

David G. Post
3225 33rd Place NW, Washington DC 20008
David.G.Post@gmail.com
<http://www.davidpost.com>

EMPLOYMENT HISTORY

1997 – 2014 Professor of Law, Beasley School of Law, Temple University (ret.)
1994 - 1997 Associate Professor of Law, Georgetown University Law Center
1993 - 1994 Law Clerk, Justice Ruth B. Ginsburg, U.S. Supreme Court
1987 - 1993 Associate, Wilmer, Cutler & Pickering
1986 - 1987 Law Clerk, Judge Ruth B. Ginsburg, U.S. Court of Appeals
1981 - 1983 Director of Programs, American Anthropological Association
1976 - 1981 Assistant Professor of Anthropology, Columbia University

OTHER PROFESSIONAL AFFILIATIONS

Fellow, Center for Democracy and Technology
Fellow, Institute for Information Law and Policy at New York Law School
Adjunct Scholar, Cato Institute
Contributor:
The American Lawyer (1994 – 2000)
Information Week (2002 – 2004)
The Volokh Conspiracy/Washington Post Online (2002 – present)
(<http://www.washingtonpost.com/news/volokh-conspiracy/>)

EDUCATION

J.D. 1986 Georgetown University Law Center
summa cum laude, Order of the Coif
Ph.D. 1978 Yale University (Anthropology)
B.A. 1972 Yale College, cum laude

HONORS, AWARDS, ETC.

McGannon Center (Fordham University) Award for Social and Ethical Relevance in Communication Policy Research, 1997 (awarded for “Law & Borders: The Rise of Law in Cyberspace, 48 Stanford L. Rev. 1367 (1996) (co-authored with David Johnson))

“Law and Borders: The Rise of Law in Cyberspace” ranked 2d-most frequently cited intellectual property law review article of all time (see Fred Shapiro and Michelle Pearse, “The Most-Cited Law Review Articles of All Time,” 110 Mich. L. Rev 1483, 1494 & 1500 (2012))

Green Bag Award for Exemplary Legal Writing, 2009 (awarded for *In Search of Jefferson’s Moose: Notes on the State of Cyberspace*)

Friel-Scanlan Prize for Scholarly Research 2010 (awarded for *In Search of Jefferson’s Moose: Notes on the State of Cyberspace*)

PUBLICATIONS

BOOKS

In Search of Jefferson's Moose: Notes on the State of Cyberspace (Oxford University Press, 2009)

Cyberlaw: Problems of Jurisprudence and Policy in the Information Age (with Paul Schiff Berman, Patricia Bellia, and Brett Frischmann) (West Publishing, 2003; Fourth Edition, 2011)

AMICUS BRIEFS (AUTHORED OR CO-AUTHORED)

ABC, Inc. et al. v. Aereo, Inc., US Supreme Court, 2013-14 Term, Amicus Brief of 36 IP and Copyright Law Professors, available online at <http://tinyurl.com/p53gnke> (co-authored with James Grimmelmann)

WNET-Thirteen et al v. Aereo, Inc., US Court of Appeals for the 2d Circuit, 2012, Brief of Amici Curiae Intellectual Property and Copyright Law Professors in Support Of Aereo, Inc., available online at <http://www.scribd.com/doc/111298508>

Viacom International, Inc. et al. v. Youtube, Inc. et al., US Court of Appeals for the 2d Circuit, 2012, Brief of Amici Curiae Intellectual Property and Internet Law Professors In Support of Defendants-Appellees And Urging Affirmance, available online at <http://www.scribd.com/doc/109867487> (co-authored with Annemarie Bridy)

Craigslist, Inc. v. Superior Court of California, Supreme Court of California, 2010, Amici Letter Supporting Writ Petition

Nebraska v. Drahota, Supreme Court of Nebraska, 2009, Brief of 13 Amici Curiae Law Professors Urging Certiorari.

