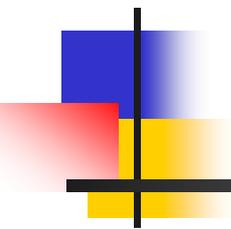
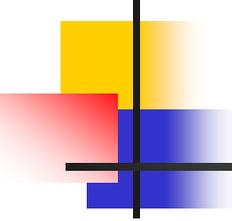


Spatial Privacy in a Networked Society

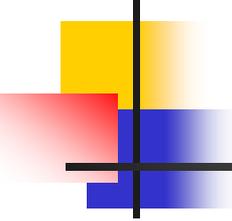


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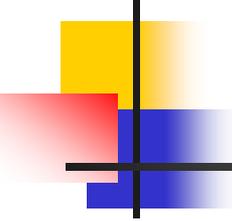
Overview of Presentation

- Perspective
- Technological Context
- Privacy and anonymity implications
- Characterizing privacy interests at stake
- Conceptualizing the spaces in which we seek to protect privacy interests
- Legal protection of spatial privacy in Canada
- Reasonable expectation of privacy
- Conclusion



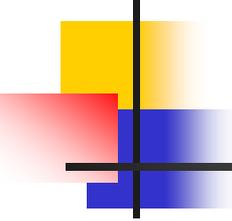
Perspective: Shifting Focus

- Predominant analysis on data protection model of information privacy
- Informational models do not address central spatial threats to privacy implicated by next wave of technologies
- Need an assessment that more broadly considers people and their space or risk core privacy interests being collapsed into the informational paradigm
- Revisiting spatial privacy in the context of emerging technologies



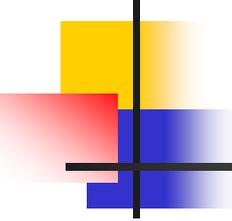
Technological Context

- Location a new commodity giving rise to geospatial technologies
- Convergence of GPS, RFID and wireless technologies creating society characterized by UBICOMP
- Overcomes limitations of mainstream technologies by operating anywhere, anytime, accurately, continuously in real time and in the real physical world
- Compelling advantages to locating and tracking capabilities that serve the public interest



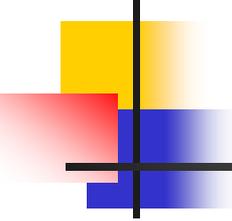
Privacy Implications

- Places and spaces of our everyday lives more directly and pervasively compromised
- Greater access, visibility and exposure challenges fundamental ideas about personal space and boundaries and the privacy expectations that go with them
- “Panoptic geo-locator” (Weinberg)
- Ability to remain anonymous diminished
- “Contextual integrity” and “plurality of realms” (Nissenbaum)



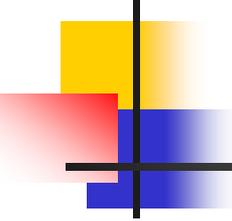
Characterizing the Privacy Interests

- Limited access conception of privacy:
 - condition of being protected from unwanted access by others, either physical access, personal information or attention paid to us (Bok; Gavison)
 - exclusive access of a person to a realm of one's own entitling one to exclude others from watching, utilizing, invading, or intruding upon one's private realm (Van Den Haag)
- Anonymity as a key component of privacy



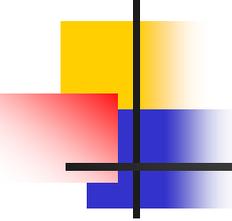
Categorization of Spaces

- Territorial space
 - anchored in physical space
 - architectural and geographical whereby control over access serves as a defensible shield to protect privacy
- Personal space:
 - invisible portable boundaries (Sommer)
 - territories of the self (Goffman)
 - transcends the physical aimed at protecting human dignity within zone of privateness
- Public Urban Space:
 - “in-between” spaces
 - spaces of everyday lived experience



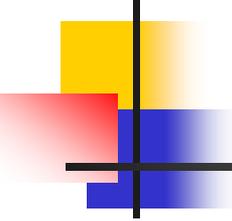
Legal Protection

- Section 8 of Canadian Charter is principal basis for recognition of right to privacy in Canada protecting individuals from unjustified state intrusion by ensuring them a reasonable expectation of privacy
- Recognizes a territorial or spatial zone of privacy but current construct does not take into account the nature of changing technologies, rendering irrelevant afforded by traditional analysis
- Purports to protect people not places but scope remains tied to property roots
- Privacy framework envisions protection as we move across the spaces of our everyday lives but not reflected in case law



Reasonable Expectation Of Spatial Privacy

- Reasonable expectation of privacy standard narrowly interpreted by Supreme Court of Canada
- Reasonable expectation of privacy analysis circular
- Reasonable expectation of privacy test inadequate because it is defined by capability and pervasiveness of new technology so subjective and objective criteria easily circumvented by society's practices and privacy norms
- Sliding scale of the level of expectation and degree of privacy the law protects



Conclusion

- Emerging ubicomp technologies enable law enforcement to locate and observe an individual anywhere, at anytime operating across all spaces and places in the real physical world in real time
- Aside from the nature and quality of the information gathered, spatial privacy interests are implicated and should not continue to be marginalized
- Everyday spaces are increasingly compromised further diminishing ability to remain anonymous
- Current Canadian constitutional regime ineffective to protect our reasonable expectations where there are no clearly defined tangible boundaries
- Need to formulate a more nuanced spatial privacy construct and ultimately bridge the entire array of privacy interests into a unified theory of privacy capable of sustaining legal protection