

Assignment 1

a) US v O'Dwyer – a citizen of the UK runs a website called TVShack.net. The website serves as a sort of portal for users to download or view copyrighted material. Since the website was able to gain revenue from users in the United States through advertisements, and since these users were breaking U.S. copyright law, there was a request that O'Dwyer be extradited. O'Dwyer challenged this request because it did not meet the "dual criminality" requirement, it would be oppressive due to the fact that it would severely disrupt his education (O'Dwyer was a university student), and that it would be a violation of his human rights because a U.S. trial would be an "inappropriate forum" and "disproportionate" for this case. The judge dismissed these challenges since O'Dwyer's actions would be considered an offence in both the U.K. and the U.S., a trial in the U.S. would still be considered a fair trial, and the U.S. would be the appropriate forum since O'Dwyer was not being charged by an entity in the U.K.

b) 1) The immediate consequences of the judgment in *Mahfouz* for Ehrenfeld were that the distribution of the book was stopped and she had to pay damages. Since the SPEECH Act was not put into place until Ehrenfeld had already been forced to pay damages, she would be in danger of having their New York apartment and bank accounts attached to satisfy the judgment. If she mentioned an upcoming vacation in England, I would advise against it because her assets would most likely be in danger of being seized there.

3) The United States is imposing its policies on the world by passing the SPEECH Act. Although I believe that this would be beneficial in that it allows for more freedom of speech, it could cause some countries to feel that we disregard their laws. Imagine if there was a country which had servers hosting child pornography but their laws protected child pornography under freedom of speech. I'm positive that this is not true in any country, but this website would have to be shut down somehow and if the government of that country did not comply they would be seen as imposing their policies on the world.

If the SPEECH Act was not passed, the United Kingdom would be imposing its policies on the world. If one country decides that some information is offensive and forces the rest of the world to remove it, all countries would begin to remove information that they see as harmful and soon there would be very little content on the Internet.

The Internet exacerbates the conflict between the policies because it is "impossible" to remove something from the Internet. If a website contains defamatory material, its content is sure to be copied and copied again on many other websites hosted in many other countries.

c) "No one can be extradited by either country unless the offense is a crime in both countries and carries a prison sentence of at least one year."¹

d) A large problem with the Internet is that if a website is found to have violated a law in some country, there is disagreement as to where the website should be tried (or if the laws even affect them). Google

¹ <http://london.usembassy.gov/gb176.html>

and Twitter (among other companies) have attempted to solve this problem by including a provision in their terms of service which gives the jurisdiction and controlling law of the website. The European Union believed that since Google's servers contain information about EU citizens, Google's servers (even those not located in EU countries) were subject to EU laws. The Advocate General recently issued an opinion which stated that the physical location of the servers had no effect on whether they should be held accountable under EU law. Twitter has given the personal information out of some French users because they had posted hate speech, which is illegal under French law. Although Twitter was not forced to do this, they did not want to have to deal with the jurisdiction battle that would follow. This seems to be setting a dangerous precedent – that the Internet is held accountable by the laws of every country.