The Cartoon Network, Inc. et al., v. CSC Holdings and Cablevision Systems Corp., US Court of Appeals for the 2d Circuit, 2007, Brief of Amici Curiae Law Professors in Support of Defendants-Counterclaimants-Appellants and Reversal, available online at <http://www.scribd.com/doc/239174484>

New York v. Direct Revenue LLC et al., NY Supreme Court, 2006, Brief of *Amicus Curiae* in Support of Neither Party, available online at <http://www.scribd.com/doc/239173866> (co-authored with Eric Goldman and Scott Christie)

SCHOLARLY PAPERS

[Copies of all papers are available at www.davidpost.com or www.ssrn.com/author=537]

Orwell's Metaphors

U. Chi. L. Rev. online (2013), available online at <http://tinyurl.com/asn4t58>

SOPA and the Internet

In Copyright Unbalanced: From Incentive to Excess, J. Brito ed. (Mercatus Press, 2012)

- The Challenge(s) of Cyberlaw
In *Transnational Culture in the Internet Age*, S. Pager and A. Candeub, eds (Edward Elgar, 2012), available online at <http://www.scribd.com/doc/111216945>
- Don't Break the Internet (with Mark Lemley and David Levine)
64 *Stan L. Rev. Online* 34 (2011)
- SOPA and the Future of Internet Governance.
<http://verdict.justia.com/2012/02/13/sopa-and-the-future-of-internet-governance>
- Sex, Lies, and Videogames: *Brown v. Entertainment Merchants Association*
2011 *Cato Sup. Ct. Rev* 27 – 56 (2011)
- The Theory of Generativity
78 *Fordham L Rev* 2755 (2010)
- Sending out an SOS (with Duncan Hollis)
National Law Journal, April 26 2010, available online at
<http://www.scribd.com/doc/238412883>
- Governing Cyberspace: Law
24 *Santa Clara High Tech. L.J.* 883 (2008)
- The Great Debate: Law in the Virtual World (with David R. Johnson)
"First Monday," vol. 11 number 2 (Feb. 2006)
URL: http://www.firstmonday.org/issues/issue11_2/post/index.html
- 'Nice Questions' Unanswered: *Grokster*, Sony's Staple Article of Commerce Doctrine, and the Deferred Verdict on Internet File Sharing (with Timothy Sandefur and Annemarie Bridy)

2004-05 *Cato Supreme Court Review* (2005)
URL: <http://www.cato.org/pubs/scr/2005/groksstersonyfilesharing.pdf>
- ICANN Governance: A Commentary on the ICANN 'Blueprint' for Reform (with Susan R. Crawford and David R. Johnson)
36 *Loy. L.A. L Rev.* 1127 (2003)
- Against 'Against Cyberanarchy'
17 *Berkeley Technology Law Journal* 1363 (2002)
reprinted in "Who Rules the Net?," W. Crews and A. Thierer, eds (Cato Institute, 2003)
- His Napster's Voice
20 *Temple Env. & Tech. L.J.* 35 (2002).
reprinted in "Copy Fights: The Future of Intellectual Property in an Information Age," W. Crews and A. Thierer, eds (Cato Institute, 2002)
reprinted in *Mots Pluriels*, special edition ('The Net: New Apprentices and Old Masters') No 18 (August 2001)

URL: <http://www.arts.uwa.edu.au/MotsPluriels/MP1801index.html>

'The Free Use of Our Faculties': Jefferson, Cyberspace, and the Languages of Social Life
49 Drake L. Rev. 407 (2001)

What Larry Doesn't Get: Code, Law, and Liberty in Cyberspace
52 Stan. L. Rev. 1439 (2000)

How Long is the Coastline of the Law? Thoughts on the Fractal Nature of Legal Systems
(with Michael B. Eisen)
29 Journal of Legal Studies 545 (2000)

Of Horses, Black Holes, and Decentralized Law-Making in Cyberspace
2 Vanderbilt Journal of Entertainment Law and Practice 70 (2000)

Anonymous Political Speech (with Dawn C. Nunziato)
Encyclopedia of the American Constitution (1999)

Symposium: The Internet and Legal Theory (Co-Editor with Lisa Bernstein)

73 Chicago-Kent Law Review No. 4 (1998)

'Chaos Prevailing on Every Continent': a New Theory of Decentralized Decision-making
in Complex Systems (with David R. Johnson)
73 Chicago-Kent Law Review 1055 (1998)

The 'Unsettled Paradox': the Internet, the State, and the Consent of the Governed
5 Indiana J. Global Leg. Stud. 521 (1998)

The New Civic Virtue of the Internet: Lessons from a Model of Complex Systems for the
Governance of Cyberspace (with David R. Johnson)
In The Emerging Internet (1998 Annual Review of the Institute for Information
Studies) (C. Firestone, ed. 1998)

