

Ethical, Social and Political issues in E-commerce

- Internet technology and its use in e-commerce disrupt existing social and business relationships and understandings.
- Costs and benefits of technology must be carefully considered.

❖ A Model for Organizing the Issues

- Issues raised by Internet and e-commerce can be viewed at individual, social, and political levels
- The major Ethical, Social and Political issues categorized into four major dimensions

1. Information rights-

- Moral right of individuals to be left alone, free from surveillance, or interference from other individuals or organizations.
- The “right to be forgotten”.
- Information privacy:
Claims:
 - Certain information should not be collected at all.
 - Individuals should control the use of whatever information is collected about them. Behavioral tracking on the Internet, social sites, and mobile devices Copyright. Information Collected at E-commerce Sites:

Data collected includes:

- Personally identifiable information (PII)
- Anonymous information

Types of data collected:

- Name, address, phone, e-mail, social security
- Bank and credit accounts, gender, age, occupation, education
- Preference data, transaction data, clickstream data, browser type

2. Property rights

Involves issue of social control

Primary questions:

- ♣ Who will control Internet and e-commerce
- ♣ What elements will be controlled and how
- How will traditional intellectual property rights be protected in a digital society in which tracing and accounting for ownership is difficult and ignoring such property rights is so easy?

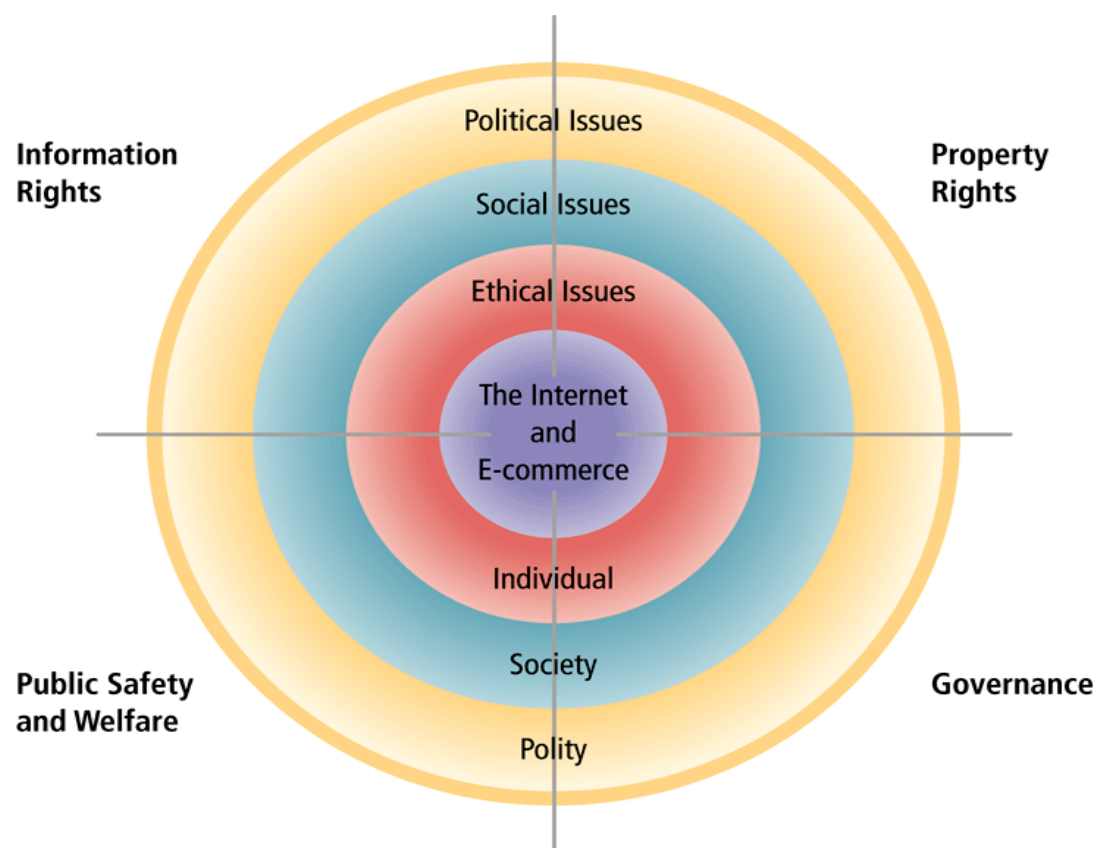
3. Governance

- Should the Internet and e-commerce be subject to public laws?

