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LAW, TECHNOLOGY, AND SOCIETY)
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P.I.LAB

**COMPUTERS, PRIVACY AND DATA PROTECTION
CONFERENCE 2013**

Stage Ahoy!

**Deconstruction of the "drunken pirate" case in the
light of impression management**

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Stage ahoy!

Deconstruction of the "drunken pirate" case in the light of impression management

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Abstract Information on the Internet can sometimes damage people by interfering with offline life. A high-school teacher-in-training experienced this firsthand when a photo with the caption "drunken pirate" and a message on her MySpace website led to the end of her career as a teacher. This case received a lot of media attention and is used in academic debate as illustrating the need for a "right to be forgotten". The question is how and to what extent the Internet contributed to the fact that the teacher-in-training's information ended up with the wrong audience. The problems in this case did not arise due to any memory related capacities of the Internet or the Internet being a place where information can be easily copied and reproduced. The problems arose because audience segregation on the Internet is a difficult task.

1 Introduction

In the world, an increasing number of people make use of the Internet.¹ The Internet is a rich source of information and a medium that is widely used on a daily basis for information exchange. In a relatively short time, the quality and quantity of

¹ Manuel Castells, *The information Age: Economy, Society, and Culture, Volume I: the Rise of the Network Society*, (Chicester: Wiley-Blackwell, second edition 2010), 382.

digital data storage and online accessible information have grown explosively. In his book *Delete: The Virtue of Forgetting in the Digital Age*, Viktor Mayer-Schönberger describes this qualitative and quantitative growth of digital data storage.² Compared to the analogue era, people have easier access to more information in the age of Web 2.0 and can more easily reach and store information. The Internet is also a very popular medium for the management of self-presentations and corresponding social relations. Websites like Facebook³, MySpace⁴, Google+⁵ and LinkedIn⁶ provide a platform for social interaction and information exchange (some are more focused on leisure interaction like Facebook, and some more on professional interaction like LinkedIn). This big flow of information has many benefits, but when it comes to personal data, it is also a reason for concern. The core concerns of personal information being accessible on the Internet are the lack of control that an individual has over this information and the possible consequences of that lack of control; for instance, people being unable to "escape" from past online information about them or people experiencing professional consequences due to their off-time behaviour that can be viewed on the Internet. The online information can severely affect the offline lives of individuals.

When one is interested in the manners in which offline life can be affected (negatively) by the Internet and starts digging through literature and articles concerning the matter, one is bound to stumble upon the so-called "drunken pirate" case sooner or later. This case received much media attention because it showed the possible destructive consequences of posting information on social media websites.⁷ The data subject in

² Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton: Princeton University Press, 2009).

³ www.facebook.com.

⁴ www.myspace.com.

⁵ plus.google.com.

⁶ www.linkedin.com.

⁷ See e.g.: Jeffrey Rosen, "The Web Means the End of Forgetting" (2010). Url: <http://www.nytimes.com/2010/07/25/magazine/25privacy-t2.html?pagewanted=all&r=0>; Randall Stross, "How to Loose Your Job on Your Own Time" (2007). Url: <http://www.nytimes.com/2007/12/30/business/30digi.html?pagewanted=all>; Brock

this case - in this paper referred to as "S"⁸ - became a news item because information on her MySpace website led to the end of her career as a teacher. S is denied her teaching diploma because she showed an apparently compromising photo of herself on her website.⁹ The picture in question showed S with a pirate hat while drinking from a plastic cup. She captioned the photo "drunken pirate". The case has been repeatedly used to illustrate the need for a "right to be forgotten"¹⁰ or need for deletion or erasure of 'expired' data¹¹. Mayer-Schönberger writes:

S(...) considered taking the photo offline. But the damage was done. Her page had been catalogued by search engines, and her photo archived by web crawlers. The Internet remembered what S(...) wanted to have forgotten.¹²

These approaches have put a lot of emphasis on the 'remembering' capacities of the Internet in the current debate on data protection. The question is whether the problems with regard to individual information control on the Internet and the solutions to these problems are (all) best approached from (only) a temporal framework of 'remembering the past', since the Internet also affects the sharing of information over a spatial distance at a single point in time. In order to figure out how to cope with the problems that can arise due to information being online, I therefore believe it is necessary to get a clear picture first of the character of the problem(s) that can arise due to information being on the Internet. Because the "drunken pirate" case seems to be becoming an iconic case with regard to the offline problems that can be caused by people having access to online information, I believe it is worthwhile to explore this specific case in detail. Therefore, the role that the Internet played in the "drunken pi-

Read, "'Drunken Pirate' Learns Costly Lesson From Her Myspace Posting" (2007). Url: <http://chronicle.com/article/Drunken-Pirate-Learns/38725>.

⁸ This paper is written as response to a case that received a lot of media attention. In the media articles S is repeatedly named with her full name. In order to try to preserve some degree of privacy of the subject by not adding to the prevalence of her name online, I anonymized the data subject' s name to "S".

⁹ Viktor Mayer-Schönberger, *Delete* (Princeton: Princeton University Press, 2009), 1.

¹⁰ http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_11_en.pdf.

¹¹ Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton: Princeton University Press, 2009).

¹² Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton: Princeton University Press, 2009), 1.

rate" case will be examined in this paper. The main question is: which role did the Internet play in the downfall of S's career as a teacher?

