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Digital Millennium Copyright Act

- DMCA was signed into law in 1998, addresses a number of copyright-related issues, including five titles
- **Title II: “Online Copyright Infringement Liability Limitation Act”**
 - Provides limitations on the liability of an ISP for copyright infringement that can arise when an ISP subscriber posts copyrighted material such as audio tracks, videos, books, and news articles on the Internet.

Digital Millennium Copyright Act

- Its passage amended Title 17 of the U.S. Code (Copyright) by adding a new Section 512, which says:
 - An ISP cannot be held liable for copyright infringement if, when notified by the copyright holder, it notifies the subscriber of the alleged infringement and executes a “takedown” by removing the offending content
- The content was created by you or photo or video the subject is you, can be sufficient enough to request a takedown.

Digital Millennium Copyright Act: Case Study

- Baby dancing in the kitchen with Prince's "Let's Go Crazy" playing in the background
- Removed and posted back from Youtube (Fair Use doctrine)



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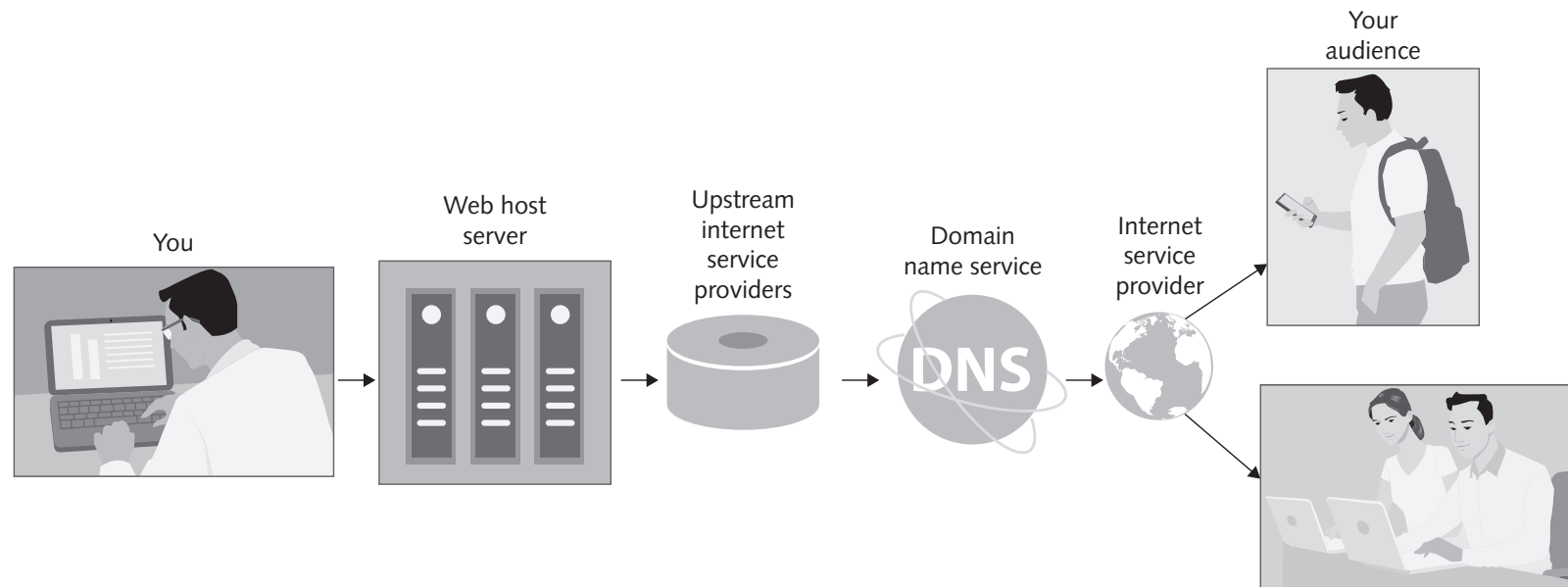
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Internet Censorship

- Internet censorship is the control or suppression of the publishing or accessing of information on the Internet.



Internet Censorship

Rank	Country	Internet users (millions)	Population (millions)	Penetration (% of population)
1	China	721	1,382	52
2	India	462	1,327	35
3	United States	287	324	89
4	Brazil	139	210	66
5	Japan	115	126	91
6	Russia	102	143	71
7	Nigeria	86	187	46
8	Germany	71	81	88
9	United Kingdom	60	65	93
10	Mexico	58	129	45

Source: Internet Users by Country (2016), *Internet Live Stats*, www.internetlivestats.com/internet-users-by-country.

