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### BlackSDA \_ 3ABN \_ Legal Liability For BsdA

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**Posted by: calvin Feb 4 2007, 02:02 AM**

Since several of the apologists have been making comments here and in private messages for me to repent of my ways in light of the imminent lawsuit coming my way, here is my response to all:

BSDA would most likely be shielded from liability under the provisions of Section 230 of the Communications Decency Act (CDA).

<http://www.chillingeffects.org/trademark/question.cgi?QuestionID=314> and

[http://www4.law.cornell.edu/uscode/html/uscode47/usc\\_sec\\_47\\_00000230----000-.html](http://www4.law.cornell.edu/uscode/html/uscode47/usc_sec_47_00000230----000-.html)

You can read the links for yourself. But to summarize; Congress understood that it would be nearly impossible for ISPs, ASPs and online community providers to actually go through every post, every comment and every page and check the validity of all statements made. This is completely different than with print where it is understood that magazines and newspapers should be reviewing their copy. The fact that I have administrators moderating the site doesn't help my case but still (as a general rule) not liable for failing to actually moderate it, or failing to moderate it in a way that removes what one company considers to be liable. Even 500 moderators aren't going to be able to figure out if what someone says about a company is fact, fiction, opinion or something said in malice.

Also take a look at this...

<http://www.somethingawful.com/legal/>

That website makes fun of people, and contains all kinds of slander and libel. Those are the legal threats they have received.

Also note that NONE of the legal threats were successful... because voicing your opinion on the internet is protected by the 1st amendment.

I am not a lawyer either, but I can play one like the rest of you. This isn't legal advice, but rather a general statement on slander and libel.

People toss these words around liberally as threats, but the reality is that neither is easy to prove in a US court.

Proving either requires the plaintiff to demonstrate that he or she has been harmed in some way by the statements made...

This could be harm to one's reputation, but even with that, there must be some tangible harmful result. So if you slander an author, and the results of your words are that the author's books sell less because his reputation has been damaged, you can be successfully sued for slander....And even in such a case, the plaintiff is still required to demonstrate an actual connection between the slanderous words and the decline in sales of the author's books.

If you say some negative stuff about this author, but it has no impact on his book sales, you can still be sued for slander, but since no harm was done to the author, the author is unlikely to win.

Again, this is not legal advice, and should not be relied upon in any decision making on handling these matters, but it is worth noting nonetheless.

**Posted by: Observer Feb 4 2007, 04:55 AM**

Re: "Proving either requires the plaintiff to demonstrate that he or she has been harmed in some way by the statements made..."

The above is a generally valid comment in the field of law.

It also is a factor in the field of copyright law. The question is: What was the tort (harm)? It would be a stretch to attempt to claim that the publication of the letter to GAJ by an attorney involved any tort.

There are other reasons why my posting of that letter could be expected to be legal. But, anyone who wishes to challenge that claim may consult an attorney to review copyright law.

What could possibly be achieved by a lawsuit on this issue? As a long shot, possibly a court would enjoin me from posting that letter again. What would that achieve? After all, the letter has already been posted on this forum and on another. Even if I were to be enjoined from posting it again, that would not prevent others from posting it and commenting on it.

Again, I am not a licensed attorney. I do not consider myself to be an expert in the law. Anyone who wishes information on the subject discussed here should consult a properly licensed attorney, competent in this area to render legal advice. It is not my intent to provide legal advice on any matter, by my comments in this forum.

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**Posted by: PeacefullyBewildered Feb 4 2007, 11:56 PM**

Calvin, thanks for the information! It is encouraging to see that we still have freedom of speech and freedom to have our own opinions in the United States.

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