

## PRACTICE CONTACT

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# INTERNET LITIGATION

Our group of internet litigators has unique experience representing clients who are being attacked on the internet. We are solely focused on the representation of businesses and professionals when online defamatory attacks are causing substantial harm to reputations and revenues. We have developed legal solutions to a plethora of negative situations that businesses and professionals face online to help our clients stop further defamation, end revenue drain and recover damages.

We have a team of litigators with deep experience involving complex internet defamation. We have litigated several high profile and first-of-their kind defamation cases on behalf of businesses of all sizes. As thought leaders in the field, we have developed innovative legal tactics that have ended attacks and recouped lost revenues. We have served as lead counsel in litigation in more than 25 states and handled more than 200 cases involving defamation matters.

As an AmLaw200 firm, Vorys stands out in the mix of law firms that focus on internet-based litigation. Our litigation group includes nearly 200 attorneys and is the largest practice group in our firm. Many of our litigators have become fellows of the prestigious American College of Trial Lawyers, and many of our trial lawyers are former clerks for federal or state court judges. Our firm repeatedly is honored for our top-notch work in the field, including receiving praise from general counsel and executives of all-sized companies – from those in the Fortune 500 to small businesses.

We are continually sought by media and professional organizations to provide insight on internet defamation due to our significant experience in the area. Our team has been recognized in media, such as *Forbes*, *Law360* and *Bloomberg*.

### Forensic Analysis

Our litigation attorneys work with forensic advisors to identify both direct and circumstantial forensic evidence to support claims against individuals conducting online attacks. Our team understands the available options and the questions to ask in order to seize the best data on behalf of our clients.

Our team has a wealth of experience examining nearly all types of digital devices in preparation for or in the midst of legal action, including computers, external hard drives, thumb drives, memory cards, smart phones and tablets. Those who are engaging in online attacks often take considerable steps to delete digital evidence once they learn they have or may be identified. We have worked with professionals to identify deleted documents housed within a device's slack space. Even when defendants have wiped clean entire devices, we have successfully used the timeline and data involved in the deletion to receive court orders in our favor.

Vast amounts of additional data housed within digital devices have successfully helped a number of our clients take action against their defamers. Such information includes metadata (the data about data that can often show when files were created, modified and accessed); external devices (forensic examiners can sometimes determine what external devices were connected to a machine); and .lnk files (these files are typically able to show when a file was present or accessed, even if it has been deleted).

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It is imperative that your defamation attorney not only knows forensic experts in the field and can provide sufficient direction, but also understands what legal steps can be taken with the evidence recovered. We do this on a regular basis. In addition, given the short statute of limitations for online defamation cases, it is important to consider taking action quickly.

## **False Advertising**

False advertising claims are governed by a number of laws, including the Lanham Act (the federal trademark statute), as well as federal regulations and unfair competition, consumer protection, and copyright laws. Our attorneys have broad-based experience in the welter of statutes and other authorities that may affect false advertising claims. We often are asked to evaluate our clients' proposed advertising materials for compliance with the law, to evaluate comparative advertising, and to assess the adequacy of the substantiation for comparative ads. We regularly work with our clients' advertising agencies to ensure that brands are used, and promotional materials are created, in a manner that strengthens trademark value.

## **PR and Other Support Services**

We understand that online defamation attacks often result in reputation damage that needs a multi-faceted response. The complex nature of these matters oftentimes calls for an "all-hands-on-deck" approach. We have developed both in-house Vorys teams and networks of external providers to meet all the needs that typically arise during responses to online attacks.

**Strategic Communications** – The Vorys Strategic Communications team regularly assists our clients with communications and media relations issues, such as crisis communications, investigative reports and reporter inquiries. For example, we regularly craft appropriate messages, while using and applying our legal skills to protect our clients from liability. We also develop PR strategies to mitigate our client's reputational damages prior to filing, and during, a lawsuit if one is necessary. Our team is comprised of former reporters and crisis communication professionals. When additional support is needed, we call upon our network of reputable PR and crisis communication agencies.

**Search Engine Optimization Specialists** – Our crisis response team has experience working with SEO specialists, who can help mitigate damages in an efficient manner. Although never a stand-alone response, taking action in certain matters when defamatory posts appear in search results can be part of a comprehensive solution.

**Expert Witnesses** – Vorys has assembled a collection of expert witnesses who understand the true extent of internet damage and the realistic cost of removing defamation from the internet. These experts are often called in for trials and for cases headed for arbitration. We have also engaged internet marketing consultants to assist clients in recovering money lost from damages caused by reputational crises on the internet.