To answer this question I will first give an outline of the case. Next, I will discuss the relation between impression management and the control of information and subsequently the manner in which the use of Internet affects an actor's¹³ ability to control his self-presentation. After that, I will consider the case in the light of the previously discussed elements. Finally, I will draw a conclusion as to what extent the Internet played a role in the downfall of S's teaching career.

2 The "drunken pirate" case: what happened?¹⁴

In reality, the "drunken pirate" case is a bit more complex than the straightforward dismissal of an individual because of a single photo on the Internet. It has been a combination of factors and decisions that to a greater or lesser degree all played a role in the turn of events.

S, who studied at the Millersville University (MU) wanted to obtain a degree as Bachelor of Science in Education (BSE). In order to receive this, she had to complete a student-teacher program successfully, part of this being an internship during which she had to fulfill the duties of a teacher for a certain period of time. During this internship, that S fulfilled at the Conegesta Valley High School (CVHS), the student-teachers had to adhere to the same professional standards as their professional colleagues and "fulfill as effectively as possible every role of the classroom teacher"¹⁵. During the orientation for the teaching program S

¹³ The agent can be any gender type, including gender X (the third legal gender, for example, in Australia). Because truly gender neutral pronouns like "xe" are still regarded as uncommon, I will refer to an agent as "he/him/his", although this use of the masculine gender is meant to include all options.

¹⁴ Summary of the events as described in S v. Millersville University et al., case 2:07-cv-01660-PD, document 47. In the documents prior to 47 one can find conflicting statements of the parties. Since piece 47 shows the ground for the judge's ruling, it is held as being the closest approach of the facts.

¹⁵ S v. Millersville University et al., case 2:07-cv-01660-PD, document 47, 5.

was cautioned not to refer students to personal websites. In addition it was pointed out to her that student-teachers who ignored this warning, could be dismissed. Despite this warning and others from her supervisor S repeatedly communicated to her students that she had a website at the social network service 'MySpace'¹⁶. When one of the students approached a friend of S that was pictured on S's MySpace website, S became aware of the fact that at least one of her students visited her MySpace. She told this student that it was inappropriate for students to look at the MySpace website of a teacher since this had to be regarded as crossing a teacher-student boundary. However, on 4 May 2006 S posted the following message on her MySpace:

First, [friend X] said that one of my students was on here looking at my page, which is fine. I have nothing to hide. I am over 21, and I don't say anything that will hurt me (in the long run). Plus, I don't think that they would stoop that low as to mess with my future. So, bring on the love! I figure a couple of students will actually send me a message when I am no longer their official teacher. They keep asking me why I won't apply there. Do you think it would hurt me to tell them the real reason (or who the problem was)?¹⁷

With 'they' S claims to refer to her students. Besides the above message, S also uploaded the "drunken pirate" picture. S stated that the photo had a personal meaning and that the message was only intended for her best friends.

A day later, on 5 May 2006, one of S's colleagues brought the message and the photo on her MySpace to the attention of her supervisor. Especially the message was condemned by CVHS, because it referred to S's work at the school. Next to that S already had a difficult understanding with one of her supervisors and the message disrupted this relationship even further. CVHS decided to bring S's teaching practicum to an early stop and bar her from campus. They gave three reasons for S's dismissal: S disobeyed her supervisors by communicating with her students about personal matters through her MySpace website, S had acted unprofessionally by criticizing her supervisor in the 4 May 2006 post and S was judged to have performed incompetently as a teacher. S's supervisors stated that S had problems with maintaining a formal teaching style and had difficulty

¹⁶ See <http://www.myspace.com>.

¹⁷ S v. Millersville University et al., case 2:07-cv-01660-PD, document 47, 10.

adopting an appropriate role as a teacher in relation to both students and colleagues. She was considered too amicable towards her students and was accused of sharing too much information with them regarding her personal life.

As a result of this S had failed her internship and was graded as inadequate for the student-teacher program. She therefore did not meet the requirements to qualify for her BSE degree at MU.

This case shows that S's made a wrong impression on her colleagues and supervisors; in their eyes she was not up to the task of functioning as a teacher (in this paper I will leave aside whether this judgement was just). The impression that S made with her post and photo on MySpace was the straw that broke the camel's back and has been used by her supervisors to have her dismissed. Evidently something went wrong with S's impression management.

3 Impression management

Before determining which role the Internet played in the "drunken pirate" case, it is important to explain first how information plays a role in social interactions.

3.1 The theatre metaphor: performing for an audience

Most people behave differently in different settings without perceiving their own identity as 'changed': despite being the same persons they show different aspects of their character depending on the context and setting that they find themselves in. For instance, a lot of people behave differently around their loved ones in the private spheres of their home than around colleagues at their work, sometimes they even speak in a higher or lower register of their voice. In different situations they share other information, including 'which 'part of themselves' they show. In his book *The Presentation of Self in Everyday Life* the so-

ciologist Erving Goffman explains this phenomenon¹⁸ and to make things clear he uses theatrical terms: an actor plays a certain role and provides signals to the audience to inform it about the role that he is playing. The performance is the 'front' of the actor.¹⁹ The information that does not match the role is kept 'backstage' by the actor.²⁰ What counts as front stage and backstage is not a rigid distinction; the stages can swap roles depending on the performance that is regarded.

