a public place if that thing being photographed can be seen with the naked eye.

• Get consent before gathering newsworthy material in a private space.

• Use common sense and the ‘golden rule’ when involved in a situation that involves another person’s privacy!
Invasion of Privacy

Three most common types of Intrusion:

- **Trespass**: Gathering newsworthy material in a private space without consent.

- **Secret Surveillance**: Gathering newsworthy material using devices such as bugging equipment, hidden cameras, and other electronic aids.

- **Misrepresentation**: When you enter a private space with consent, but under false representation of who you are or what your intent is (undercover).
Examples of Intrusion:

1. Opening someone’s mail
2. Trespass onto someone’s personal property
3. Use of wiretaps onto an individual’s phone line *without consent* of the individual or a court appointed official
Invasion of Privacy

Appropriation:

- Can be of a person’s name, likeness, or identity
- Can also be appropriation of a company’s name, likeness or identity
- Pertains to a public figure, not a celebrity or public figure such as Bill Gates, George Bush, etc.
Examples of Appropriation

- Use of someone’s photograph without their consent or knowledge
- Identity theft
- Using someone else’s ID for any reason
- Use of similar advertising methods, themes, and/or elements in companies
Invasion of Privacy

False Light:

• Shares many cases with libel.

• Making a statement about someone else when that statement bares no truth.

• Involves the impression created of a plaintiff in a trial rather than a statement being true or false.

• Happens frequently in tabloid journalism.
Invasion of Privacy

Public Disclosure of Embarrassing Private Facts:

• The material that was disclosed is so outrageous that it should not concern the public.

• The information shared to the public may be truthful or a fallacy – still applies.

• Happens frequently in cases of divorce or other relationship situations.
Examples of Public Disclosure of Embarrassing Private Facts:

Disclosing detailed information about a person’s:

- Sexual conduct
- Medical/mental condition
- Addiction recovery
- Educational records
- Other sensitive information
Libel in Digital Media

Basic Concepts
Libel in Digital Media

Libel:

Libel is the publication of a false statement that seeks to harm someone’s reputation either through written or spoken means.

- Publications can include: articles, headlines, photo captions, in-house advertisements, promotional material, cartoons, letters to the editor, senior wills and epitaphs, quotes, guest columns, editorials, classified ads, etc.

- Remember that knowing that something is truth and being able to prove it is truth are two different things.
**Slander vs. Libel:**

**Slander** – a malicious, false and defamatory statement or report spoken orally

**Libel** – a malicious, false and defamatory statement or report written or published
Characteristics Required to Qualify as Libel:

1. Written defamation
2. Identification
3. Truth – misrepresentation
   - Provable facts
   - Opinion
   - Mixed – facts/opinion
   - Satire
4. Serious harm of someone’s reputation
5. Fault required
Libel in Digital Media

Libelous Statements:

Statements of opinion are not considered libelous, but these are:

- Accusations of illegal activity
- Statements of sexual misconduct
- Statements that attack someone’s honesty or state of integrity
- Statements against someone’s academic integrity
- Statements of someone’s negative racial, religious, or ethnic opinions
- Statements against someone’s financial status – credit, stability or economic
- Statements against someone’s business capability
Don’t Want to be Sued for Libel?

• Make sure to obtain your information through trustworthy sources.
• Keep accurate notes.
• Keep your credibility intact as well as knowing that your sources are credible ones.
• Document everything.
• Be careful with your choice of language.
• Make sure that your opinion is impartial (take both sides to the story, not just one).
Don’t Want to be Sued for Libel?

• Inform your audience of fact, don’t sell it.
• Be open-minded.
• Be prepared to work – don’t sell the story short.
• Never publish a story if you doubt at all the truth of the subject.
• Respond to all comments, complaints, etc. in a timely manner.
• When necessary, make sure to seek legal help.