YALE LAW SCHOOL

Spring Term 2009 Examination

The Information Society

May 2009
(Self-Scheduled)

Professor Balkin

Instructions

1. Please write an essay on *one* of the following topics, drawing on the course materials and class discussions. Your essay should state and argue for a clear thesis of your own and should be no more than 6,000 words in length.

2. Please submit your examination electronically *and keep a copy for your own files*.   You may either use the registrar's method for obtaining and submitting the exam or you can e-mail the exam directly to me at jack.balkin@yale.edu before 5:00pm on Thursday, May 21st, the last day of exam period. In the latter case, please let the registrar know that you will be submitting the exam directly to me.

3. Good luck.

Topics for Information Society Examination:

1. Discuss and critique the following passage from Clay Shirky's book, *Here Comes Everybody*, p. 107:

"We are plainly witnessing a restructuring of the media businesses, but their suffering isn't unique, it's prophetic. All businesses are media businesses, because whatever else they do, all businesses rely on the managing of information for two audiences-- employees and the world. The increase in the power of both individuals and groups, outside traditional organizational structures, is unprecedented. Many institutions we rely on today will not survive this change without significant alteration, and the more an institution or industry relies on information as its core product, the greater and more complete the change will be. The linking of symmetrical participation and amateur production makes this period of change remarkable."

2. Discuss and critique Yochai Benkler's views about individual freedom in *The Wealth of Networks*, particularly his discussion of autonomy, information and law in Chapter Five. Do you agree with Benkler that the changes accompanying digitally networked environments (including the rise of commons-based peer production) represent an increase in human

autonomy? Of what kind? Does they also represent an increase in new forms of hierarchy, control, or subjugation?

3. Discuss and critique Neil Netanel's proposals for reforming copyright law in light of first amendment values. What would you add or change in his proposals? Do his proposals go too far or not far enough in reconciling freedom of speech with intellectual property?

4. New private and public forms of surveillance have emerged in areas ranging from social software platforms like Facebook to political campaigns to new methods of tracking potential crimes and threats to national security. Is the answer to concerns about these new forms of surveillance more egalitarian surveillance by more people, or more democratic control over surveillance?

5. Throughout this course we have discussed a series of challenges to traditional methods of producing salient, relevant, and high quality information and culture based on professional gatekeeping and professional standards of judgment. Are the threats to professionalism genuine or overstated? How do you think digital technologies can effectively be harnessed to substitute for the loss or the decreasing importance of older forms of knowledge production and accreditation?

<p style="text-align:center">END OF EXAMINATION</p>