The audience receives information about the performance of the actor in various ways: by the actor's intentional communication, his appearance, his body language, his props and the stage of the interaction.²¹ He may also unconsciously provide his audience with information²² whilst the people around him (co-actors) also can provide the audience with important information.²³ The information to which the audience has access is crucial: the audience-members use the information to define the situation, to form a mental picture of the actor's identity and to get an idea what to expect from the actor and what the actor will expect from them in return.²⁴ Audience-members use the impressions that they have of an actor to ascribe certain social attributes and categories to him: his 'social identity'.²⁵ This interpretation of the actor's social identity forms the basis for the audience's assumptions about the actor's traits and behaviour and gives rise to the audience's normative expect-

¹⁸ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959).

¹⁹ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 32.

²⁰ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 114.

²¹ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 14.

²² Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 14.

²³ Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity*, (London: Penguin Books, 1963), 43.

²⁴ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 13.

²⁵ Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity*, (London: Penguin Books, 1963), 12.

tations and demands.²⁶ These normative expectations depend on the social norms of the audience.

The audience members use the information they get to decide on the way in which they will respond to the actor's performance.²⁷ Therefore it is vital for an actor's performances that he controls the information to which his audiences have access. By sharing certain information with some people and not with others, an actor can give shape to his self-presentation and distinguish between different types of social relationships in order get to different types of responses.²⁸

Making a distinction between the information one shares and the information one omits, based on the role that one is playing, is not only important to distinguish between roles, but it can also be vital for a credible performance: information that is essential for a certain performance can be detrimental to another performance of the same actor. An audience that gets access to information that is detrimental to the performance it beholds, can become disillusioned. For an actor it will be difficult or even impossible to convince a disillusioned audience of the reality of the performance that he is giving.²⁹ Goffman states: "... the impression of reality fostered by a performance is a delicate, fragile thing that can be shattered by very minor mishaps."³⁰ It is therefore necessary that an actor segregates his audiences to accomplish that the same audience will not see him in two inconsistent or conflicting performances.³¹ This also is the case when an audience in the past has seen him in a performance that is inconsistent with his current one.³² Information about the actor

²⁶ Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity*, (London: Penguin Books, 1963), 12.

²⁷ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 21/22.

²⁸ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 17.

²⁹ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 136/137.

³⁰ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 63.

³¹ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 137.

³² Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 138.

that harms a performance in any way, is "destructive information"³³. A disrupted performance can lead to a disturbed relationship between the parties on the level of the social interaction. To give an example: when the patients of a relationship therapist learn that the therapist himself is divorcing his own partner, this information has a high risk of affecting the trust of the patients in the skills of their therapist. If so, the performance of this therapist as an expert on mending troubled relations is disrupted, since his professional performance as an expert in mending relations is not credible to his patients, while the fact that the relationship therapist himself is divorcing his partner, does by no means necessarily mean that his skills as a relationship therapist are poor. The interaction on the level of the relation between patient and therapist is disturbed and the therapist will have problems doing his work properly because he lacks the trust of his patients. Goffman therefore states: "A basic problem for many performances, then, is that of information control; the audience must not acquire destructive information about the situation that is being defined for them."³⁴

3.2 It is in the eye of the beholder

As pointed out in the previous section the control over personal information is of great importance to an actor's impression management. It is in the interest of the actor to decide for himself how he presents himself to others, so that he has maximum control over the image his audiences can form of him³⁵ and in this process informational privacy plays a crucial role. An actor can only present himself in different ways if he has sufficient privacy to control who has access to which information about him.

³³ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 141.

³⁴ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 141.

³⁵ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 15.

Privacy is often defined as a form of access control, wherein privacy means having control over the access that others have to something personal, in this case personal information. Alan Westin defines privacy as "(...) the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others"³⁶ Charles Fried states that privacy "is not simply an absence of information about us in the minds of others; rather it is the *control* we have over information about ourselves."³⁷ Privacy as a form of access control over information regarding oneself is necessary for the construction of an identity of one individual between other individuals; "[self-identity] has to be routinely created and sustained in the reflexive activities of the individual"³⁸. A lack of privacy can hinder an actor to act autonomously by depriving his choices concerning his self-presentations and limiting him in the choice of the types of social relationships that he can establish.³⁹ I therefore adopt Floridi's view of the right to informational privacy as "a right to personal immunity from unknown, undesired or unintentional changes in one's own identity as an informational entity"⁴⁰.

Floridi points out that his interpretation of informational privacy "suggests that there is no difference between one's informational sphere and one's personal identity"⁴¹. However, because I am interested in the individual as an informational entity *within* social interactions, I want to make a small nuance in this perspective and therefore I may deviate somewhat from what Floridi had in mind. In general an actor as an informational entity within a social interaction only shows a part of his information to a specific audience (the distinction between performing on the front stage and keeping certain information back stage)

³⁶ Alan F. Westin. *Privacy and Freedom* (New York: Atheneum 1966), 7.

³⁷ Charles Fried, "Privacy [a moral analysis]." In *Philosophical Dimensions of Privacy*, edited by Ferdinand D. Shoeman, (Cambridge: Cambridge University Press, 1984), 209.

³⁸ Anthony Giddens, *Modernity and Self-Identity* (Stanford: Stanford University Press, 1991), 52.

³⁹ Beate Rössler, *Der Wert des Privaten* (Suhrkamp Verlag, Frankfurt am Main 2001), 112.

⁴⁰ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 195.

⁴¹ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 195.

and this part does not necessarily have to coincide with his "actual identity".

