Online Trespass to Chattels: A Failed Experiment

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My Goal
What is Online Trespass to Chattels?
What is Online Trespass to Chattels?

- Common Law Trespass to Chattels
- CFAA
- State Computer Crimes
How We Got Here
How We Got Here

Thrifty-Tel v. Bezenek (1996)

CompuServe v. Cyber Promo (1997)
What Does Online TTC Cover?

- **Network intrusions**
  - “Hacking”
  - Server use without permission
- **Denial-of-service attacks**
- **Spamming**
- **Scraping**
- **Client use without permission?**
- **Computer-mediated employee misappropriation?**
What’s Wrong With Online TTC?

- Computer exceptionalism
- Overcriminalization
- Inconsistent/incoherent harm standards
- Doctrinal overlaps
- Suppression of competition
What Should We Do? (1)
What Should We Do? (2)

- In general, rely on
  - Contract bargaining
  - Technological controls
  - Doctrinal overlaps

- Possible exceptions
  - Hacking
  - Denial-of-service
Where to Find Me

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