

**Social Networking Sites and the Law**  
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**1. Legal Liability of Users**

Social networking sites enable users to publish content. Users may not consider themselves content publishers (especially when they write mundane/brief postings), but they are. Publishing content can create a number of legal issues, such as defamation (making harmful false statements about someone else) or copyright infringement. In this respect, social networking sites don't create any "new" legal issues; users who publish content can be liable for their publication choices just like other content publishers, such as newspapers or magazines.

Question to Consider: Assume that most users don't know the laws applicable to publishing content. Should they be less liable for their publication choices than more knowledgeable content publishers, like newspapers or magazines?

Users often believe that they have some degree of anonymity for their statements and actions on social networking sites, and in some cases they try to hide their true identity. However, users' identities often can be easily revealed through legal processes. Sometimes, users suffer adverse consequences due to their social networking site, such as school discipline, foregone job offers or employment termination.

Questions to Consider: Should it be easy or hard for harmed parties to discover users' identities? Should site operators cooperate with plaintiffs or resist their information requests on behalf of their users? When is it appropriate to take adverse actions against a user outside of the courtroom based on the user's social networking activity?

**2. Legal Liability of Social Networking Site Vendors**

Congress generally protects site vendors from legal liability for user-supplied content. 17 USC §512(c) says that vendors generally aren't liable for user-supplied copyright infringing content unless the copyright owner notifies the vendor and the vendor fails to promptly remove the infringing content. 47 USC §230(c)(1) says that vendors aren't liable under any circumstance for other types of legal claims based on users' content (with minor exceptions).

Questions to Consider: What legal responsibility, if any, should vendors have for user-supplied content? Should it matter if vendors (a) receive notice from a harmed party (or are otherwise aware of the problem) and don't act, or (b) regularly remove user content based on their own editorial standards? Are social networking sites different from other communications media, such as telephones, newspapers or broadcasters?

Some legislators are concerned about the presence of sexual predators on social networking sites, and they have proposed a variety of laws designed to restrict predator access to the sites.

Questions to Consider: What steps should vendors voluntarily take to protect users from sexual predators? What steps should vendors be legally required to take? What liability should vendors face if sexual predators use the site to find and communicate with victims?

## The Law of Social Networking Sites

### Statutes

17 USC §512(c): a website isn't liable for hosting user copyright-infringing content unless the website receives a notice from the copyright owner and fails to promptly remove the content.

47 USC §230(c)(1): "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."

Virginia HB 2749/SB 1071 (enacted April 10, 2007): sexual offenders must register their email addresses and IM screen names, and the police may set up a mechanism for online businesses to check these registries.

### Selected Cases

A.B. v. State, 863 N.E. 2d 1212 (Ind. Ct. App. April 9, 2007) (student posting obscenity-laden comments to a fake MySpace page isn't guilty of criminal harassment because comments were protected political speech).

Doe v. MySpace, Inc., 474 F. Supp. 2d 843 (W.D. Texas Feb. 13, 2007) (due to 47 USC §230, MySpace isn't liable for sexual assaults committed by users against other users).

The Football Association Premier League Ltd v. YouTube, Inc., 1:07-cv-03582-UA (S.D.N.Y. complaint filed May 4, 2007) (can copyright owners bypass the 512(c) notification scheme?)

J.S. v. Blue Mountain School District, 2007 WL 954245 (M.D. Pa. March 29, 2007) (school principal can suspend eighth grader who posted obscenity-laden fake MySpace page in the principal's name).

Layshock ex rel. Layshock v. Hermitage School District, 412 F. Supp. 2d 502 (W.D. Pa. January 31, 2006) (school can punish student for creating a fake MySpace page in the principal's name).

Viacom International, Inc. v. YouTube, Inc. (S.D.N.Y. complaint filed March 13, 2007) (does YouTube qualify for 512(c) safe harbor for user-posted copyright infringing material?).

### Proposed Federal Statutes

Deleting Online Predators Act of 2007 (H.R. 1120/S. 49) (requiring schools/libraries receiving federal funds to block minors' unrestricted access to social networking sites and chatrooms).

KIDS Act of 2007 (H.R. 719/S. 431) (requiring sexual predators to register their email addresses and other screen names and enabling social networking sites to access those electronic identifiers so that the sexual predators can be blocked from registering with the social networking sites).

H. Res. 224 (resolution requesting that social networking sites proactively remove "enemy propaganda from their sites," such as videos made by terrorists).