ANONYMITY, “TRASH TALK” AND CYBER-SMEARING ON THE INTERNET
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Abstract

Should bloggers who post messages anonymously that others consider defamatory be able to keep their identities unknown? Anyone tempted to say a reflexive “no” needs to stop and consider some of the unforeseen and serious ramifications.

From its inception, the internet has been characterized by the prevalence of anonymous (or pseudonymous) speech. Instead of using their true names to post, bloggers and on-line commenters often choose to post using pseudonyms (assumed names) or anonymously (no name at all).

During the disputed Iranian elections, the uprising in Egypt and recent pro-democracy cyber-activism in countries such as China and Burma, blogs and social media sites allowed people to provide an uncensored account of what was really happening in the world surrounding them. These ordinary citizens turned citizen journalists, cyber-activists and chroniclers – particularly in oppressive regimes – desperately need the cloak of anonymity to protect against retaliation, harassment, or even physical safety.

Forcibly revealing an anonymous blogger’s true identity at the command of a judge or other governmental official deals a severe blow to healthy dissent and discourse in countries where it is most vital.

However, the same anonymity that allows those seeking to expose the corruption or oppression inside a brutal regime can also be used in less-lofty endeavors, e.g.: the familiar “trash-talkers” found throughout the internet throwing out insults and invective while hiding behind a fake name. For those who strongly believe in forcibly unmasking these on-line insulaters, it behooves them to think carefully about stifling the good speech while stamping out the bad. Many legitimately fear that forced non-anonymity might have a chilling effect on the good as well as “bad” speech. By forcing transparency and stripping bloggers and commenters of the cloak of anonymity, crucial discussions will be stifled along with the trivial and petty.

Author’s bio

Anne W. Salisbury has a broad background in complex litigation involving e-commerce, trademark policing and enforcement on the internet, trade secrets, cyber-squatting, licensing and libel actions in the sports, entertainment and media fields.

Anne’s experience includes working on the team litigating a copyright software case in front of the U.S. Supreme Court, Lotus v. Borland and acting as lead counsel on a variety of complex securities fraud and intellectual property cases including Bihari v. Gross, a landmark case addressing fair use and trademarks on the Internet and Cohen v. Google a highly publicized case addressing the right to anonymity on the Internet.

She has extensive appellate, deposition, courtroom, and client consulting experience, in addition to having made numerous speeches and giving frequent press interviews regarding emerging New Media Law issues.