4. Public safety and welfare

- What efforts should be undertaken to ensure equitable access to the Internet and ecommerce channels? Should governments be responsible for ensuring that schools and colleges have access to the Internet? Is certain online content and activities - a threat to public safety and welfare? Should mobile commerce be allowed from moving vehicles?

The Moral Dimensions of an Internet Society



❖ **Basic Ethical Concepts**

- **Ethics:** Study of principles that individuals and organizations can use to determine right and wrong courses of action
- **Responsibility:** As free moral agents, individuals, organizations, and societies are responsible for the actions they take
- **Accountability:** Individuals, organizations, and societies should be held accountable to others for the consequences of their actions
- **Liability:** Extends the concepts of responsibility and accountability to area of law. Liability is a feature of political systems in which a body of law is in place that permits individuals to recover the damages done to them by other actors, systems or organizations.
- **Due process:** Refers to process by which laws are known and understood, with ability to appeal to higher authorities to ensure that laws have been correctly applied.

❖ **Analyzing Ethical Dilemmas (conflicts)**

- Process for analyzing ethical dilemmas:
 - **Identify and clearly describe the facts.** Find out who did what to whom and where, when and how. In many instances, you will be surprised at the errors in the initially reported

facts, and often you will find that simply getting the facts straight helps define the solution. It also helps to get the opposing parties involved in an ethical dilemma to agree on the facts.

- **Define the conflict or dilemma and identify the higher-order values involved.** - Ethical, social, and political issues always reference higher values. Otherwise, there would be no debate. The parties to a dispute all claim to be pursuing higher values (e.g., freedom, privacy, protection of property, and the -enterprise system).
- **Identify the stakeholders.** Every ethical, social, and political issue has stakeholders: players in the game who have an interest in the outcome, who have its vested in the situation, and usually who have vocal opinions. Find out the identity of these groups and what they want. This will be useful later when designing a solution.
- **Identify the options that you can reasonably take.**

You may find that none of the options satisfies all the interests involved, but that some options do a better job than others. Sometimes, arriving at a “good” or ethical solution may not, always be a balancing of consequences to stakeholders.

- **Identify the potential consequences of your options.**

Some options may be ethically correct, but disastrous from other points of view. Other options may work in this one instance, but not in other similar instances. Always ask yourself, “what if I choose this option consistently over time?” Once your analysis is complete, you can refer to the following well established ethical principle to help decide the matter.

- ❖ **Candidate Ethical Principles**

- One or more of the following well-established ethical principles can be used to help you determine your actions when confronted with an ethical dilemma:

- **Golden Rule**

- Do unto others as you would have them do unto you.
- Putting yourself into the place of others, and thinking of yourself as the object of the decision, can help you think about fairness in decision making.

- **Universalism**

- If an action is not right for everyone to take, it is not right for anyone"!

- Ask yourself, if everyone did this, could the organization, or society, survive?

- **Slippery Slope**

- If an action cannot be taken repeatedly, it is not right to take at all
- An action may bring about a small change now that is acceptable, but if it is repeated, it would bring unacceptable changes in the long run
- So this rule may be stated as “once started down a slippery path, you may not be able to stop.”

- **Collective Utilitarian Principle**

- Take the action that achieves the higher or greater value.
- This rule assumes you can prioritize values in a rank order and understand the consequences of various courses of action.

- **Risk Aversion**

- Take the action that produces the least harm or the least potential cost.
- Some actions have extremely high failure costs of very low probability. (e.g., building nuclear generating facility in an urban area) or extremely high failure costs of moderate probability "speeding and automobile accidents).

- Avoid these high-failure cost actions, pay in greater attention obviously to high-failure cost potential of moderate to high probability.

- **No Free Lunch**

- Assume that virtually all tangible and intangible objects are owned by someone else unless there is a specific declaration otherwise.
- If something someone else has created is useful to you, it has value, and you should assume the creator wants compensation for this work.

- **The New York Times Test (Perfect Information Rule)**

- Assume that whatever you decide will be the subject of the lead article in the New York Times. Will the reaction of readers be positive or negative?

- **The Social Contract Rule**

- Would you like to live in a society where the principle you are supporting would become an organizing principle of the entire society?

❖ **Intellectual property rights**

- Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation.

❖ **Types of Intellectual property rights**

- There are three types of intellectual property protection
 1. Copyright
 2. Patent
 3. Trademark

1. Copyright

- Copyright is a legal term used to describe the rights that creators have over their literary and artistic works.
- With the help of a significant intellectual ability, when a person creates a unique product that product is viewed to be original.
- The unique creations including websites, computer software, musical lyrics, art, literature, poetry, graphic designs, musical compositions, novels, original architectural design, films,

computer programs, databases, advertisements, maps and technical drawings etc. Further, a copyright is a safeguard which protects an original work from getting duplicated.

