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Foreward to the Summer 1999 Edition

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Foreword to the Summer 1999 Edition

by Michael F. Weigold [✱]

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{1} The Internet has evolved substantially from its origins in 1969 as a tool for the Department of Defense, and its later use by the National Science foundation as a means for providing scientists with increased computing power and communications. It is estimated that over 58 million individuals worldwide are now connected to the net.

{2} It is no coincidence that the surge in Internet users and content has occurred simultaneously with its increasing association with commerce. Internet commerce, now around \$8-\$10 billion annually, is projected to grow to over \$325 billion within the next three years. Using the paradigm of traditional media, content providers compete in an effort to best attract this growing audience to sites containing both editorial and commercial content. Advertisers compensate content providers on the basis of "hits" or visits from users around the world.

{3} Understanding how best to use this new commercial environment represents a serious challenge to both advertisers and content providers, since ad revenue has yet to make most web sites profitable. One important exception to this rule is the category of commercial sites represented by providers of pornography. The selling of pornography stands as one of the commercial "success stories" of the web, and the effort to attract new customers is intense. It was noted recently that the online media buy of a top porn site ranked fourth in dollars spent among all online advertisers. The same article noted that sellers of porn have made extensive use of technological aids in recruiting audiences. Key-word searches at popular search engines regularly bring up pornographic sites and ad banners, even when many such searches have non-pornographic purposes. One porn provider even caused a message resembling a windows error to appear on the user's screen. Clicking the error button transports the user to a pornographic site. Cox's article carefully reviews the relevance of new technologies as they affect issues surrounding the consumption of child pornography. The reality that a "consumer" of a web site may never have intended to go to the site or to store material at the site on his/her computer raises important issues for cyberlaw and both the prosecution and defense of individuals charged with possession and transmission of child pornography.

{4} Vergani's article in this issue deals with another aspect of Internet commerce—trademark protection. A trademark is a brand name or brand mark provided legal protection from the Patent and Trademark office of the Department of Commerce. The importance of trademark protection to

advertisers can probably not be overstated, since virtually all non-retail advertising involves the creation and maintenance of brand equity. Vergani demonstrates that views of trademark protection have evolved as trademark laws are applied to the area of domain names. Vergani's provocative analysis strongly supports his conclusion that the courts "have given an innovative interpretation of the 'use in commerce' requirement" perhaps stretching it to the point that current meaning is far removed from the perspective offered in the Lanham Act." The implications of this change, Vergani notes, extend far beyond the category of commercial speech.

{5} The potential of the Internet as a revolutionary medium is no longer in doubt. The technology is an increasingly accepted component of education, recreation, business, and commerce. Old debates over the "commercialization" of the World Wide Web are also over. Commerce fuels the engine for the explosion of content now available to anyone with a computer and a phone line. This issue advances two important analyses of how this evolving medium is transforming our definitions of trademarks, commercial speech, consumption, and consumers. The impact of this transformation felt for years to come.

ENDNOTES

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