To start with, an actor's own sense of self will always first be interpreted by the actor himself and translated into a performance before an audience can even perceive it. Also, an actor may not always perform conform his own sense of self (for instance, because he is afraid of the reactions of his environment) and as a result he may choose not only to play different roles, but also to play different characters for different audiences. Information concerning a choice to perform in correspondence with one's sense of oneself (or not) is a part of one's identity (when an actor's information is regarded as being his identity), but usually that information is not something to which audience members have access. This means that an audience has only a limited view of the information - and therefore identity - of an actor.

Furthermore, because an audience cannot look inside an actor's consciousness in order to perceive his actual identity, it cannot know the "identity-in-itself" (lending part of the term from Immanuel Kant⁴²) of the actor, but it can only perceive (part of) the informational entity and interpret the information in correspondence with its own knowledge (its experience with and knowledge of language, signals, attributes and norms). People are aware of feelings and experiences of other persons on the basis of their own empathic inferences.⁴³ The impression an audience has of an actor, gets coloured by its own knowledge and experiences. Therefore the social norms of the audiences of the actor will be important for the way in which they will respond to certain information. Societies link different expectations to certain social characteristics as certain social identities are associated with specific stereotypes and lead to expectations about the actor's behaviour, regardless the specific situation. With regard to the social identity that an audience imprints on

⁴² In simplified terms, Kant stated in his work *The Critique of Pure Reason* that humans could never see the "thing-in-itself" because they would always see the thing in their own empirical perception of space and time, which are not necessary characteristics of the thing-in-itself. Immanuel Kant, *Kritik der reinen Vernunft*, (Insel, Darmstadt, 1781).

⁴³ Anthony Giddens, *Modernity and Self-Identity* (Stanford: Stanford University Press, 1991), 50/51.

an actor based on the impressions that they have of him Goffman speaks of a *virtual social identity*.⁴⁴ The social identity that an audience imprints on an actor can deviate from the category and attributes that the actor actually possesses, which Goffman calls the actor's *actual social identity*.⁴⁵

Summarizing we may conclude that on the level of social interactions an actor's identity is perceived by his audiences as *their interpretation of his available information*. Consequently, what an actor needs to share and what to omit in order to play a certain role without running the risk of a disrupted or faulty performance, depends for a great deal on the social norms of his audience. All societies create the norms for the way information is shared and interpreted. The social norms people inherit on a cultural and social level largely determine what is considered to be private information in which context,⁴⁶ and what information in what kind of relationship we are expected to share.⁴⁷ Such social conventions shape our expectations of what others know about us and how they deal with this knowledge. Especially social roles are associated with specific stereotypes and lead to expectations about the actor's behaviour, regardless the specific situation. Such roles are said to be 'institutionalized'⁴⁸ and the traits of character associated with an institutionalized role are culturally determined. Because of social conventions an actor is sometimes expected by society to keep certain information private in specific contexts.⁴⁹ This counts especially with regard to institutionalised roles. For instance, there generally is a difference in what an actor is expected to share in professional interactions and social interactions. The point about sharing information in a social interaction is therefore that it is an *interaction*:

⁴⁴ Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (London: Penguin Books, 1963), 12.

⁴⁵ Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (London: Penguin Books, 1963), 12.

⁴⁶ Cf. generally, Helen Nissenbaum, *Privacy in Context* (Stanford: Stanford Law Books, 2010).

⁴⁷ Beate Rössler, *Der Wert des Privaten* (Suhrkamp Verlag, Frankfurt am Main 2001), 118.

⁴⁸ Erving Goffman, *The Presentation of Self in Everyday Life*, (London: Penguin Books, 1959), 37.

⁴⁹ Ferdinand D. Schoeman, *Privacy and Social Freedom*. (Cambridge: Cambridge University Press, 1992), 137.

audiences respond to the performer on the basis of the information that they receive from the actor and other sources, combined with the knowledge that they already have. If an actor wants to get (or avoid) a certain response from an audience and wants to play certain roles successfully, he will need to act in correspondence with the norms of his audience. And for a great part what one is expected to share or to omit will also depend on the context. So even if an actor believes he has nothing to hide, he *does* have to abide by certain restrictions on the information that he shares (this covers the whole possible spectrum of information: content of the information, appearance, props, stage etc.) *in order to* perform certain roles in a socially recognizable and acceptable way.

3.3 Synchronous audience segregation

An actor who wants to be able to play different roles and to reduce the risk of any disruption of his performances, will need to segregate his audiences in such a way that audience members only have access to performances of roles that are intended for them. The stage on which a role is performed is an important factor in the audience segregation.

In general different roles continue to exist over time; their performance is repeated on a daily/weekly/monthly/etc. base. The roles that actors play depend on the setting and usually they adjust their performance accordingly. This works two ways; an actor adjusts his performance and the role that he is playing when he finds himself in a certain setting, but he can also actively seek a certain setting in order to play a specific role. To differentiate between roles and their corresponding audiences, an actor will usually swap (a part of) his appearance, props, co-actors, stage and audience. The quickest way to realize such a swap is by moving in space to another stage. Physically humans can only be in one place at a time, so by moving in space, they generally swap audiences and co-actors. By physically moving to another stage, an actor will not only move himself to another setting with different people (audiences and co-actors), but also

to another stage and props. Since our physical world is divided in different "stages" and roles are generally performed on a certain stage - like the home, the school, the office and the supermarket - a role swap by changing stages is a very convenient and relatively clear method. However, roles are not fixed to a certain stage, since the role that will be played, will also depend on other aspects of the setting, like the people that the actor is with. When for instance a colleague of the actor will visit the actor at home in order to prepare a presentation for work, the actor will then play his role as employee at home.