- **Reporters without Borders (RWB)**, an international nonprofit, nongovernmental organization with headquarters in Paris, promotes and defends freedom of information and freedom of the press
- RWB prepares an “Enemies of the Internet” list, which includes countries the group has determined have the highest levels of Internet censorship and surveillance
- **The United States and the United Kingdom** were added to the 2014 edition of this list after information leaked by Edward Snowden

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Strategic Lawsuit Against Public Participation (SLAPP)

- A **SLAPP** is employed by corporations, government officials, and others against citizens and community groups who oppose them on matters of public interest.
- **Anti-SLAPP** laws are designed to reduce frivolous SLAPPs.
 - As of 2015, 28 states had passed anti-SLAPP legislation to protect people who are the and target of a SLAPP.
 - Typically, under such legislation, a person hit with what they deem to be a SLAPP can quickly file an anti-SLAPP motion, which puts a hold on the original lawsuit until the court determines whether the defendant was being targeted for exercising free-speech rights, petitioning the government, or speaking in a public forum on “an issue of public interest.”

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Anonymity

- Principle of anonymous expression
 - People can state opinions without revealing their identity
 - In the wrong hands, it can be a tool to commit illegal or unethical activities

Doxing

- Involves doing research on the Internet to obtain someone's private personal information
- Home address, email address, phone numbers, and place of employment, private electronic documents, such as photographs, and then posting that information online without permission.

Anonymity: John Doe lawsuit

- Identity of the defendant is temporarily unknown
- Common in Internet libel cases
- Defendant communicates using a pseudonym or anonymously
- ISPs subpoenaed to provide the identity
- By filing a lawsuit, the company gains immediate subpoena power

Anonymity: John Doe lawsuit

- To be considered
 - Subpoenaed should be issued in good faith and not for any improper purpose.
 - The information sought related to a core claim or defense.
 - The identifying information was directly and materially relevant to that claim or defense.
 - Adequate information was unavailable from any other source.

National Security Letters

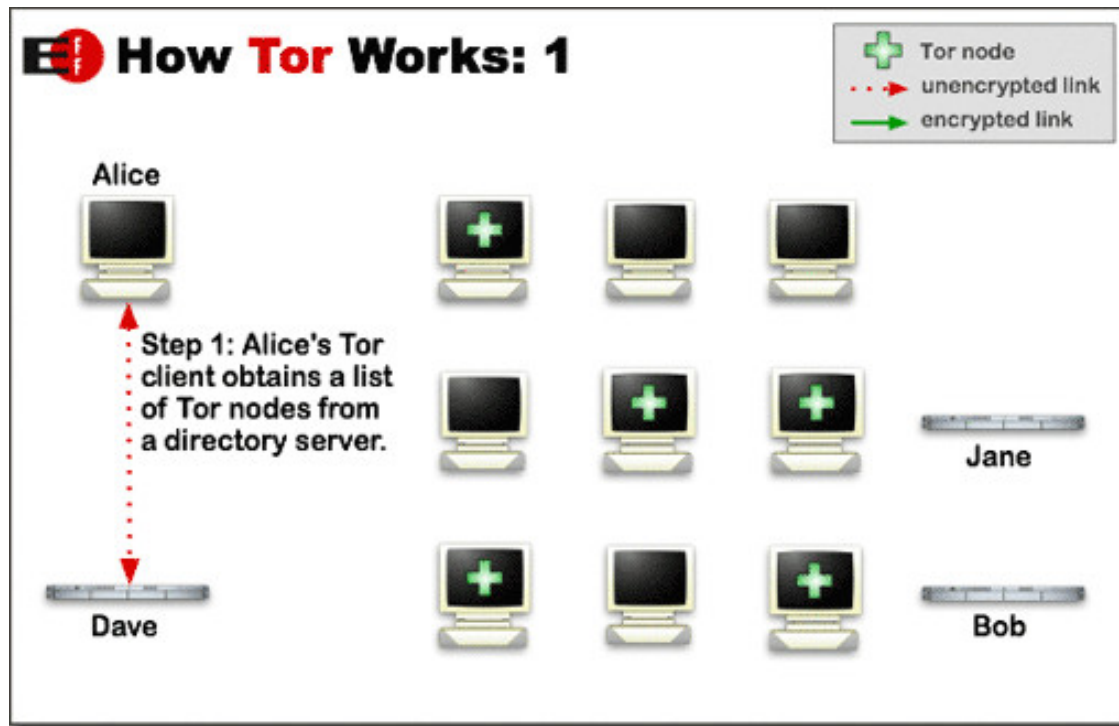
- Requires financial institutions to turn over the electronic records of
 - Suspected terrorists
 - Spies
- USA Patriot Act allows the FBI to use NSLs to obtain records from banks and other financial institutions if they are sought for an intelligence or terrorism investigation

Anonymous Remailer Service

1. Computer program that strips the originating address from the e-mail message
2. Forwards the message to the intended recipient
3. Ensures no header information

