

## Publications

### False Review Removal Strategies: How to Deal with Bogus Online Reviews Written by Competitors

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All too often, dishonest companies damage their competitors' reputations online by making a series of false statements on review-based websites. Competitors regularly seek refuge on websites such as Ripoff Report, Pissed Consumer and Yelp, which are structured such that users can anonymously post false reviews.

These false reviews are often disguised as write ups from genuine dissatisfied consumers, which typically lead to poor ratings and, ultimately, a poor reputation for the victimized businesses. It is also not uncommon for some businesses to post positive false reviews about their own company (or pay people to do so), which can similarly impact their competitors.

Online reviews are incredibly important to businesses today, especially with consumers' increasing reliance on them. According to a 2013 survey by SEO experts BrightLocal, 85% of the 3,000 consumers it surveyed read online reviews for local businesses, and 73% said positive reviews made them more trusting of a business. Furthermore, a 2013 article in *The Guardian* reported that research found "reading three negative reviews is enough to change the mind of 63% of consumers about making a purchase."

#### *False Reviews Can be Removed*

When a business discovers false information online, it may be told that the false reviews cannot be removed from the internet, including search engine results. In fact, a 2012 article from CBS MoneyWatch even stated "it's almost impossible to get a negative review removed from the Web once it's live – even if it's clearly false. An unscrupulous competitor or disgruntled employee can say horrible things anonymously, and there's little you can do about it."

This is not true.

When a competitor publishes a false review about your business online, or a fake review touting their own company, this violates the United States' Lanham Act. The Lanham Act prohibits false advertising by competitors and provides that a business can recover significant damages, including treble (triple) damages, disgorgement of the competitors' profits, costs of corrective advertising, and attorney's fees if the publication of the false review is willful – which it overwhelmingly is. 15 U.S. Code § 1117(a).

In a recent Pennsylvania case, a marble and granite installation business sued a competitor after it allegedly discovered that several posts on various product review websites were originating from its competitor's IP address. The competitor attempted to argue: 1) these false reviews, as a matter of law, did not constitute false advertising, and 2) it was not responsible for its own employees' online reviews. But the Court disagreed and held the fake reviews constituted defamation and trademark infringement, violating the Lanham Act. The Court subsequently denied the competitor's motion to dismiss the case. *NTP Marble, Inc. v. AAA Hellenic Marble, Inc.*, 2012 U.S. Dist. LEXIS 93856 (E.D. Pa. Feb. 24, 2012).

It is also worth noting that in September 2013, a New York attorney general fined 19 companies a combined \$350,000 for posting false reviews.

### *Legal Solutions for False Review Removal*

We have successfully worked with cyber investigators and used the court's subpoena powers to identify anonymous competitors publishing false online reviews and to hold those competitors responsible for their actions under the Lanham Act. Once we are able to identify the competitor that has posted false reviews, we can obtain an injunction from the court to submit to both the website hosting the false review and search engines, to facilitate removal of the reviews.

Even if a false review is not posted online by a competitor, your business still has claims against its author for defamation. Indeed, we often see former employees publish false reviews to harm a business that terminated their employment. Many times, these individuals are also violating the terms of their employment agreement.

In either case, a business does not have to merely "deal with it." There are legal solutions for businesses to deal with false reviews.

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