Since an actor can be physically on only one physical stage at the same time, the audience segregation for a physical performance is based on the stage - the place in space - where the actor is performing (but of course an actor can also perform on one stage for two different audiences who interpret the roles differently based on their own knowledge). In order to have different stages and audiences, an actor will need to have a front stage and a back stage. Ergo, he needs to have the privacy to distinguish between his front stage and back stage information and control the access to these stages, so in fact he creates a different (front) stage for each audience. The control over the access to the performances on these different stages will differ depending on the nature of the stage. In *The Ontological Interpretation of Informational Privacy*⁵⁰ Floridi gives a fruitful account of privacy that I shall use to elaborate on the consequences that the nature of a stage can have for an actor's privacy.

In relation to the performance of an actor the setting of his performance, including its stage(s), props, actors, and audiences, would be what Floridi's calls the *infosphere*⁵¹. In the infosphere a certain amount of data is available for the audience to access. The larger the gap between the available information concerning the actor and the information the audience has, the larger the actor's privacy.⁵² The accessibility of the information

⁵⁰ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 185-200.

⁵¹ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 186.

⁵² Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 186.

depends on "the ontological features of the infosphere"⁵³, the features and characteristics of the actor, the audience-members, the props and – for this paper most importantly - the stage, so a performance given in a locked room with brick soundproof walls will be far less accessible for a would-be audience member who is not in the room, than if the same performance was given on a public square. A would-be audience member would be able to access the performance on the public square quite easily and become a real audience member, but features like a brick wall determine the degree of what Floridi calls "ontological friction"⁵⁴:

"Ontological friction" refers here to the forces that oppose the information flow within (a region of) the infosphere, and hence (as a coefficient) to the amount of work required for a certain kind of agent to obtain information (also, but not only) about other agents in a given environment.⁵⁵

When performing on a stage with limited characteristics to stop or delay a flow of information, that therefore provides for a low or completely no degree of ontological friction, an actor has to keep in mind that he has almost no (if any) control over who has access to his performance. The features of the stage on which the performance is given, are therefore fundamental factors in the possibilities for an actor to effectively segregate his audiences. Part of controlling and managing one's impressions is therefore selectively choosing the stage for a certain performance based on the intended audience in combination with the amount of ontological friction provided by the stage. Technology that enables us to perform outside of our physical existence – like the Internet – turned that selection into a big challenge.

⁵³ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 186.

⁵⁴ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 186.

⁵⁵ Luciano Floridi, "The Ontological Interpretation of Informational Privacy." *Ethics and Information Technology* 7.4 (2005): 186.

4 The Internet as stage

Due to the interactive nature of the Internet and the fact that it is often used as a platform for the exchange of social information, Internet webpages become potential stages for the performance of roles. As a result of this we see that social network sites (SNS) in particular are transformed into important stages for the performance of various self-presentations, as was the case with the "drunken pirate". S made use of the SNS MySpace to share information with her audiences. However, Internet stages do not occupy a place in space and time in the same way as physical stages and that creates a fundamentally different situation. In order to determine the role that the Internet has played in the "drunken pirate" case, it is necessary to get an idea of the manner in which the Internet forms a different sort of stage for an actor's self-presentations than a physical stage.

4.1 Layered stages

As stated above, Internet stages do not occupy a place in space and time in the same way as physical stages: the Internet has a fundamentally different character than the physical world.

A performance on the Internet consists of digital information; the actor gives his performance in bits. An important characteristic of digital information is that it is aspatial.⁵⁶ It is not bound to any physical information carrier (like a newspaper or an actor that is giving a performance) and thus lacks certain ontological frictions that are typical for information that is 'fixed' to a certain physical form. Digital information can be easily transported.⁵⁷ Spatial ontological frictions (like distance or walls) are insignificant with regard to the sharing of digital information; the digital information can be distributed worldwide in a matter

⁵⁶ Michalis Vafopoulos. "Being, space, and time on the Web." *Metaphilosophy* 43.4 (2012): 412.

⁵⁷ Bibi van den Berg and Ronald Leenes. "Audience Segregation in Social Network Sites." *Proceedings for SocialCom2010/PASSAT2010* (2010). Minneapolis: IEEE: 1112.

of seconds as long as one has access to the Internet. Also temporal ontological restrictions (like the opening times of libraries) are severely reduced too.

Another characteristic of digital information that distinguishes online stages from offline stages is the fact that digital information usually is a nonrival good.⁵⁸ This means that the consumption of the good by one person, does not diminish the usefulness of the good for others.⁵⁹ Information on a website can generally be viewed by a massive amount of people at the same time, without any of them preventing another person to see exactly the same content. This is a sharp contrast with physical performances, where no audience member can have exactly the same view of the performance as another (the audience members cannot be on the same spot with their eyes on exactly the same place) and where at the same time they can physically block each other's views. Although there is a limit to the maximum amount of people that can view a website at exactly the same time due to the capacity of the server that is hosting the website, this is only a small limitation compared to the limitation of the maximum amount of people that can access a physical performance at the same time, like a teaching performance in a classroom.

