



ATTENTION and DARK PATTERNS (discussing attention law with Mihir Kshirsagar) 3 November 2023

14:02:15 From Troy Mitchell to Everyone:

Hello everyone!!

14:03:21 From Peter Schmidt to Everyone:

Welcome folks!!

14:03:36 From Peter Schmidt to Everyone:

(Anthony and Jesse look, on my screen, like they're in front of the same double-decker bookcase...)

14:20:21 From Peter Schmidt to Everyone:

peter@sustainedattention.net

14:34:06 From Chris Schmidt to Everyone:

I marveled at what an amazing tool or utensil the hand is. Truly something that empowers humanity.

14:34:08 From D. Graham Burnett to Everyone:

And if you want to share a picture or something, send along to: friendsofattention@gmail.com

14:35:05 From Matthew Clemente to Everyone:

I noticed while looking that I could not see my whole hand but that my eyes roved from one finger to the next to the back of my hand to another finger. Conversely, I felt like I could feel the parts of my hand but as I focused on the feel, I could feel not only my hand but my arm, elbow, shoulder. Feeling seemed to radiate through my body

14:35:06 From Peter Schmidt to Everyone:

1. I felt an unexpected distance from my hand... weirdly out-of-body for a moment.

2. Was surprised by the intensity of the sensation in my hand.

14:35:44 From Peter Schmidt to Everyone:

...3. Remarkable: felt like my hand was looking at my eyes, and my eyes were "looking" at my hand... even though it was just me being with myself. Huh.

14:35:46 From An-li Bogan to Everyone:

I found it more difficult to FEEL my hand in stage three when my eyes were open, and I was both looking and feeling

14:35:56 From Sal to Everyone:

With eyes closed, my hand gradually became invisible to my perception until I moved it. It was easier to feel my hand in the third exercise, with eyes open.

14:35:57 From Alex to Everyone:

The hand becomes a plant. Seeing through the hand is seeing through the plant.

14:36:12 From Silvia Caprioglio Panizza to Everyone:

Replying to "With eyes closed, my..."

Same! I felt like vision interfered with feeling, and tool precedence

14:36:37 From Jessica Gallucci to Everyone:

1. Looking: I'd maybe never noticed the tiny light hairs between the first two joints of each finger; there's so much terrain to see on the back of my hand (that's 43!) that I didn't make it to my palm (but that's truly what it looks like: a landscape); feeling grateful for tendons in their right places. 2. Feeling: the internal structure is most comfortable fully collapsed into a loose fist; stretching my fingers out straight is effortful in a way I don't normally register. 3. Looking & feeling: wrinkles are histories and that's so cool

14:36:41 From Jahony Germosen to Everyone:

When I was instructed to only look at my hand my fingers were straightened and held out in a sort of flexed way. I was focused on noticing different parts of my hand like the lines, and my veins

14:36:44 From Silvia Caprioglio Panizza to Everyone:

Replying to "With eyes closed, my..."

meant as reply to an-li

14:37:10 From Jesse Prinz to Everyone:

Feeling shifted my attention to the knuckle area of my hand, because much of the tension was felt there. This region had not been any more visually salient than other areas during the initial looking phase. My fingers were less salient during feeling phase than they had been during looking. It was difficult to determine their precise position and aperture without looking. Then, when both feeling and looking were re-combined, my visual attention gravitated toward the muscle area, and away from fingers. Feeling re-wrote the salience map.

14:37:43 From Jahony Germosen to Everyone:

When I was instructed to only feel I noticed pretty fast how tiring it was for my fingers to be straightened and held out and my fingers sort of folded pretty fast. Like they were tired. I find it really interesting how when I was only looking, I was not able to feel how my fingers hurt.

14:38:46 From Jonathan Murachanian to Everyone:

I felt an energy of a collective observation—thinking how we all have hands in this particular space to intimately observe our bodies. I felt an interconnectedness, shared energy, and a deep sensation of love for my body and appreciation for my amazing hand.

14:42:04 From D. Graham Burnett to Everyone:

It was really striking for me, in the second phase, to reckon with the way that "feeling" is so closely tied to MOVEMENT or CHANGE. It reminded me of the William James point — that it is (in his view) impossible to "attend" to something that does not change... I was floored by how SIMPLE this exercise was — and the RICHNESS of such a simple gesture/frame. Amazing. Thank you, An-Li!