- **When any work is exclusively created by the independent intellect of a creator without any duplication is called Original Work of Authorship (OWA).** Anyone who is the original creator of any work he automatically has a right over it and also can prevent anyone else to use it or copy it or replicate it for his own use.
- The creator may voluntarily register for copyright if the creator wants to be secured end and have an upper hand in the legal system. By registering this creator can file a suit against a person replicating his work.
- Concepts such as discoveries, slogans, brand names, logos, concepts, domain name, theories, and tiles are all excluded from the purview of copyright and falls under the category of trademarks and patents. For any speech, idea, discovery etc. to a copyright needs to be written down in a physical form.

Look and Feel

- "Look and Feel" in his independent creation, the good faith competitor has used his competitor's idea.

- The growth in the computer software industry continues to be driven by intense competition for product sales. This competition requires that one constantly produce a better product than one's competitor. But, sometimes, the competitor simply has a better idea. The wise competitor incorporates the idea in his product and, if at all possible, improves upon the idea.

Fair Use

- Fair Use is an exception that permits limited use of copyrighted material without acquiring permission from the rights holder.
- Typically, fair use includes categories such as criticism/parody, comment, news reporting, teaching, scholarship, and research.
- Following are fair use factors:
 - 1) The purpose and **character of the use**, including whether such use is of a commercial nature or is for nonprofit educational purposes
 - 2) **The nature of the copyrighted work**

- 3) **The amount** and substantiality of the portion used in relation to the copyrighted work as a whole
- 4) **The effect** of the use upon the potential market for or value of the copyrighted work.

Digital Millennium Copyright Act (or DMCA)

- The Digital Millennium Copyright Act (DMCA) came into being on October 28, 1998 with the objective to implement two World Intellectual Property Organization (WIPO) treaties i.e., (1) WIPO Performances and Phonograms Treaty and (2) the WIPO Copyright Treaty.
- **The object of DMCA is to protect the rights of both copyright owners and consumers by regulating digital material.**
- DMCA plays an important role protecting a brand's reputation keeping safe copyrights and trademarks associated with that brand.
- The DMCA is divided into four titles:
 - 1) **Title I**, the “WIPO (World Intellectual Property Organization) Copyright and Performances and Phonograms Treaties Implementation Act of 1998,” implements the WIPO treaties.
 - 2) **Title II**, the “Online Copyright Infringement Liability Limitation Act,” creates limitations on the liability of online

service providers for copyright infringement when engaging in certain types of activities.

3) **Title III**, the “Computer Maintenance Competition Assurance Act,” creates an exemption for making a copy of a computer program by activating a computer for purposes of maintenance or repair.

4) **Title IV** contains miscellaneous provisions, relating to the functions of the Copyright Office, distance education, the exceptions in the Copyright Act for libraries, “webcasting” of sound recordings on the Internet

How does DMCA work?

➤ There are two aspects of the DMCA that are especially relevant for site owners and service providers:

- Notice-and-Takedown
- Counter-Notice and Putback
- **Notice-and-Takedown**

The Notice-and-Takedown provision of the DMCA requires any online site or service that posts content or allows users to post content must respond to requests — or notices — from copyright owners and takedown copyrighted content ASAP.

While there’s no single template for a takedown notice, they typically include the copyright holder’s name, the details of the

copyrighted content, including where it can be found on both offending websites and where the original content is located, and a statement indicating that the content was not approved for use.

- **Counter-Notice and Putback**

Counter-notice and putback, meanwhile, occurs when takedown notices are filed but site owners or operators have proof that they've satisfied copyright requirements — or that these requirements don't apply — and the content can be put back online.

For example

The copyright holder of a digital image notices that their work is displayed on a WordPress website without their permission. If it's a small site, they may choose to contact the site owner directly and ask to have the content taken down. If this isn't successful, they submit a takedown notice to the site's web host, who in turn removes the offending content.

If the site owner has proof that they've either paid to use the materials or that they're not subject to copyright law, they can file a counter-notice.

