Trespass to Chattel Doctrine Applied to Cyberspace

ANNOTATED PATHFINDER

I. Cases

Major Recent Cases

Other Cyberspace Trespass to Chattel
- **Thrifty-Tel, Inc. v. Bezenek**, 46 Cal. App. 4th 1559 (Cal.App.4.Dist., 1996) – trespass to chattel in telecommunications. In Thrifty-Tel, a child used a home computer to access a long-distance telephone company's confidential codes and make unauthorized calls. **Thrifty-Tel**, 54 Cal. Rptr. 2d at 471. The child's activity overburdened the system and denied subscribers access to phone lines. Id. The Court of Appeals held that the child's activity constituted trespass. Id. at 473 (holding electronic signals used to gain unauthorized access to a computer to be "sufficiently tangible to support a trespass cause of action").
- **America Online, Inc. v. LCGM, Inc.**, 46 F.Supp.2d 444 (E.D.Va., 1998) (10/29/98)
- **Hotmail Corp. v. Van$ Money Pie, Inc.**, 1998 WL 388389 (N.D.Cal., 1998) (4/16/98)
Possible Cases – Dicta, Minor Cases, Precursors, Semi-Related

- **State v. McGraw**, 480 N.E.2d 552 (Ind. 1985) “Indiana Supreme Court recognizing in dicta that a hacker's unauthorized access to a computer was more in the nature of trespass than criminal conversion”
- **State v. Riley**, 121 Wash.2d 22, 846 P.2d 1365 (1993) computer hacking as the criminal offense of "computer trespass" under Washington law

II. Law Review & Academic Articles


* Burk, Dan L. “The Trouble With Trespass (as applied to computer network access disputes)” 4 J. Small & Emerging Bus. L. 27 (Spring 2000).


Hardy, I. Trotter. “The Ancient Doctrine of Trespass to Web Sites,” 1996 J. Online L. art. 7, §§ 10, 13 (*explaining preemption under the Copyright Act, the technical details of linking, and noting that if RAM copies are considered "copies" within the meaning of the Act, "then quite possibly[y] a trespass action would be preempted*").


IV. General Press, Trade, & News Articles / Blurbs


Slind-Flor, Victoria. eBay's behind-the-scenes move; are they now dissing the pros they failed to woo to their side? The National Law Journal, August 7, 2000 v22 i50 pB7 col 2 (5 col in).


V. Books & Treatises

Restatement (Second) of Torts (2001)
 §217 Ways of Committing Trespass to Chattel, Comments f and g,
 § 218 Liability to Person in Possession
 § 221 Dispossession
 § 252 Consent of Person Seeking Recovery
VI. Other Materials – Amicus Briefs, Organizations, Websites


Electronic Frontier Foundation's amicus brief raising First Amendment questions in the appeal of Intel Corp. v. Hamidi.
   http://www.intelhamidi.com/amicusbrief.htm

Former and Current Employees (FACE) of Intel website.
   http://www.faceintel.com/

Intel v. Hamidi website from Berkman Center for Internet and Society. Includes appeal briefs and commentary.
   http://eon.law.harvard.edu/openlaw/intelvhamidi/documents.html
   http://www.intelhamidi.com/

VII. Unsorted – Other Potential Materials