Governing Cyberspace
43 Wayne L. Rev. 155 (1997)

Law & Borders: The Rise of Law in Cyberspace
48 Stanford L. Rev. 1367 (1996) (with David R. Johnson)
Version published as "Law & Borders," Esther Dyson's Release
1.0, June, 19, 1996

Version published as "The Rise of Law in Cyberspace," in
Borders in Cyberspace, Brian Kahin and Charles Nesson, eds.,
MIT Press, 1997

[Winner of the 1997 McGannon Center Award for Social and
Ethical Relevance in Communication Policy Research]

And How Shall the Net Be Governed? A Meditation on the Relative Virtues of
Decentralized, Emergent Law

In Coordinating the Internet, Brian Kahin and James Keller (eds.), MIT Press, 1997

Issues, Outcomes, Guidance, and Indeterminacy: A Reply to Professor Rogers
49 Vand. L. Rev 1069 (1996) (with Steven C. Salop)

Pooling Intellectual Capital: Anonymity, Pseudonymity, and Contingent Identity in Electronic Communities
1996 University of Chicago Legal Forum 139

Anarchy, State, and the Internet
Journal of Online Law, vol. 1 issue 1 (1995)

Rowing against the Tidewater: A Theory of Judging for Multi-Judge Panels (with Steven Salop)
80 Georgetown Law Journal 743 (1992)

SELECTED OTHER PUBLICATIONS

The Continuing Saga of Thomas Jefferson and the Net
<http://cdt.org/blogs/continuing-saga-thomas-jefferson-and-net> [Feb. 2011]

Flame On: The State of Nature and the First Internet War
Reason, April 1996, pp. 28-33

Privacy, Technology, Law (review of Technology and Privacy: The New Landscape (Philip E. Agre and Marc Rotenberg, eds.)
Jurist Books-on-Law vol 1 no.3 (June 1998)
URL: <http://jurist.law.pitt.edu/lawbooks/archive.htm>

The Impact of 'Grokster'
National Law Journal August 3, 2005, p. 10.

Free Culture vs. Big Media (review of Lawrence Lessig's 'Free Culture')
Reason (Nov. 2004)
URL: <http://www.reason.com/0411/cr.dp.free.shtml>

Jefferson Ascendant
URL:
http://www.eff.org/pub/Infrastructure/jefferson_ascendant_post_eff.article

Comments on Uniform Dispute Resolution Policies and Rules
URL: <http://www.icannwatch.org/archives/essays/939754407.shtml>

When Cheating Is Cause for Celebration
The Washington Post, November 24, 1997 p. A25

Computer Viruses: Legal and Policy Issues Facing Colleges and Universities (with David Johnson and Thomas P. Olson)
Educ. L. Rep., Sept 14, 1989 and J. Prop. Rights, Feb. 1990

Decision Analysis: Using Risk Analysis in Litigation (with Ron Friedmann)
Legal Technology Newsletter, Dec 1990

Colleagues Exchange: An Electronic Marketplace for Legal Services (with David Johnson
& Ron Friedmann)
Corporate Legal Times March 1992

Overdue Process (Review of Richard Posner's 'Overcoming Law')
Reason, July 1995, pp. 65-67.

"On the Horizon" – a monthly column in InformationWeek (with Bradford Brown)

Peer Production (Jan 7, 2002)
The New Old Thing (January 14, 2002)
Who Controls Internet Content, Anyway? (Feb 25, 2002)
Cyber-Protection's Murky Waters Run Deep (March 18, 2002)
Thorny Issues Surround Hyperlink Ownership (April 22, 2002)
When Do Cyber-Crooks Become Terrorists (May 13, 2002)
Confusion Reigns Where Law Meets Cyberspace (June 24, 2002)
Companies Must Protect Their Employees' Info, Too (July 29, 2002)
Let's Get Going with Simple and Affordable Broadband [September 2, 2002]
Just who Benefits from 20 More Years? [October 7, 2002]
The Internet and the 21st Amendment [November 25, 2002]
Your Right to Remain Anonymous is Eroding [December 9, 2002]
Your Computer Could Help Fight Terrorism [March 10, 2003]
The Next Small Thing? No, in a Word [April 14, 2003]
The Slingshot of Information Freedom [June 9, 2003]
Let's Talk Jump-Starts, Not Caution [July 7, 2003]
No Cyber-Trespassing Here [Sept. 8, 2003]
When a Service is More than a Service [Oct. 27, 2003]
It's A Matter of Faith [Nov. 2003]
Outsourcing Deserves Policy Discussion [November 17, 2003]
Three Cheers for Free Trade [Dec. 2, 2003]
Who's Best to Manage Internet Plumbing? [Feb. 9, 2004]

