



Jurisprudence Section – 2005

E2 Poking the Wookie: The Chewbacca Defense in Digital Evidence Cases

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The goal of this presentation is to frame a growing debate in the area of computer forensics as it relates to the reliability of digital evidence to prove culpability in civil and criminal cases.

This presentation will impact the forensic community and/or humanity by exploring ways in which officers of the court might approach claim challenges, think about its affect on current evidentiary presumptions and burdens of proof, and define reasonableness standards related to digital evidence.

The ubiquity of computers has forced society to increasingly turn to digital evidence to resolve disputes in the civil and criminal arena. The difficulty of tying an individual to a particular computer that was used in a crime, the interconnectedness of computers via the Internet, and the mutable nature of electronic information, have conspired to facilitate evidentiary challenges to the reliability of digital evidence. Specifically, the prevalence of computer vulnerabilities and malware (virus, spam, spyware, trojan horse programs)- mechanisms that allow unknown persons to access one's computer- have facilitated oftentimes outlandish defense claims.

This presentation explores the new challenges that this "unknown third party" defense presents in the context of computer forensics. Does countering it amount to having to prove a negative? To help frame the debate, presenters will draw analogies from the "DNA Wars" and map how defenses to DNA technology have shaped and been shaped by technology evolution. DNA had a battle of experts DE is now experiencing the same phenomenon

Conclusion: this presentation will explore ways in which officers of the court might approach claim challenges, think about its affect on current evidentiary presumptions and burdens of proof, and define reasonableness standards related to digital evidence.

Digital Evidence, Reliability, Computer Forensics