

# FILTERS, FAIR USE & FEEDBACK: USER-GENERATED CONTENT PRINCIPLES AND THE DMCA

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In the Web 2.0<sup>1</sup> era, internet business models increasingly shifted to user-generated content (UGC).<sup>2</sup> UGC sites rely on their users to contribute

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1. For a full discussion of the meaning of this term, see Tim O'Reilly, *What is Web 2.0: Design Patterns and Business Models for the Next Generation of Software*, O'REILLY, Sept. 30, 2005, <http://www.oreillynet.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html>. *But see* Posting of Tim Bray to ongoing, Web 2.0 or Not?, <http://www.tbray.org/ongoing/When/200x/2005/08/09/Web-2.0> (Aug. 11, 2005) (arguing that the term "Web 2.0" is used too broadly to have real meaning); *see also* Posting of Robin Wauters to TechCrunch, The Death of "Web 2.0", <http://www.techcrunch.com/2009/02/14/the-death-of-web-20/> (Feb. 14, 2009) (reporting that usage of the term "Web 2.0" is declining).

2. The accuracy of this now-ubiquitous term is questionable. Some question whether creators of content can fairly be classified as users. *See, e.g.*, Posting of Scott Karp to Blog Herald, Death of the User, <http://www.blogherald.com/2006/12/27/death-of-the-user/> (Dec. 27, 2006 20:53). Yet much of the content is really studio-generated and only user-appropriated. Posting of Scott Karp to Publishing 2.0, A Lot of User-Generated Content Is Really User-Appropriated Content, <http://publishing2.com/2006/11/18/a-lot-of-user-generated-content-is-really-user-appropriated-content/> (Nov. 18, 2006). Other names have gained traction. UGC is called "user-created content" overseas, but the UCC acronym has been converted to "user-copied content" by critics. *See* SACHA WUNSCH-VINCENT & GRAHAM VICKERY, ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, PARTICIPATIVE WEB: USER-CREATED CONTENT 1 (2007), <http://www.oecd.org/dataoecd/57/14/38393115.pdf> (indicating that UGC is called "user-created content" overseas); Posting of Danny Kim to <http://publishing2.com/2006/11/18/a-lot-of-user-generated-content-is-really-user-appropriated-content/> (Nov. 20, 2006 00:34 PST).

For analysis of other legal issues related to user-generated content, see Niva Elkin-Koren, *Governing Access to Users-Generated-Content: The Changing Nature of Private Ordering in Digital Networks*, in GOVERNANCE, REGULATIONS, AND POWERS ON THE INTERNET (E. Brousseau et. al. eds., forthcoming 2009), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1321164](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1321164); Tom W. Bell, *The Specter of Copyism v. Blockheaded Authors: How User-Generated Content Affects Copyright Policy*, 10 VAND. J. ENT. & TECH. L. 841 (2008) (providing an economic view of UGC and predicting that UGC will drive down the costs and increase accessibility for all content); Greg Lastowka, *User-Generated Content and Virtual Worlds*, 10 VAN. J. ENT. & TECH. L. 893 (2008); Edward Lee, *Warming Up to User-Generated Content*, 2008 U. ILL.