"Plugging In" – a monthly column on law and technology, The American Lawyer

Demystifying the Internet (October 1994)
Ode to the 'Virtual Water Cooler' (November 1994)
Encryption: It's Not Just for Spies Anymore (December 1994)
Encryption vs. the Alligator Clip (January 1995)
E-Cash: Can't Live With It, Can't Live Without It (March 1995)
The Technology Trap (April 1995)
New Wine, Old Bottles: The Case of the Evanescent Copy (May
1995)
New Age Networking (June 1995)
New Rules for the Net? (July 1995)
Online Libel (September 1995)
Hansel and Gretel in Cyberspace (October 1995)
Technology and the Meaning of Life (November 1995)
'Knock, Knock: Who's There?' Anonymity and Pseudonymity
in Cyberspace (December 1995)

Copyright and Free Expression: Battle or Dance? (January 1996)
The Law is Where You Find It (March 1996)
'Clarifying' the Law of Cyberspace (April 1996)
A Domain by Any Other Name (May 1996)
Virtual Magistrates, Virtual Law (July 1996)
Understanding the Techno Evolution (September 1996)
How Shall the Net be Governed? (October 1996)
The Case of Virtual Junk Mail (November 1996)
A Net Squeeze on the Middleman (December 1996)
Staking a Claim on Information (January 1997)
The Taxman Cometh (March 1997)
Drawing the Line of Jurisdiction (May 1997)
Betting on Cyberspace (June 1997)
The Link to Liability (July-August 1997)
Who Has Dominion over Domain Names? (September 1997)
Privacy, Property, Cyberspace (November 1997)
Brave New Classrooms (Jan-Feb 1998)
Has Cyberspace Law Come of Age? (April 1998)
Opening Up Windows (June 1998)
Gambling on Internet Laws (September 1998)
Cyberspace's Constitutional Moment (November 1998)
Napster, Jefferson's Moose, and the Law of Cyberspace (May
2000)
Juries and the New Common Law of Cyberspace (Sept. 2000)

EXPERT WITNESS APPEARANCES

Attig v. DRG Inc. et al., (Docket No. 04-CV-03740-JDD) USDC ED PA [2005] [Copyright infringement Action]

Melk et al. v. Pennsylvania Medical Society et al. (Docket No. 08-CV3515 -- U.S. District Court, Eastern District of PA) [2008] [Copyright infringement action]

Gloster et al. v. Jacobs-Meadway et al. (August Term 2004 No. 2049 -- PA Court of Common Pleas) [attorney negligence/copyright and trademark infringement]

John Doe and Jane Doe 1 through 36 et al. v. State of Nebraska et al., (Docket No. 8:09-cv-456 – U.S. District Court, D. Neb) [First Amendment/Internet law]

Judge Richard Kopf, in the published opinion in this case, wrote:

“Professor Post was the most thoughtful and knowledgeable of the experts. I found his discussion of the term "collection of web sites" in relation to *Google* products particularly helpful. It is worth remembering that I strongly suggested that the parties get together to hire one independent expert. I even suggested the name of an independent scholar of Internet law. The parties did not elect to do so. That was their right. However, candor requires that I state that the defense expert—a former prosecutor—struck me as biased, particularly when compared to Professor Post.” *See Doe v. Neb.*, 898 F. Supp. 2d 1086, 1119 fn 35 (D. Neb. 2012).

Warden et al. v Falk et al. (Civil Action 11-cv-02796, United States District Court for the Eastern District of Pennsylvania) [trademark infringement action]

Doe v. Harris, No. C12-5713-TEH (US District Court, ND CA, 2012) [First Amendment/Internet law]

Doe v. Commonwealth of Kentucky (US District Court, ED KY 2014) [First Amendment/Internet law]