2. Patent

- Patents are a right granted to an inventor that allows them to exclude all others from making, using, or selling their invention for 20 years, which is counted from the date of filing of the patent application.
- A patent is a territorial right. Thus it can only be applied in the country where it has been granted. Therefore, any legal action against infringement or infringement of patent rights can only be taken in that country.
- The main motto to enact patent law is to encourage inventors to contribute more in their field by awarding them exclusive rights for their inventions. In modern terms, the patent is usually referred to as the right granted to an inventor for his Invention of any new, useful, non-obvious process, machine, article of manufacture, or composition of matter.
- The Patent Cooperation Treaty (PCT) provides a way to file an international patent application in which a patent can be filed through a single patent application in a large number of countries.

Patent Categories

There are three major types of patents:

- **Design patents** – anyone who creates a new design for a product can apply for a design patent. Examples include beverage bottles (think of the shape of the Coca-Cola container) or furniture (such as the kneeling chair).
- **Plant patents** –involved in grafting and creating new hybrid plant forms can apply for a plant patent.
- **Utility patents** – anyone who invents or discovers “any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof” can apply for a utility patent.

E-commerce Patents

- It is a patent that protects a method of buying or selling something (including goods and services) over the Internet.
- Examples include so-called electronic shopping carts; Web sites that employ auction-like techniques to sell goods; and computer screen designs that make it easier to transact business on the Internet.
- The term “Internet patent” is sometimes used to refer more generally to patents that involve anything on the Internet, and

can cover methods of transmitting information over the Internet; data compression techniques; and encryption methods.

Procedure of Patent

- Step 1: Write about inventions (idea or concept) with each and every detail.

Collect all information about your Invention such as:

1. Field of Invention
2. What does the Invention describe
3. How does it work
4. Benefits of Invention

If you worked on the Invention and during the research and development phase, you should have some call lab records which are duly signed with the date by you and the concerned authority.

- Step 2: It must involve a diagram, drawing and sketch explains the Invention

Drawings and drawings should be designed so that the visual work can be better explained with the invention work. They play an important role in patent applications.

- Step 3: To check whether the Invention is patentable subject or not.

Not all inventions can be patentable, as per the Indian Patent Act there are some inventions which have not been declared patentable (inventions are not patentable).

- Step 4: Patent Discovery

The next step will be to find out if your Invention meets all patent criteria as per the Indian Patent Act-

1. The invention must be novel.
2. The Invention must be non- obvious.
3. The Invention must have industrial applications.

- Step 5: File Patent Application

If you are at a very early stage in research and development for your Invention, then you can go for a provisional application. It offers the following benefits:

1. Filing date.
2. 12 months time for filing full specification.
3. Lesser cost.

After filing a provisional application, you secure the filing date, which is very important in the patent world. You get 12 months to come up with the complete specification; your patent application will be removed at the end of 12 months.

When you have completed the required documents and your research work is at a level where you can have prototypes and experimental results to prove your inventive move; you can file the complete specification with the patent application.

Filing the provisional specification is an optional step if you are in the stage where you have complete knowledge about your Invention you can go straight to the full specification.

- Step 6: Publication of the application

Upon filing the complete specification along with the application for the patent, the application is published 18 months after the first filing.

If you do not wish to wait until the expiration of 18 months from the filing date to publish your patent application, an initial publication request may be made with the prescribed fee. The patent application is usually published early as a one-month form request.

- Step 7: Request for Examination

The patent application is scrutinized only after receiving a request for an RFE examination. After receiving this request, the Controller gives your patent application to a patent examiner who examines the patent application such as the various patent eligibility criteria:

1. Patent subject
2. Newness
3. Lack of clarity
4. Inventory steps
5. Industrial application
6. By enabling

The examiner makes the first examination report of the patent application upon a review for the above conditions. This is called patent prosecution. Everything that happens for a patent application before the grant of a patent is usually called patent prosecution.

The first examination report submitted to the Controller by the examiner usually includes prior art (existing documents prior to the filing date) that are similar to the claimed invention and is also reported to the patent applicant.

- Step 8: Answer the objections

Most patent applicants will receive some type of objections based on the examination report. The best thing is to analyze the examination report with the patent professional (patent agent) and react to the objections in the examination report.

This is an opportunity for an inventor to communicate his novelty over the prior art in examination reports. Inventors and patent agents create and send a test response that tries to prove that their Invention is indeed patentable and meets all patent criteria.

- Step 9: clearance of objections

The Controller and the patent applicant is connected for ensuring that all objections raised regarding the invention or application is resolved and the inventor has a fair chance to prove his point and establish novelty and inventive steps on other existing arts.

Upon receiving a patent application in order for grant, it is the first grant for a patent applicant.

- Step 10:

Once all patent requirements are met, the application will be placed for the grant. The grant of a patent is notified in the Patent Journal, which is published periodically.

