Cyber@9-11, Webs of Deceit and the Art of War
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ABSTRACT
General narratives of malicious code emphasize the consequential and normative implications of disruptive technologies for information flows. One concomitant of the framing of the debate has been to direct the focus on models of governance in a liberal democracy. Surprisingly, the issue strategy and its relevance for the governance debate in a global economy continue to be marginalized by cyberlawyers. We can challenge current orthodoxy by envisaging an analogue of the events in 9/11 and the threats facing the digital environment. There are two benefits in using this event as a thought experiment. First, it compels cyberlawyers to adopt a globalised view of the pernicious nature of malicious code. Second, the characterization of the governance problems posed by malicious code in terms of warfare underscores the relevance of moving the debate towards questions of strategy and ubiquitous computing systems. At its most general level, the war against terror and the war against malicious code pose familiar governance conundrums. Unprovoked attacks in both “real” space “cyber” space have obvious consequences for governance – the management of risk, complexity and uncertainty must confront technological and design constraints posed by information systems. Whilst acknowledging the limits in the comparisons between the “real” and “cyber” worlds, one cannot disagree with the fact that military strategists are regularly having to think creatively about how best risk and uncertainty can be managed. The primary contribution of this paper is to incorporate ideas from classical eastern military strategy into the present discourse about malicious code. There are two limbs to the analysis. First, to explicate the commonality between the insights of the Eastern Chinese military strategist, Sun Tzu in The Art of War and malicious code. Second, to attune the challenges in the physical terrain with those of the digital terrain. I argue that pervasive communication platforms, when properly understood, do not throw up governance problems that are qualitatively at variance with the object of Sun Tzu’s concern. By mapping Sun Tzu’s ideas into the communication platforms of the digital environment the paper aims to dispel the received wisdom of the ‘code is law’ thesis or that law can be an appropriate surrogate in a borderless environment. More crucially, the paper makes a preliminary attempt in linking the Art of War to the subject of governance.