



Practical Digital Evidence - Part I: Law and Technology (Volume 1)

Dr. Ehud Roffeh Adv

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"We cannot solve our problems with the same thinking we used when we created them" (Albert Einstein)

The past decade has seen many breakthroughs in communications and computers. Social networks, Wi-Fi, the transformation of the mobile phone into what is essentially a computer have changed society and influenced inter-personal, global communications. Everyday activities are being replaced by online applications, digital documents and virtual servers. Geographic boundaries are blurred and communication methods and technologies are not necessarily located within the user's country. The communications revolution has placed personal information into the public domain and made it vulnerable. Technical faults, a virus or a power failure, could disrupt our daily routine and cause economic damage to the individual, the state and labor economics. Computers are an integral part of everyday life. Herein lies the problem: change is rapid and ignorance exceeds knowledge. Commonly used jargon is perceived as difficult to understand and in many cases attitudes towards the technological world are effected by traditional thought processes that aren't adapted to modern needs. Representatives of the legal system – judges, lawyers and jurists are victims of this new reality. The world of justice is conservative and traditional and relies upon laws that often fail to keep pace with technological change. Judgments have created precedents that have influenced and set methodologies that don't necessarily take into account the world we live in. Judges, defendants and plaintiffs aren't computer and technology experts and the new reality puts many complicated, new and unanswered issues before the legal system and those involved in it. This can be seen daily: jurists and judges are required to deal with issues of justice and technology and find themselves helpless. Their task should include representation, giving advice or making a judgment but they often lack the knowledge or tools to do this. Judge Michal Agmon-Gonen stated that "The courts shouldn't have to deal with this..." Another judge admitted that he doesn't know how to deal with technological issues and another asked for a computer expert's opinion saying that the expert's decision will be binding and final. "Between justice and technology – digital evidence in practice" integrates four aspects common to all legal issues: facts, evidence, expert data and forensic analysis. It is based on years of experience and of providing advice in hundreds of complicated cases, both civil and criminal. As well as an in depth legal analysis of earlier cases, the book presents legal research from around the world – mainly research from the United States and England. The book deals with complex issues of man and technology. The aim is to remove barriers between legal and technological spheres, to reduce knowledge gaps and present a clear picture and only to provide justice – but justice based on knowledge and true understanding. I provide detailed but simple explanations to assist the reader in understanding technological processes and a forensic analysis of the facts. I examine issues through legal eyes – including comparative law – and propose alternatives for a suitable legal solution. This book is the result of years of research and experience and is based on a deep awareness of the law and legal systems of the United States, England and Israel. It presents the issues thoroughly and in a friendly, convenient and easy to understand manner even for those for whom technology is a foreign language. "Between justice and technology – digital evidence in practice" deals with many issues including: Digital evidence Evidence credibility and acceptability Computerized output and institutional evidence Email Laptops, tablets and Smartphones Storage medium and telecommunication Communication channels Virtual servers Security cameras and CCTV Computer crime and evidence fabrication Digital signatures

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