

# User-Generated Content and the Future of Copyright: Part One—Investiture of Ownership

*Steven Hetcher\**

## ABSTRACT

*While user-generated content (UGC) has been around for quite some time, the digital age has led to an explosion of new forms of UGC. Current UGC mega-sites, such as YouTube, Facebook, and MySpace, have given UGC a new level of significance, due to their ability to bring together large numbers of users to interact in new ways. The “user” in UGC generally refers to amateurs, but also includes professionals and amateurs aspiring to become professionals. “Generated” is synonymous with created, reflecting the inclusion of some minimal amount of creativity in the user’s work. Finally, “content” refers to digital content, or that generated by users online.*

*Because discussion of the legal aspects of UGC is in its infancy, and new UGC is distinguishable from old UGC, the initial focus must be on the copyrightability of UGC—whether UGC falls in the core of copyrightable subject matter. In this article, the first part in a three-part discussion of the key copyright issues surrounding UGC, the author lays the foundation in a discussion of whether UGC is original, whether it is a work of authorship, and whether it is fixed in a tangible medium of expression. The answer to these questions, especially the one identifying the author of UGC, are imperative to the second part of this three-part discussion, which argues that courts should deem Facebook’s Terms of Service (and similarly drafted terms of service for the other UGC mega-sites) unconscionable.*

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\* Professor of Law, Vanderbilt University Law School. J.D., Yale University; Ph.D., Philosophy, University of Illinois; M.A., Public Policy, University of Chicago; B.A., University of Wisconsin. The author gratefully acknowledges the research assistance of Casey Fiesler and Stephen Jordan.