

Presstek sues online investors

BY KAREN HUDES

Presstek Inc., a Hudson, New Hampshire, company that built its fortune pioneering new technology in print production, is now forging new territory in online litigation, suing three Internet users for defamation that Presstek claims deflated the value of its stock.

Founded in 1987, Presstek developed and patented its own computer-to-plate technology, a series of products known as Pearl. The company now holds 50 patents worldwide, and its revenues in 1996 totaled \$48.6 million, a 76 percent growth over the year prior. Because of this stronghold in the still-evolving CTP field, Presstek's stock (publicly traded on the NASDAQ under ticker symbol PRST) has been on a wild ride recently. This past September, shares were trad-

ing at nearly 132 times earnings, a stratospheric ratio even in the high-flying new-technology sector. Over the past year, Presstek shares have sold at a 1996 high of \$88.75 and hit a low of \$22.56 last March. It closed at \$39 a share on October 10.

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The roller-coaster trajectory of Presstek shares has made it a favorite among "short sellers," investors who gamble that a given stock will fall in value. Because of this, the company has gotten a lot of discussion coverage on investing chat rooms like AOL's "Motley Fool" and the Web's "Silicon Investor," and that's where it says the trouble started.

Presstek is now suing three investors it identified as short sellers, people who, the company claims, posted false and defamatory statements about it on those two sites. The lawsuit, filed September 17 in U.S. District Court in Concord, New Hampshire, claims that the three defendants, Ivan Lustig, Mark Hollingsworth and Parag Patel, made statements designed to artificially depress Presstek's stock price. The postings under contention were all made under screen names, meaning that the three defendants remained anonymous to other people in the chat room. Although the company is not requesting punitive damages, it is asking for compensatory damages and legal costs, and for the defendants to return any profits they made from short-selling Presstek stock. The company did not name AOL or Netscape as co-defendants.

Allegations of mismanagement

According to the suit, the three made specific assertions about Presstek that they knew would cause the stock to fall, specifically that Presstek was the subject of a grand jury investigation, that it would lose money in a fiscal quarter when it actually made money, and that the price of Presstek common shares was rigged. The company calls those statements "false and misleading" and says they "substantially increased the volatility of its stock."

Robert McDaniel, general counsel for

Presstek, says the three defendants "made statements that were untrue, that they knew were untrue, for the purpose of influencing the stock." He adds, "Our position is, it is unfair to shareholders in the company to have manipulative activity happening. We want to stop this activity."

Complicating the case is Hollingsworth's vested interest in seeing Presstek fail. He runs an investment firm, Dominion Capital Advisors Inc., based in Suffolk, Virginia, but is also the president and co-founder of Digitek Systems Inc., which has developed its own CTP technology to compete with Presstek. According to Hollingsworth, Digitek was "on the eve of our largest beta rollout" when the Presstek lawsuit struck. Hollingsworth insists that he said "nothing defamatory" about Presstek in the chat room. As of press time, the defendants had not yet filed a formal response.



Presstek claims postings at two Internet investment sites caused its stock to fall.

Online litigation remains uncharted legal territory, since no court has firmly established whether communications like chat rooms and e-mail should be considered speech or print under current First Amendment doctrine. Last summer, AOL and Los Angeles gossip columnist Matt Drudge were both sued by *ex-New Yorker* writer Sidney Blumenthal after Drudge's AOL column accused Blumenthal of beating his wife. Drudge later ran a retraction, but the case

is still pending.

Lawrence Savell, media lawyer with the New York City firm Chadbourne & Park, says that the normal standards of print libel apply in the Presstek case, meaning that the postings should be considered the equivalent of published material. Savell says the popular perception that Internet postings receive the same First Amendment protection as speech is a dangerous one. "Communications that are potentially damaging on the Internet are fraught with peril [for the speaker]," he cautions.

However, Savell adds, this case bears at least one distinction from an ordinary print libel suit. "The Motley Fool" has a lengthy disclaimer warning visitors to exercise caution regarding its postings, and to use it merely as a starting point for more reliable research. This component, he says, may offer some protection for the defendants. □