

Dispelling Misconceptions about False and Defamatory Information Online

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Since launching the Vorys internet defamation group, we have encountered several misconceptions about the removal of information from the internet. If you or your company has been disparaged online, realize you are not helpless and have several options on how to deal with your potential internet crisis.

Harmful Information *Can* be Removed from the Internet

One step that may be taken is contacting the person who posted the information by issuing a cease and desist letter or negotiating to take down the information. Additionally, we can contact the website, or website host, and explain how the information violates their terms of use and request they remove it. A third option – one we frequently use and discuss below – is to obtain a court order against the individual who posted the information online, which we can submit to the appropriate website and search engines (who typically honor the court orders and remove the information).

The First Amendment is not a Complete Shield Online

Contrary to popular belief, the First Amendment does not offer complete protection to those who publish information on the internet. Courts have maintained that the First Amendment does not shield parties from illegal online activity such as publishing defamatory speech or infringing another's copyright or trademark.

The Communications Decency Act Does Not Prevent Removal

The Communications Decency Act (CDA), which shields internet service providers from liability for third party published content, does not prevent websites from removing content. In fact, most websites will

remove defamatory statements in response to a court order asking the defamer to remove the material. Additionally, various search engines such as Google will remove links from their search engines that contain content determined by a court to be defamatory. The process we use to get content de-indexed from search engines has been discussed in other [posts](#). We also have addressed the process of successfully [identifying anonymous posters](#) that have defamed our clients on various websites, such as Yelp.

SEO Techniques are Not Always the Answer

Many believe it is easiest to use search engine optimization (SEO) techniques to combat damaging information online. Due to Google's algorithm, this is generally not very effective. Further, SEO techniques are often expensive, as they may require ongoing payments to a company that will attempt to regularly post positive information to push the offending conduct down in search results. Typically, we can help get information removed in a more cost-effective and more permanent manner.

Removal Tactics Should Not be a Last Resort

On a related note, many do not consider pursuing removal unless SEO tactics prove ineffective. One of the problems with this approach is that most states have a one year statute of limitations for defamation claims. Therefore, it is critical that clients try and remove harmful information immediately, before it (re) surfaces among the top search results. Clients should be aware of the short statute of limitations and consult with an attorney as soon as possible, before their options become limited.

More than Defamation Can be Removed from the Internet

Finally, besides defamation, there are several additional claims we can bring to remove harmful information from the internet (which are explained in more detail in this [post](#)):

- Tortious or Intentional Interference with Business Relations
- Intentional Interference with Contract
- Intentional Interference with Prospective Business Relations
- Intentional Infliction of Emotional Distress (does not apply to businesses)
- Violation of Right of Privacy
- Violation of Electronic Communications Privacy Act
- Violation of the Stored Communications Act
- Trademark Infringement, Trademark Dilution, Unfair Competition and False Advertising
- Trademark Infringement Initial Interest Confusion
- Trademark Infringement Cybersquatting
- Online Civil Harassment

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