

THE LEGAL PERSPECTIVE

August 12-16, 2002

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Monday, August 12, 2002

Companies and individuals initiating or expanding their Internet presence need to be sensitive to and prepared to deal with potential legal liabilities. False statements published on websites that defame a person, entity, or product of another can provide the basis for a libel or disparagement claim. Defenses to libel actions include truth and the fact that a statement is a fair and accurate report of an official government proceeding or record. Statements expressly and clearly of opinion still enjoy some protection. If a valid libel claim is raised against you, a quick, full, and prominent retraction or clarification may reduce potential damages.

Wednesday, August 14, 2002

Website operators should not use a person's name or picture for advertising or business purposes without proper consent. One common defense is that the picture depicted a newsworthy event or illustrated a matter of public interest with which the picture was reasonably related. Similarly, website operators must not use the copyrighted material of others without permission. Make sure that text and pictures were either internally created or commissioned, or that the copyright owner's consent has been obtained. A privilege such as "fair use" may apply, allowing certain limited use without permission. The fact you may have obtained the right to use material in print does not necessarily mean you have the right to post it on your website.

Friday, August 16, 2002

Website operators may face claims that a link to another's website makes the operator responsible for the content of that other site. To minimize that risk, post a notice disclaiming responsibility for and denying any endorsement of products, services, or information contained on the outside site. Allowing others to post statements or materials through uploads or "chat rooms" risks a claim that you are responsible for or have "republished" such matter. The unauthorized use of another's trademark on a website may also provide the basis for liability, including registration of domain names allegedly infringing on existing trademarks, and the use of trademarks of others in hidden "metatags."