3. Trademark

- A trademark is a unique symbol or words used to represent a business or its products. Once registered, that same symbol or series of words cannot be used by any other organization, forever, as long as it remains in use and proper paperwork and fees are paid.
- Unlike patents, which are granted for a period of 20 years, trademarks never end. Companies do need to apply for them and receive ownership confirmation with the U.S. Patent and Trademark Office in order to claim protection from copycats,

Signs of a Trademark

- To indicate that a trademark has been claimed companies use one of three symbols:

- TM - Using the trademark symbol after a logo or phrase alerts competitors that you have claimed this symbol or phrase as your own, but you don't have to have even formally apply for it.
- ® - Only trademarks that have been officially granted by the Trademark office can use the ® symbol, which stands for registered trademark.
- SM - Companies that sell services, not products, have the option to use the service mark logo, but most use the TM instead for simplicity.

Trademark and the Internet

- In response to a growing number of complaints from owner of famous trademarks who found their trademark names being appropriated by web entrepreneurs, congress passed the **Anticybersquatting Consumer Protection Act (ACPA)** in November 1999.
- The object of the Act is to tackle the problem of cybersquatting. This Act empowers the owner to bring a cause of action against a domain name registrant who:
 1. has a bad faith intent to profit from the mark; and
 2. registers, traffics in, or uses a domain name that is identical or confusingly similar to a distinctive mark.

Cybersquatting

- Cybersquatting is a term used to describe an individual or company who intentionally purchases a domain and holds that domain with the sole intention of selling it at a premium price. Cybersquatting is sometimes referred to as **domain squatting and typo squatting**.
- Trademark or copyright holders may neglect to reregister their domain names, and by forgetting this important update, cybersquatters can easily steal domain names. Cybersquatting also includes advertisers who mimic domain names that are similar to popular, highly trafficked websites. Cybersquatting is one of several types of cybercrimes.

Cyberpiracy

- Cyberpiracy involves the registration of an Internet domain name using the name of another person or a name similar to the name of another person.
- The purpose of using such a domain name is to confuse the public as to which web site is that of the legitimate provider of a product or service the consumer is seeking, the person has established to profit financially.
- The Anticybersquatting Consumer Protection Act passed in 1999 made cyberpiracy illegal.

- When a party uses a person's name in cyberpiracy, the person can pursue legal action against the involved party, seeking to have the domain name cancelled or turned over to the person. In addition, the person committing the cyberpiracy may have to pay the court expenses and other costs of the victim.

Metatagging

- A meta tag is information typically unseen by website users. However, a meta tag describes and indexes the contents of a web page. When one searches a term through a search engine, web pages are displayed as result with similar terms.

Keywording

- The permissibility of using trademark as keywords on search engines is also subtle and depends on the extent to which such use is considered to be a “use in commerce” causes “initial customer confusion” and on the content of the search engine.

Linking

- Linking is so fundamental to the Internet that many users feel that any legal restriction on their use of links is a violation of the right to travel and speak freely in cyberspace.
- **Deep linking.** Deep linking allows visitors to bypass information and advertisements at the home page and go directly to an internal page. There is no law or court ruling

prohibiting deep linking. However, businesses dislike deep links because:

- linked-to sites can lose income since their revenues are often tied to the number of viewers who pass through their home page, and

Framing

- "Framing" is the process of allowing a user to view the contents of one website while it is framed by information from another site, similar to the "picture-in-picture" feature offered on some televisions. Framing may trigger a dispute under copyright and trademark law theories, because a framed site arguably alters the appearance of the content

❖ Governance

- Governance has to do with social control: Who will control the internet? Who will control the processes of e-commerce, the content, and the activities? What elements will be controlled and how will the controls be implemented?
- E-governance, expands to **electronic governance**, is the integration of **Information and Communication Technology (ICT)** in all the processes, with the aim of enhancing government ability to address the needs of the general public. The basic purpose of e-governance is to simplify processes for all, i.e. government, citizens, businesses, etc. at National, State and local levels.

❖ Public Government and law

Taxation

- Taxation is the system by which a government takes money from people and spends it on things such as education, health, and defense.
- A means by which governments finance their expenditure by imposing charges on citizens and corporate entities. Governments use taxation to encourage or discourage certain economic decisions.
- For example, reduction in taxable personal (or household) income by the amount paid as interest on home mortgage loans results in greater construction activity, and generates more jobs.
- Taxes in India are levied by the **Central Government** and the **State Governments**. Some minor taxes are also levied by the local authorities such as the Municipality and the Local Governments.