

Harmed but Not Defamed: Other Internet-Related Claims a Plaintiff Can Bring

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Based on the negative impact on its business, a company may initially believe certain statements or information posted about it online are defamatory. Although the content may be very damaging, it might not be defamatory at all. In fact, many anonymous defamers make conscious efforts to ensure that the statements they post online about others qualify as protected opinion by using phrases such as “in my opinion” or “I think.”

In many cases, a lawyer can successfully argue these negative statements are defamation. But even if the harmful postings are not actually defamatory, a plaintiff can file lawsuits seeking removal of the statements and information from the internet (and seek monetary damages) based on the following other claims:

- **Tortious or Intentional Interference with Business Relations:** A third party intentionally interferes with a business through customer diversion, misleading information used to impact consumer decisions, or false statements;
- **Intentional Interference with Contract:** A third party intentionally uses information to negatively impact existing business contracts;
- **Intentional Interference with Prospective Business Relations:** A third party intentionally uses information to negatively impact potential business opportunities;
- **Intentional Infliction of Emotional Distress:** A third party intentionally or recklessly causes emotional distress for an individual due to posting information on the internet (*note: this relief is not afforded to businesses*);
- **Violation of Right of Privacy:** A third party posts information on the internet using the image or likeness of another without that person's consent;
- **Violation of Electronic Communications Privacy Act:** A third party intercepts, discloses, and/or intentionally uses an electronic communication (i.e. email) without the electronic communication account holder's consent;

- **Violation of the Stored Communications Act:** A third party, without authorization, accesses an electronic communications service and obtains electronic communications while they are in electronic storage;
- **Trademark Infringement/Trademark Dilution/Unfair Competition/False Advertising:** Use of a company's trademark in commerce to, generally, cause consumer confusion, mistake, or to deceive;
- **Trademark Infringement Initial Interest Confusion:** Use of a company's mark to divert consumers to a website that is not actually selling the trademark owner's product;
- **Trademark Infringement Cyber Squatting:** Occurs when a person or entity creates a web domain name with the same or substantially similar name of a recognized source;
- **Online/Civil Harassment:** Note that some states recognize civil claims for harassment of another individual online.

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