Because an online performance is not fixed to a physical form, it gives the actor of an online performance a great freedom with regard to his self-presentations: he can present himself as anyone or anything without any necessary resemblance to his own physical existence. In that sense the Internet provides an actor with a far-reaching control over his self-presentation. However, his options for self-representation are limited and affected by the manner in which the online stage is programmed. If for instance he uses a SNS website that requires him to either tick "male" or "female" as part of his required personal information, one of those two categories will be attributed to the character that he is playing.

⁵⁸ Vafopoulos, Michalis. "Being, space, and time on the Web." *Metaphilosophy* 43.4 (2012): 411.

⁵⁹ *Ibid.*

Additionally, because the online performance is detached from the actor's physical form, he can perform multiple roles on multiple online stages simultaneously, while in his physical form, he is restricted to one physical stage at a given point in time. Because potentially the Internet is always accessible from anywhere and depending on privacy settings, the online performance of the actor can be too. That means that an audience of an actor's performance in the physical world can attempt to get access to his online performance(s) as well. The detachment of an online performance from the actor in his physical form as being positioned in space and time, can lead to "layered" performances; because of the position that Internet stages can occupy in relation to physical stages – they provide a stage for multiple performances that is theoretically always present, but not necessarily seen – the Internet stages can give an extra interpretative layer to a physical performance (or vice versa) by showing the actor in other performances and possibly other roles. The distinction between an actor's front stage and back stage will become vaguer due to the multiple performances (the back stage of one performance can be the front stage of the other) and may collapse. Performances on Internet stages - when accessible - can thus affect offline performances (and vice versa) by influencing the manner in which performances are interpreted by audiences. Because of the mutual influence that on- and offline performances can have on each other, the audience segregation in relation to multiple stages is vital for impression management.

4.2 Performing on the Internet stage: the general challenges

When an actor is using the Internet as a stage for performances, this stage can provide quite some challenges for him with regard to the control over his (on- and offline) performances and his corresponding audience segregation.

First of all, the amount of people that can populate an 'Internet space' (a website) is much higher than a physical space. Because the Internet is aspatial, it easily overcomes any spatial ontological frictions like distance and walls. Consequently, it also

is not limited by the "distance between the walls"; it does not have a maximum physical mass that can occupy a certain space. For example, we can all watch our friend A perform her role as friend online without needing to be cramped up together in her house in order to see the performance. The amount of people that potentially have access to an online performance, can therefore be much higher than the maximal amount of people that can see a performance on a physical stage. Additionally, an online performance can continue unchanged and indefinitely over time, it can be more or less 'frozen' in time. In contrast, a physical performance is an action that actively happens in time and therefore is a series of moments that eventually ends. The aspatial character and potential timelessness of an online performance infers that the access to online data could possibly involve a potentially infinite audience (depending on inter alia the privacy settings) through space and time (people from all over the world, future generations).

Secondly, the aspatial character of the Internet stage makes it difficult to keep an overview of the presence and composition of online audiences that are viewing a certain performance. Because an actor on an online stage has no physical presence in front (or between) physical audience members, he depends on 'signals' of his audience members that they are watching the performance. An example of this is audience members on Facebook clicking the "like" button under a certain post. Due to this dependence on signals, actors that perform on such a stage have therefore a limited view of their audience.⁶⁰ Because of the limited view, it is hard -maybe even impossible- for an actor to timely register when an unintended audience has access to his Internet stage(s) and adjust his performance accordingly. The presence of unintended audience members will generally only come to an actor's attention when he receives a reaction from the unwelcome audience member on his performance, and by then, most of the damage is already done.

Due to the aspatial character of the Internet -which nullifies any spatial ontological frictions- an actor runs the risk of

⁶⁰ Bibi van den Berg and Ronald Leenes. "Audience Segregation in Social Network Sites." *Proceedings for SocialCom2010/PASSAT2010* (2010). Minneapolis: IEEE: 1112.

performing on an all-encompassing online stage for the whole world if he cannot control who has access to his performance and who not. Controlling the access to a performance and being able to segregate audiences is therefore vital for an actor if he wants to be able to play different roles successfully, because this would not be possible if his audiences are able to regard him in all his roles. The control over this access depends on the options that are offered by the way the Internet stage is programmed. It depends on the features of a website whether an actor can limit access and can segregate his audiences by distinguishing between friends, colleagues, family etc. Most social network sites have limited options to differentiate between different sorts of relationships.⁶¹

Additionally, the control over the self-presentation and any inferences thereupon by others is problematic when performing on the Internet stage.⁶² The online self-presentation consists of information that is added to the Internet by both the actor and his audience(s). Controlling such self-presentations is difficult since other parties can influence the interpretations of the performance. In this sense the Internet stage seems to allow more interaction with regard to the construction of a self-presentation than a physical stage, because the audience has more possibilities to add a 'comment' on the actor's performance that can 'stick' and be perceived by other audience members.

Furthermore, because the performance consists of digital information, the audience members can multiply and copy the performance information flawlessly without any loss of quality or quantity of the original information. Digital information is infinitely expansible.⁶³ Online, the information can be stored for a long time and with the help of search engines it can usually be retrieved relatively easily. Due to these characteristics, the digi-

⁶¹ Bibi van den Berg and Ronald Leenes. "Audience Segregation in Social Network Sites." *Proceedings for SocialCom2010/PASSAT2010* (2010). Minneapolis: IEEE: 1111.