14:42:22 From Peter Schmidt to Everyone:

Tim Wu's book on this subject: <https://www.theguardian.com/books/2016/dec/26/the-attention-merchants-tim-wu-review>

14:43:52 From D. Graham Burnett to Everyone:

^^^ part of the reading in our last class at the Strother School....

14:49:37 From Ana Cristina (Tininha) to Everyone:

Looking: I was a bit distant from my hand and some judgmental thoughts occurred to me: they are dry, they look old. Feeling: the spaces between the fingers came to the foreground of my sensation. Also, I started feeling more volume in my hand as well as something almost like a pulsation/ Looking and feeling: my hand felt bigger and more connected to my whole body. Loved the exercise. Will practice it again.

14:51:12 From vitoria oliveira to Everyone:

do we have the dates for the Summer School in 2024?

14:51:51 From Peter Schmidt to Everyone:

Replying to "do we have the dates..."

We don't yet - but if you want to stay updated, send us an email

14:52:23 From vitoria oliveira to Everyone:

Reacted to "We don't yet - but i..." with 🙄

14:52:29 From vitoria oliveira to Everyone:

Replying to "do we have the dates..."

I will!

14:53:21 From claire GAUDIANI to Everyone:

In "seeing" minute I was focused on all the features oh m hand, finger, skin, etc. But the "feeling" minute made me remember all the bread doughs that had covered that hand over the years, all the diapers came next, all the chalk and erasers . I could re-feel all the life of that hand. then when both seeing and feeling combined, I just experienced awe and appreciation and delight...about my hand and my life.

14:53:46 From Sal to Everyone:

Reacted to "In "seeing" minute I..." with ❤️

14:53:55 From Sal to Everyone:

Reacted to "The hand becomes a p..." with ❤️

15:09:39 From Peter Schmidt to Everyone:

How is harm defined legally? (Is this harm in the category of labor disputes, or of defamation.)
How do lawyers establish "intent" to do harm?

How much of this is about "translation" between two opposed concepts (harm vs. well-being).
[Akua]

How have analogous cases been made against businesses prior to the internet? [Melissa]

Where is the line between manipulation and persuasion?

How does the law define attention?

Can laws that protect privacy be used to protect our attention?

15:10:19 From Sal to Everyone:

What if we looked at the legal frameworks related to pollution? Say, air quality? What if all of these dark patterns amounted to a kind of attentional pollution, or a form of informational pollution which affected us through our attentional capacities?

15:10:21 From Matthew Clemente to Everyone:

What are some related forms of pre-existing legal constructs or public protections that do have a history in the law (i.e. psychological harm, tempting nuisance, etc.)?

15:10:33 From Ana Cristina (Tininha) to Everyone:

I will step out for a second to let my dog out - she's been asking to get out and was kind enough to wait until we got out of the breakout room.

15:10:33 From Peter Schmidt to Everyone:

Reacted to "What if we looked at..." with 🔥

15:11:00 From Matthew Clemente to Everyone:

What role can people like us play in writing one of these briefs? How would testimonies of joy and harm speak to the value of attention?

15:11:09 From Matthew Clemente to Everyone:

Who reads an amicus brief? Who are we trying to persuade? Lawyers? A court? Lay people whom it might be helpful to educate about these problems and how they are affecting all of us?

15:11:44 From Sal to Everyone:

When does manipulation get so bad that it constitutes fraud?

15:11:48 From Christopher Mole to Everyone:

Is there an analogy between the harms to attention of dark patterns and the broad harms of environmental pollution?

What's the court process for resisting and appealing?

Are there not other kinds of harm that aren't financial (e.g harms to privacy) that are legally recognised?

Are dark patterns threats to the kind of freedom of choice needed for consent to be valid?

15:12:19 From Jessica Gallucci to Everyone:

Chris S.: Do amicus briefs receive any attention by the court?

Jesse: Without measures showing demonstrable harm on liberty or health and wellbeing, there's a danger that this gets framed as just moral panic. How do we get to the level of specificity where we can name the harm?

Jahony: How do we get these cases to be taken seriously?

Jesse to Jahony: Can you share some of the ways that you and your peers are impacted?

