Slippery slopes or solid ground?
Living with the ‘cyberspace is place’ metaphor
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Abstract
The ‘cyberspace as place’ metaphor is now so familiar that most habitual users of the internet and world wide web rarely stop to think about it. The language of the net is redolent with spatial metaphors the majority of which have been absorbed into the argot of the internet such that it becomes increasingly difficult if not nigh impossible to discuss the internet and the activities it makes possible without reference to such metaphors. Inevitably the use of such metaphors has been adopted, developed and has influenced academic and judicial discussion of activities which take place in cyberspace. Over the years much has been much discussion of spatial metaphors by both proponents and opponents and yet it remains a live issue. In particular, Hunter has demonstrated how the ‘cyberspace is place’ metaphor although originally used to denote the ‘other worldliness’ of the internet has metamorphosed and now is used to suggest that cyberspace is merely a space within the real world. Although some commentators have argued that spatial metaphors are inappropriate and unnecessary, their use suffuses our comprehension of cyberspace to such an extent that locating a universally acceptable alternative would probably be impossible.

What effect has the use of spatial metaphor had on the application of existing legal principles to activities in cyberspace and the development of online regulation? Are spatial metaphors both necessary and useful or do they inevitably involve a step onto a slippery slope which may yield inappropriate results at best and a catastrophic outcome at worst? How can spatial or other metaphors be best used in the application of legal principles to cyberspace? How far can a metaphor be stretched? How necessary is it ‘to go beyond the metaphor and examine the specific mechanisms that cause the phenomenon that the metaphor describes’? (Volokh p.1137) Building on existing analysis (e.g. Walton, Hunter, Lemley, Schauer, and Volokh) this paper examines the use of spatial metaphors as a device to understand the various manifestations of online communication and the influence they have had on the development of the relevant law and policy. Case studies will be used to analyse the extent to which arguments employing spatial metaphors for online communication exhibit the characteristics of slippery slope arguments or whether they are capable of providing a firmer foundation for the development of coherent strategies for the regulation of online activities.

Bibliography:
Hunter, Dan ‘Cyberspace as place and the tragedy of the digital anticommons’ 91 Cal L Rev 439 (2003)
Schauer, Frederick ‘Slippery Slopes’ 99 Harv L Rev 361 (1985)