⁶² *Ibid.*

⁶³ Vafopoulos, Michalis. "Being, space, and time on the Web." *Metaphilosophy* 43.4 (2012): 411.

tal information can get a certain persistence.⁶⁴ And because digital information can be copied and reproduced anywhere on the web, it is hard to keep track (if that is even possible) of where all the copies are, let alone to exercise control over all the copies. Once the information is taken out of context, it runs the risk of being misinterpreted.

Because of the above-discussed issues, an actor can generally segregate his audiences with far less nuances when performing on current Internet stages like MySpace and Facebook, in comparison to offline stages. Performances that can be viewed online have a higher risk of reaching an audience for whom certain information can be disillusioning. When performing online, it is therefore difficult to be sure that one is performing for the intended audience.

5 The "drunken pirate" on stage

In the case of the "drunken pirate" the digital information that motivated S's supervisors to have S dismissed, were the message and to a lesser extent the "drunken pirate" photo that S had posted on her MySpace website. S had used her MySpace website as a stage to ventilate her dissatisfaction about her internship and more specifically to hint at the fact that a certain person was "the real problem"⁶⁵. The MySpace stage fulfilled a role as back stage with regard to her teaching role, and the CVHS campus ground formed her main front stage. According to S, the performance on the MySpace stage was intended for her best friends only - and as a result this was the front stage for them). However, in her message she assumes that a breach of audience segregation by her students will not be a problem. S believed that she "had nothing to hide"⁶⁶ and states: "...I don't say anything that will hurt me (in the long run). Plus, I don't think that

⁶⁴ Bibi van den Berg and Ronald Leenes. "Audience Segregation in Social Network Sites." *Proceedings for SocialCom2010/PASSAT2010* (2010). Minneapolis: IEEE: 1112.

⁶⁵ S v. Millersville University et al., case 2:07-cv-01660-PD, document 47, 10.

⁶⁶ Ibid.

they would stoop that low as to mess with my future".⁶⁷ Unfortunately S was misjudging the situation on quite a few levels.

To start with, the "I have nothing to hide" position expressed by S is problematic, even more with regard to her role as teacher at CVHS. "I have nothing to hide" is a statement that tends to rear its head regularly in discussions regarding privacy.⁶⁸ Leaving aside the flaws of the "I have nothing to hide" notion in general⁶⁹ and assuming that an actor sincerely believes that he does have nothing to hide, the actor still has to keep in mind that there are certain restrictions on the information that he can share (this covers the whole possible spectrum of information: content of the information, appearance, props, stage etc.) in order to perform a role in a socially recognized and accepted way. The success of a performance depends on the norms and knowledge of the audience and in this case in the eyes of S's supervisors a credible performance of her role as a teacher was dependent on their norms. The role of 'teacher' is generally associated with a number of requirements that people have to meet before they are found fit to educate the younger generations and is therefore an institutionalised role. In CVHS the view on the "script" that a teacher had to follow was quite clear and strict; as a teacher she should not share too much personal information with her students and she should not mention any issues regarding the school on personal webpages or let students access them. S's supervisors told S that she had to abide by these restrictions in order to complete her internship successfully. However, S disregarded the informational restrictions that her supervisors believed to be appropriate for a teacher and because she did not (want to) perform the role of teacher according to the "script" her supervisors believed to be important, she ran a risk of her performance being not credible for them with all due consequences.

Secondly S did not realize well enough that her MySpace website could form a layered stage with regard to her perform-

⁶⁷ Ibid.

⁶⁸ Daniel J. Solove, "I've Got Nothing to Hide' and Other Misunderstandings of Privacy." *San Diego Law Review*, Vol. 44 (2007): 745-772, 747.

⁶⁹ Ibid.

ance as a teacher and could affect this performance. By pointing out to her students that she had a MySpace website, S even drew her professional front stage audience's attention to the existence of her MySpace back stage. When using a stage as a back stage for a certain front stage in order to ventilate feelings about the front stage performance, a collapse of the front stage with the back stage will very likely be disruptive for the front stage performance. The only manner in which an actor can prevent such a collapse is by strictly controlling the audiences' access to the back stage.

Because S's back stage was the Internet stage MySpace, it lacked the typical ontological frictions of a physical stage. The aspatial character of the MySpace stage turned the control over and view of the stage's audiences into a challenge. Any possibilities to cope with this challenge depended on the options that are offered by the programmers of this stage. When it comes to online stages, the design of the stage is determined by its programmers in a fundamental way: actions that are not part of the design, are excluded from performance⁷⁰ as all performances on the Internet stages are regulated by the technology underlying these stages (the so called techno-regulation⁷¹). In the offline world one can usually influence a stage in ways that are not part of its intended design, like demolishing and rebuilding parts (like adding an extra door for security), but in the online world one would just get an error notice when trying to do something that is not part of the design.⁷² This design not only limits our choices, but it also affects the way in which we behave on that stage. Pariser writes: "we're contextual beings: how we behave is dictated in part by the shape of our environments."⁷³ Thus the design of MySpace plays at least a role of some importance in the "drunken pirate" case. However, the exact scope of this role will remain unclear since it is unknown what S's privacy settings were at the time of the case who exactly had access to her

⁷⁰Eli Pariser. *The Filter Bubble* (London: Viking, an imprint of Penguin Books, 2011), 175.