Jahony: Apps like instagram promote certain ideals. Even when kids go out on the town, they're still on their phones. They're on TikTok at parties, even when they can't hear the audio coming from the video

Chris S.: Misinformation, interventions into our discourse by bad actors, is something that legislators WILL pay attention to. Can this be an avenue for regulation or awareness-raising?

15:12:36 From Larry Berger to Everyone:

Perhaps we could create a class of those who do work that requires an audience with sustained attention (poets, authors of long books about whales, philosophers, math teachers) and we can establish that this vast class of people are harmed (financially and spiritually) by those who use dark patterns to pilfer and diminish human attention.

15:12:52 From Jesse Prinz to Everyone:

Replying to "Chris S.: Do amicus ..."

Wow, thanks for recording all that, Jessica!

15:12:58 From Peter Schmidt to Everyone:

My liberal-arts sensibility is very excited by the application of environmental / pollution litigation strategies to the “pollution” of the mind — and I wonder if that stands up by legal standards

15:13:18 From Jessica Gallucci to Everyone:

Reacted to "Wow, thanks for reco..." with 🙌

15:13:20 From Sal to Everyone:

It does seem that EU regulators are more aggressive in examining bad behavior by tech companies than US courts.

15:13:41 From Sal to Everyone:

Reacted to "My liberal-arts sens..." with ✨

15:13:42 From Ana Cristina (Tinha) to Everyone:

Reacted to "Perhaps we could cre..." with 🙌

15:13:46 From Peter Schmidt to Everyone:

Replying to "My liberal-arts sens..."

Relies on a sort of metaphorical relationship between the two...

15:13:54 From Ana Cristina (Tinha) to Everyone:

Reacted to "My liberal-arts sens..." with 🙌

15:14:07 From Peter Schmidt to Everyone:

Reacted to "My liberal-arts sens..." with 🙌

15:14:17 From Christopher Mole to Everyone:

What, strategically, is the best way to proceed: legal action first, or civic organisation first?

15:14:23 From Sal to Everyone:

Replying to "My liberal-arts sens..."

I think the relation is both metaphorical, and non-metaphorical. I think the “pollution” is real.

15:14:46 From Marcus Ryan to Everyone:

Isn't there harm in increasing risk to the exposure of greater asymmetrical persuasion?

15:14:50 From Jesse Prinz to Everyone:

Replying to "Chris S.: Do amicus ..."

Jessica also talked about how we wake up and go to sleep looking at our phones. Claire brainstormed about interventions. Talking to friends and family before bedtime instead of going online.

15:15:10 From Sal to Everyone:

Reacted to "Isn't there harm in ..." with ✨

15:15:50 From Sal to Everyone:

Reacted to "Perhaps we could cre..." with ✨

15:16:09 From Jessica Gallucci to Everyone:

Reacted to "Jessica also talked ..." with 👍

15:16:29 From Troy Mitchell to Everyone:

Thanks Everybody for your insights and continued commitment to this conversation! G2G... until next time 🙌

15:16:37 From Sal to Everyone:

I wonder if the “class” in the class action might be kids

15:16:41 From Peter Schmidt to Everyone:

Reacted to "Thanks Everybody for..." with ❤️

15:16:54 From Anthony Acciavatti to Everyone:

Reacted to "I wonder if the "cla..." with 👍

15:16:57 From Ana Cristina (Tininha) to Everyone:

Reacted to "I wonder if the "cla..." with ❤️

15:17:02 From Anthony Acciavatti to Everyone:

Replying to "I wonder if the "cla..."

Yes!

15:17:12 From Marcus Ryan to Everyone:

HEAR HEAR!! PART 2

15:17:37 From Sal to Everyone:

Replying to "I wonder if the "cla..."

measurable kinds of harm and decline

15:17:38 From Christopher Mole to Everyone:

Replying to "My liberal-arts sens..."

I think the pollution metaphor covers 'fake news' as well as Dark Patterns in attention design. For some purposes it might be useful to disentangle those.

15:17:39 From Ana Cristina (Tininha) to Everyone:

Thank you!

15:18:04 From Sal to Everyone:

Reacted to "I think the pollutio..." with ✨

15:18:10 From Anthony Acciavatti to Everyone:

Thank you!