



TELECOMMUNICATIONS

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Internet Law: A Sea of Uncertainty

The Internet has created a host of new legal issues for the courts to deal with. Courts are faced with the challenge of trying to squeeze Internet crimes into the mold of traditional crimes. However, courts also must face brand new issues that no law maker could have anticipated and figure out what rights are applicable to those involved with those issues. This leads to questions about how to treat Internet postings generally and what rights those involved in the post have.

One interesting case in California tackled the issue of the extent of a blogger's First Amendment rights. In 2006, the California Court of Appeals decided *O'Grady v. Superior Court*.¹ In that case, a computer manufacturer filed action against a web site publisher alleging that they published confidential information about a product, and sought to identify the source of the disclosure. The court in *O'Grady* held that the content of the website was newsworthy because of the nature of the information about a technical advancement it conveyed. Therefore, because the content of the website was newsworthy, the web site publisher was entitled to First Amendment protection because he was acting in the capacity of a journalist. In other words, the blogger did not have to reveal the source of this damaging information. Although not all courts have agreed with this decision, it has not been overruled.

There are also other cases supporting the notion that communication through the Internet should not be treated differently simply because the information is online versus from some other

¹ *O'Grady v. Superior Court*, 44 Cal. Rptr. 3d 72 (Cal. Ct. App. 2006).

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source. For example, in *Nexus v. Swift*,² a Minneapolis court held that a statute's public-participation requirement did not exclude speech communicated through the medium of the Internet. Additionally, other courts have decided that Internet posts should be treated equivalently to mass-media publications. In *Wolk v. Olson*,³ a Pennsylvania court dismissed a defamation claim against "Overlawyered" blog because the statute of limitations had run. In that case, the court treated the blog equivalently to a mass-media publication.

These laws are still developing in courts across the United States. Many courts have yet to address any of the issues associated with Internet law, and still others have only had to address very narrow issues associated with the Internet. Thus, there are no hard and fast rules that you can associate with the Internet.

What do you think? Should bloggers have First Amendment protections like journalists who do not have to reveal the sources of their information? Is the Internet equivalent to any other mass-media publication or does it depend on the type of Internet forum? We welcome your thoughts! Please feel free to comment at our interactive blog at blog.tlgdc.com.

If you have questions about this issue, or if we may be of assistance to you, please feel free to contact us.

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² *Nexus v. Swift*, 2010 WL 3211906 (Minn. App. Ct. 2010).

³ *Wolk v. Olson* (E. D. Pa. Aug. 2, 2010).