

Courts Rule on Online Liability

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As Congress debates the merits of holding online service providers liable for certain actions, two Courts have ruled on cases involving liability for comments posted on a computerized bulletin board and for copyright infringement. The New York State Supreme Court for Nassau County declined to reverse a ruling against the [Prodigy Services Company](#), affirming that Prodigy is liable for comments posted to its service by a subscriber. The decision also noted that the online service provider did make some effort to screen out content posted by subscribers and that the service was a publisher of information, not just a carrier. In an interesting twist, since the original ruling, the plaintiff investment bank and its president have withdrawn their libel suit in return for an apology by Prodigy.

A federal judge in California has ruled that [Netcom](#) [now Earthlink] may be held liable for copyright infringement because the company did not remove copyrighted materials posted by a subscriber. The judge's ruling included an important distinction: that Netcom may be liable for "contributory" copyright infringement, not direct or vicarious infringement.

The Administration's [White Paper on Intellectual Property and the NII](#), and the National Information Infrastructure Copyright Protection Act of 1995 (S. 1284 and H.R. 2441), include a proposal that would hold online service providers liable for subscribers' postings of copyrighted works without permission.

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