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## **An Analytical Note: How the Internet Has Changed Our Personal Reputation**

### **Abstract:**

The internet and other new technologies have changed personal reputation fundamentally, as seen in many similar cases regarding online defamation and privacy invasion. These changes include: a) digital reputation becomes the prevailing form of personal reputation with new characteristics; b) traditional reputational networks have been updated to online networks; c) therefore the ways for individuals to establish, maintain and defend reputations are altered in the new environment; and d) many social functions traditionally played by personal reputation have been challenged by the development of digital reputation. This article tries to provide a brief analysis of such changes and sound the warning bell. We, as citizens of the new Database Nation, have to be fully aware of such changes in order to avoid potential harms while enjoying the benefits of the information age.

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## Introduction

American law professor Robert Steinbuch's story shows us how the internet can damage reputation and twist life so ruthlessly.<sup>74</sup> Cutler, a former staff assistant working at Capitol Hill, blogged about detailed sensational sexual encounters with her colleague Steinbuch, as well as with other men she simultaneously had relations with. Her blog was connected to many social networks and soon the story got widely known both online and offline. As a promising staff attorney for Ohio Senator Mike DeWine, Steinbuch left his job for teaching. In the following years, his law students constantly kept googling his story. Embarrassed by the publicity, he lodged several legal cases against the invasion of privacy and to save his good name, but seemingly in vain.<sup>75</sup>

In his book *The Future of Reputation*, American Law Prof. Daniel J. Solove vividly sketched what the future of our personal reputation, digitized reputation or digital reputation, could be, and how our laws should react to this depressing future.<sup>76</sup> Like the commercial world, the internet and new technologies have offered new ways of collecting, disseminating, processing and preserving personal information. With more than half employers use social networking sites to search job applicants,<sup>77</sup> we are more and more likely to be what the internet, or merely Google, says we are.<sup>78</sup> It is not exaggerated at all to say that the internet has made fundamental changes to our personal reputation.

An individual's reputation is a social-moral judgment of the person based on the facts considered relevant by a community; such facts include personal acts and characteristics.<sup>79</sup> There are various ways or instruments that individuals use to create, preserve, defend and benefit from their reputations. Personal reputation exists in complex social networks, bears some characteristics, and performs certain social functions. The large openness, easy accessibility, and unprecedented liberty of the cyberworld have made big changes to these aspects of personal reputation and therefore have brought our personal reputation to a new stage. Steinbuch's story, as well as many other similar ones, has sounded the warning bell for such big changes.

## Changed personal reputation

### Reputational network updated

We find individual reputations in the reputational networks of a given community.<sup>80</sup> These reputational networks have multiple layers. The inner layers refer to the social networks of a limited number of people. Their direct contacts and interactions lead to first-hand observations, impressions and evaluations of others. The intermediate layers include people who do not have direct contacts and interactions, but who can still wield some influences over others. These are indirect social relations such as friends' friends. Their direct contact can be easily established via existing channels to communicate trusted information. The external layers include only the audience brought by traditional mass media. In such social networks information flows only in one direction and a person has a reputation among many whom he knows nothing about. This happens to most public figures whose reputations reach beyond geographical boundaries.

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<sup>74</sup> Known as Washingtonienne, see: Glaister, Dan: Washington Gets Ready to Gossip as DC Sex Blog Goes to Court

<sup>75</sup> Goldman, Eric: Robert Steinbuch Loses Another Round--Steinbuch V. Hachette

<sup>76</sup> Solove, Daniel J: The Future of Reputation: Gossip, Rumor, and Privacy on the Internet

<sup>77</sup> Guy, Social: 50% of Employers Use Social Networking Sites to Research Job Candidates

<sup>78</sup> Angelo, Megan: You Are What Google Says You Are

<sup>79</sup> McNamara, Lawrence: Reputation and Defamation: 21

<sup>80</sup> Craik, Kenneth H.: Reputation: a Network Interpretation

The traditional structure of reputational networks has been altered by the openness, easy accessibility and free accessibility of the internet. First of all, the internet has created virtual social networks, an independent yet no less important social sphere open to various human interactions. It is not simply the case that people just move their social networks and their daily interactions into the cyberworld. While internet users still follow the rules of conventional social networks, anonymity allows free participation and withdrawal without worrying about any negative aftermath. This likely creates public forums for free speech and free self-expression, despite potential falsity and malicious content.

The mutual support of on-and-offline social networks largely increases the use of the internet for social interactions. People may meet others first online and then start contact in real life; or *vice versa*, from online dialogue to offline group formation.<sup>81</sup> The internet has made maintaining large social networks possible, such as college alumni networks, which are difficult to maintain by traditional communication. Online social networks also help increase life efficiency by reducing unnecessary social contacts and improving desired contacts, as evidenced by online shopping and online dating. In addition, they are a necessary tool of socialization among young generations. Nowadays a college student without Google, Facebook or twitter accounts will be a stranger to others and be left out when many social activities are organized by online social networks. Even university authorities generally feel the pressure to participate actively in online social networks for better outreach and communication with their communities.<sup>82</sup>

In the past, one gained reliable information and evaluation through direct personal contact, third party talks, gossips, or mass media. Now it is still the same for many. But a new approach is found on the internet by just searching the subjects. It needs no substantive social network, and comes at almost no cost. This in a sense reduces the necessity for individuals to develop and maintain intermediate-layer social networks, although inner personal networks are still a psychological necessity. Crowd sourcing at this point is a powerful information source to meet the demands of online information enquiry.