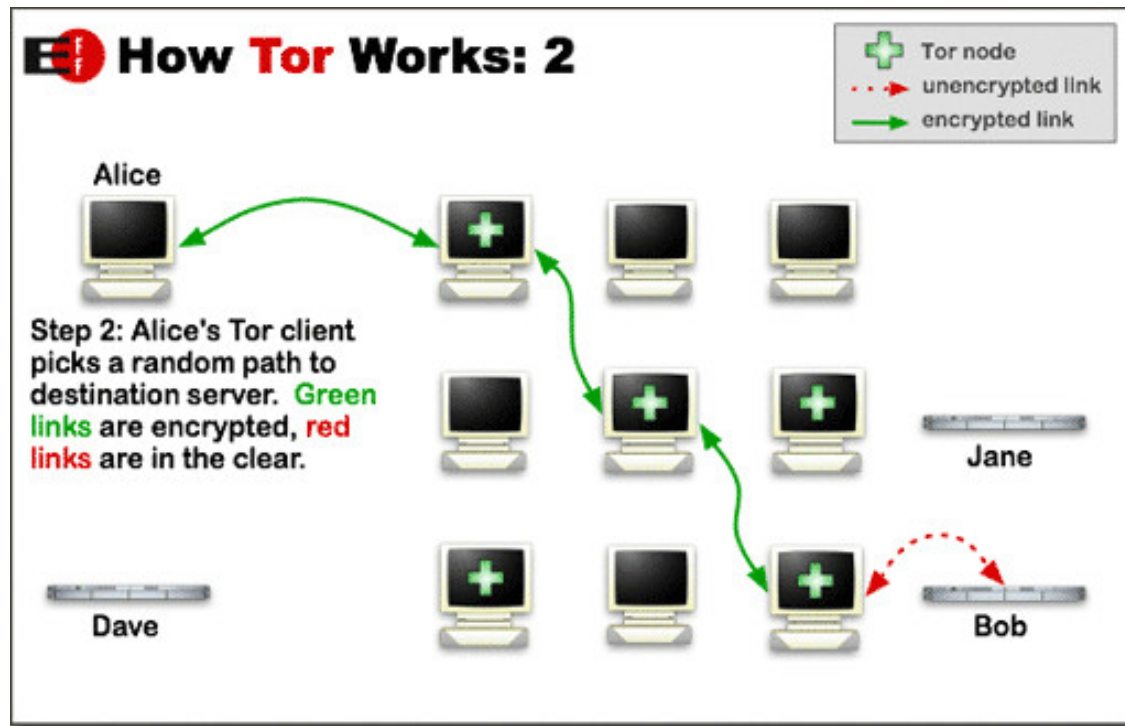


Tor



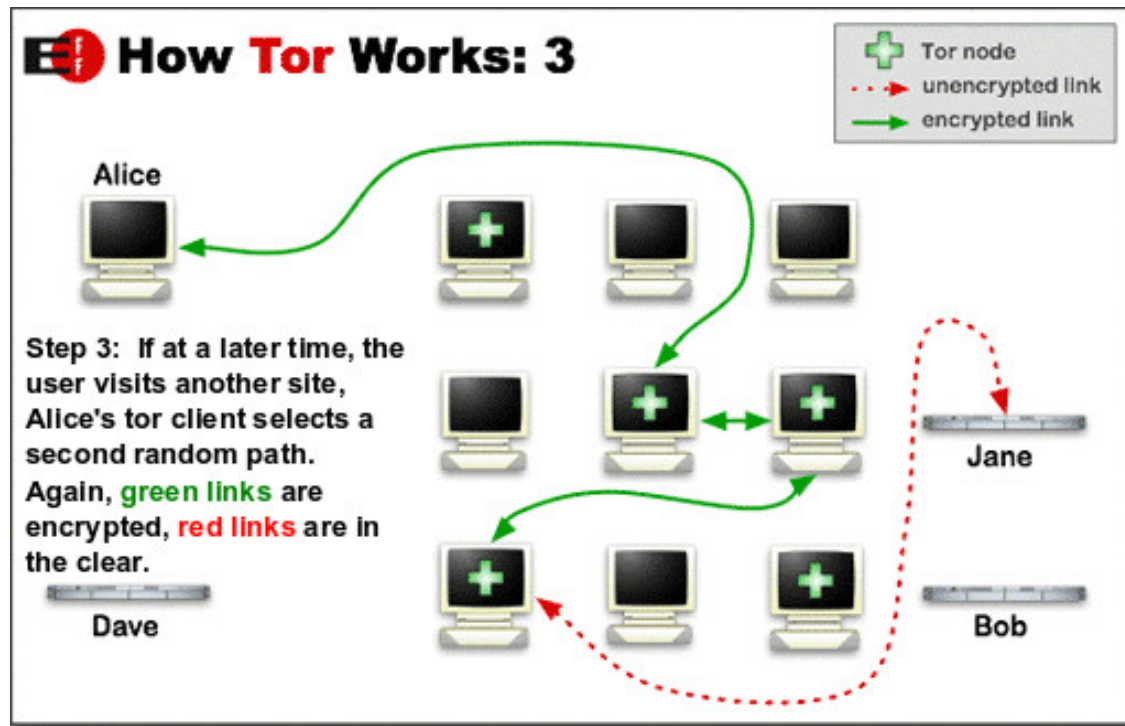


Tor





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Defamation and Hate Speech

Actions that can be prosecuted include

1. Sending threatening private messages over the Internet to a person
2. Displaying public messages on a Web site describing intent to commit acts of hate-motivated violence
3. Libel directed at a particular person

Defamation and Hate Speech

- Some ISPs voluntarily agree to prohibit subscribers from sending hate messages
 - Does not violate subscribers' First Amendment rights
 - ISPs must monitor the use of their service
 - Take action when terms are violated

Defamation and Hate Speech: Case Studies

- Student at UC Irvine: His e-mail was signed “Asian hater” (kill every Asian himself).
 - was sentenced to one year in prison
- A coalition of antiabortion groups:
 - Posting on a Web site information about doctors and clinic workers who perform abortions, including photos, home addresses, license plate numbers, and even the names of their spouses and children.
 - was ordered to pay more than \$100 million in damages
 - Three of the doctors listed on the site were murdered, and others on the list were wounded.

Defamation and Hate Speech: Case Studies

- Promoting Nazi ideology is a crime in Germany
- Denying the occurrence of the Holocaust is illegal in many European countries.

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Corporate Blogging

- Employees can use their blogs to criticize corporate policies and decisions.
- Employee blogging also involves the risk that employees might reveal company secrets or breach federal security disclosure laws
 - Case: Mark Jen at Google



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Pornography

- The Internet has been a boon to the pornography industry
 - More than 4.2 million porn sites are accessible
 - The sites generate at least \$97 billion a year in revenue
 - 72 million visitors
- CAN-SPAM Act
 - Fighting the dissemination of pornography

Pornography

- Reasonable steps to stop access in the workplace
 - Establishing a computer usage policy
 - Prohibiting access to pornography sites
 - Identifying those who violate the policy
 - Taking action against those users
- Numerous federal laws address child pornography
 - Federal offense

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Fake News

- News continues to come from traditional news sources, such as ABC, CBS, CNN, Fox, and NBC news, the Chicago Tribune, the New York Times, Newsweek, the Wall Street Journal, and U.S. News & World Report.