⁷¹ Cf. generally, Ronald Leenes. "Framing techno-regulation: An exploration of state and non-state regulation by technology," *Legisprudence*, 5: 2 (2011): 143-169.

⁷²Eli Pariser. *The Filter Bubble* (London: Viking, an imprint of Penguin Books, 2011), 175.

⁷³ *Ibid.*, 174.

MySpace website. S has stated that she changed her profile name every few months in order to protect her privacy⁷⁴ and she believed that she was hard to find on MySpace; one had to own a MySpace account and had to take the trouble to find her. She even uses the word 'hacking' with regard to the effort that her colleague must have taken in order to be able to view her MySpace website.⁷⁵ However, the incident with the student showed that apparently at least one of S's students did not have any trouble with accessing S's MySpace website either. This suggests that S's profile was not properly shielded. Additionally we may assume that being in the safety of her home in front of a pc-monitor and adding messages to a stage called "my space", may very well have given the "drunken pirate" the illusion of a private and controlled setting. Would S for instance have thought twice about posting the message and the photo if the SNS she used was called "OurSpace"?

The design of MySpace obviously plays an important role with regards to an actor's impression management, when that actor performs on a MySpace stage. However, in the case of the "drunken pirate", the actor was confronted with the flaws of the stage long before S gave her "fatal" performance. Due to the incident with the student who viewed her MySpace website, S was confronted with the fact that her performances on her MySpace stage reached her professional audiences. Instead of taking this breach in her audience segregation as a warning and pause her MySpace use until her internship was over, she posted the 4 May 2006 posts. With these posts she seemed to ignore the possibility that next to students, also her colleagues and supervisors might be trying to access her MySpace. Because of the viewpoint of CVHS on personal webpages of teachers, combined with the fact that CVHS knew that S informed her students about her MySpace website, S could have expected that someone of CVHS would try to access her webpage. With the suspicion that an unintended audience may breach the segregation, an actor needs to

⁷⁴ S v. Millersville University et al., case 2:07-cv-01660-PD, document 45, 9.

⁷⁵ Ibid.

be alert and adjust either the access to the stage or the performance itself.

6 Conclusion

The "drunken pirate" case received a lot of media attention because it was a clear example of a case where the use of Internet led to consequences for someone's professional career. But what role did the Internet play in the downfall of S her career as a teacher?

The problem in the "drunken pirate" case was that a part of S's performance for her best friends ended up with her professional audience. Her front and back stage with regard to her role as teacher collapsed and impaired her self-presentation. Her performance was disrupted.

The role of the Internet in the turn of events is significant, but at the same time limited. S's 4 May 2006 posts had almost immediate consequences and were seen by her professional audience on her own MySpace stage. The problems in this case did not arise due to the Internet having a 'perfect memory' or being a place where information can be easily copied and reproduced. The problems arose because S disregarded the script for the teacher role set by CVHS and thereby failed to segregate the audiences of her online performances properly.

The aspatial characteristics of the Internet make it a tricky stage to perform on and an Internet stage can become an ever-present layered stage overlapping a physical performance. The use of the MySpace stage as a back stage to ventilate about her performance on her physical professional front stage, was therefore risky. Additionally, S had been warned by CVHS that the use of a personal webpage could undermine her professional performance and if that happened, CVHS would react accordingly. More importantly, S knew that the audience of her professional front stage performance had access to her MySpace back stage performance. S reacted to this audience-breach not by taking it as a warning and pause her MySpace use, but by posting the "drunken pirate" photo and the 4 May 2006 message to ven-

tilate her feelings to her friends. The "drunken pirate" case therefore could have been prevented if S used her MySpace stage with more discretion. We need to learn how to deal with a life that consists of performances on layered stages. However, not only the user is up for improvement, but also that which she used: the Internet stage. The manner in which the online world is programmed can severely decrease any ontological friction in the information flow, but because the design is the online world, it could also be programmed to increase the degree of ontological friction. And if we want to be able to differentiate in our relations and play different roles, we need to think about whether and how we need to design our online stages if we want to be able to have control over which audiences have access to which performances. This is not an easy task. Most current solutions that propose to cope with the impression management-undermining characteristics of the Internet, like the "right to be forgotten or erasure" in the proposal for the General Data Protection Regulation, are focused on the remembering capacities of the Internet. They therefore propose solutions in time, like erasure, and are not be of any help for actors who want to be able to play different roles in the same timeframe. An actor that wants to be able to play different roles does not want her information forgotten or erased, but wants to keep her different audiences segregated from performances that are not intended for them.

However, despite the fact that the role of the Internet in the case of the "drunken pirate" is 'space'-related, it could also become time-related. As a result of the case the name of S and her "drunken pirate" picture can be found all over the Internet. Articles are written about it. Due to the characteristics of the Internet, this case could haunt S for a very long time. Hence, the discussion of the "drunken pirate" case leads to a new question: can S ever start with a clean slate, or will she always be S the "drunken pirate" as a result of the information storing and sharing characteristics of the Internet? If the last option turns out to be the case, we may need to find a way to draw the curtains on the stage. Thus, the paradoxical result of the "drunken pirate" case is that while the case in itself did not illustrate the need for a "right to be forgotten" (but rather the need of good methods

for audience segregation on SNS), the role that the case is playing in the academic and media discussion on the Internet's 'iron' memory does give rise to a need for S to be forgotten as a "drunken pirate". But can the genie be put into the bottle again?

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