

Protecting Your Brand on Blogs and Forums

Judith Rich OBE, Chairman, Diabetes Foundation
Michael Hales, Partner, Dispute Resolution, Nabarro

24 January 2008



Diabetes Foundation

1982	Formation, aims and activities as constituted Persona
1992	Legal cases
1997	Charity Commission investigation
1998	Results / suspension / appointment of new Trustees
2001/02	BBC programmes
2003	Results of court case
2005	Litigation on-going
2006	Final case heard



Protecting your brand on blogs and forums

- The implications of the internet
- Controlling the brand
- Abuse and what to do about it



The implications of the internet

- Hugely powerful but for most users, it is “pull” not “push”
- Search engines pull up bad news as well as good
- Anonymity encourages extremism
- Bad news travels fast!
- You cannot avoid the bad side; you might as well take advantage of the good
- Out of control and there is no means of establishing control over it
 - 70 million blogs
 - Growing by 120,000 every day
 - 1.3 million internet postings everyday



Control over the brand

- Trade marks
 - Breadth of classes of registration
 - Geographical scope of trademark protection
- Registration of domain names



Abuse and what to do about it

- Types of damage
 - Defamation and abuse
 - Attacks on sponsors/partners/patrons
 - Imitation/impersonation
 - Personal threats



MICHAEL HALES



Name: Michael Hales

Age : 18

Work: Nabnats



MICHAEL HALES



Good afternoon everybody.

I have found another picture of myself. This is me, Michael Hales, at the Nabnats Annual Ball (NAB) . I am Chairman of the NAB committee. This year we



Michael Nabby Hales



Hobbys : Cheerleading
Sex : Yes please
Personality : None. I'm a awkward git
Most Likely to Say: Oh no! Not again!
Least Likely to Say: Hahahahahahahah

MICHAEL HALES



Your response

- Does it matter?
 - Who is the target?
 - Who will read it?
 - Will anyone take it seriously?
- What is the underlying issue? How can it be resolved?
- Is it freedom of expression?
 - Article 10 of the European Convention on Human Rights



Your options

- Ignore it
- Non-legal action
- Legal action



Non-legal action

- ISPs
 - No need to identify the publisher
 - Cheap fix
 - But
 - Difficult to contact
 - What is illegal or offensive to you may not be to them
 - In general, they are slow
- The Police
 - Difficult to get them interested
 - Need to be able to identify the likely publisher
- Respond in kind!



Legal action

- Defamation
- Copyright infringement
 - Action must be brought by the copyright owner
- Trademark infringement
 - Where the abuse misuses a trademark
 - But the misuse must be in the course of a business and relate to trade mark use (ie. linking the mark to particular goods or services)



Defamation

- Is it defamatory?
- Need to identify the publisher
 - Tracking down IP addresses is unlikely to help
 - Seizing computers, retrieving deleted material
 - The ISP as the publisher
- The need to demonstrate “substantial publication”



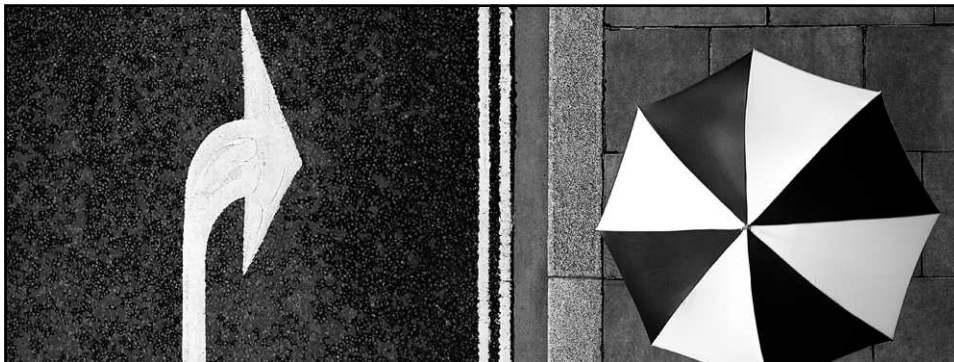
Defamation (cont'd)

- Defences
 - Justification
 - Fair comment
 - Vulgar abuse
 - Qualified privilege
- Remedies
 - Injunction
 - Damages



Conclusions

- Think long and hard before doing anything
- Identify the underlying problem and decide how to resolve it
- There may not be a quick fix
- The ISPs are generally the best route
- Engage PR advice and warn likely targets if appropriate



Protecting Your Brand on Blogs and Forums

Judith Rich OBE, Chairman, Diabetes Foundation
Michael Hales, Partner, Dispute Resolution, Nabarro

24 January 2008