- Wide range of nontraditional sources
 - Blogs
 - Fake news
 - Social Media

Policy Example

“Use of Company computers, networks, and Internet access is a privilege granted by management and may be revoked at any time for inappropriate conduct carried out on such systems, including, but not limited to:

- Violating the laws and regulations of the United States or any other nation or any state, city, province, or other local jurisdiction in any way;
- Engaging in unlawful or malicious activities;
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Sending, receiving, or accessing pornographic materials;
- Becoming involved in partisan politics;
- Maintaining, organizing, or participating in non-work-related Web logs (‘blogs’), Web journals, ‘chat rooms,’ or private/personal/instant messaging.”

Manager's Checklist for Handling Freedom of Expression in the Workplace

Question	Yes	No
Do you have a written data privacy policy that is followed?		
Does your corporate IT usage policy discuss the need to conserve corporate network capacity, avoid legal liability, and improve worker productivity by limiting the non-business use of information resources?		
Did the developers of your policy consider the need to limit employee access to non-business-related Web sites (for example, Internet filters, firewall configurations, or the use of an ISP that blocks access to such sites)?		
Does your corporate IT usage policy discuss the inappropriate use of anonymous remailers?		
Has your corporate firewall been set to detect the use of anonymous remailers?		
Has your company (in cooperation with legal counsel) formed a policy on the use of John Doe lawsuits to identify the authors of libelous, anonymous e-mail?		
Does your corporate IT usage policy make it clear that defamation and hate speech have no place in the business setting?		
Does your corporate IT usage policy prohibit the viewing or sending of pornography?		
Does your policy communicate if employee e-mail is regularly monitored for defamatory, hateful, and pornographic material?		
Does your corporate IT usage policy tell employees what to do if they receive hate mail or pornography?		

Summary

- First Amendment protects the right to
 - Freedom of religion
 - Freedom of expression
- Key issues:
 - Controlling access to Internet information
 - Anonymous communication
 - National Security Letter (NSL)
 - Spread of defamation and hate speech
 - Access to pornography