Thus the most fundamental change is that the internet has taken place of people and mass media to be the prevailing personal information locus. In the past, when people died, their memories went with them and their reputational networks would eventually die out.<sup>83</sup> An exception is public figures or celebrities with written records, which has little to do with ordinary people. In the digital era, however, the internet can store personal information forever if such data was once "online", no matter whom the subject is. The locus of reputational networks has moved from people, traditional archives and mass media, to the internet as the best mega archive.

Finally, online reputational networks are rather reliable information sources, when compared to traditional reputational networks. Online information is not censored and selective as compared to traditional information sources. They are open to new elements, critiques and further corrections, since every web user has the potential to be a content generator. Though false information can cause temporary problems, falsity could be defeated in the long run by constant checks and scrutiny of information subjects and other web users.<sup>84</sup>

### Prevailing digital reputation

With the importance of online social networks increasing, digital reputation or digitized reputation has gradually become the prevailing form of personal reputation. This has changed our perception and practice of reputation in daily life. First, digital reputation more or less represents the social status of an individual. Someone without online information has no public identity, a clear indication of marginalized social status in general. When no proper personal information is found online, we find it hard to trust this person and make further contact with

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<sup>81</sup> Shirky, Clay: Here Comes Everybody: The Power of Organizing Without Organizations: 142–160

<sup>82</sup> See e.g. Bradshaw, Karen and Saha, Souvik: Academic Administrators and the Challenge of Social-Networking Websites: 140-154

<sup>83</sup> See Craik, Reputation: 174–175

<sup>84</sup> Sunstein, Cass R.: Believing False Rumors: 103–105

him.<sup>85</sup> A proper digital identity or reputation is vital for individual success nowadays, like in the commercial world. Online rating or ranking websites, such as those ranking lawyers and university teachers, provide important information for further social interactions.

Second, the internet is not only a major information source, but also one that we trust more. Either we can find needed information on the internet unavailable from traditional sources; or we get so used to using online information so that more information is provided for awareness, comparison and correction. Now one can control the internet and censor what others say about a person. This forces reputation subjects or bearers to take their digital reputation seriously and react to untrue information. In addition, the internet never forgets. This means that a person's past can be dredged out easily for reference,<sup>86</sup> once such data is uploaded online. Data aggregation and computing is able to offer a more objective view of the issue of our concern. Despite false contents, most of time, one can grasp some valuable information with a bit of deliberation.

Third, in many cases, the prevailing force of digital reputation is somehow reflected in our ill judgment that is not well justified. Employers may turn down job applicants after reading a few sentences posted by their ex-lovers, or from irrelevant online bullying, even though candidates may be professionally well qualified. The reason could be that they personally just do not like the information affiliated with such applicants. The chance of such unjustified assessments has been largely increased when irrelevant information over-floods the internet.

### New characteristics

As detailed above, our present individual reputations, in particular our online reputations, are more of a *panoramic* nature. They are not localized evaluations that are based on proper standards and made in suitable contexts. This first notable characteristic can be attributed to the de-contextualization and re-contextualization of online information.<sup>87</sup> On the one hand, reputation becomes nearer to social reality because of the availability of multiple sources and diversified judging standards. But on the other hand, the large quantity of information makes right judgment rather difficult in view of efficiency and convenience.

No one can really read all pertinent messages in their *original* contexts, when flooded with all kinds of personal data. That the internet blends the distinctions between the past and the present, and between the private and the public, has turned individual reputation into evaluation *not in a specific context* for an intended purpose, but in terms of an evaluation of all relevant information available at a particular time. This panoramic and synthesized view replaces traditional reputation that is more localized in well-defined contexts. Personal data has to be reconstructed in readers' contexts and interpreted with different meanings to guide further decisions.

A second feature is the audience friendly tendency in nowadays reputation. There are huge amount of personal data online benefiting information seekers, but in sharp contrast less restrictions on how such information should be transferred and used beyond their original purposes of collection. Moreover, data subjects have limited control over their own personal data in the new digital environments, or they even do not know the existence of such data in the wildness of the cyberworld.<sup>88</sup>

Third, personal reputation is more propertied or commercialized in the information age. Information is currency.<sup>89</sup> Like privacy, reputation information evolves into a commodity for free exchange on market.<sup>90</sup> Celebrity

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<sup>85</sup> Refer to Solove's personal experience. See Solove, *The Future of Reputation*: 40–42

<sup>86</sup> See in general, Allen, Anita L.: *Dredging up the Past: Lifelogging, Memory, and Surveillance*: 47–74

<sup>87</sup> Mayer-Schönberger, Viktor: *Delete: The Virtue of Forgetting in the Digital Age*: 89–90

<sup>88</sup> Werbin, Kenneth C.: *Auto-biography: On the Immanent Commodification of Personal Information*: 47

<sup>89</sup> Reading, Viviani: *The EU Data Protection Reform 2012: Making Europe the Standard Setter for Modern Data Protection Rules in the Digital Age*

<sup>90</sup> Werbin, Kenneth C.: *Auto-biography*

status on the internet can bring economic income or other substantial benefits to reputation bearers. This encourages people to seek online attention by revealing more personal information regarding themselves and others. Lewinsky benefits from her association with Clinton even fifteen years after the affair. Cutler cashed in well her fifteen minutes' fame, but at the price of sacrificing Steinbuch's dignity.<sup>91</sup> This tendency lies in a larger social process of the commercialization or propertization of personal information. This process started with the recognition and protection of the economic value in our likeness, names and intellectual properties.

A last characteristic is the diversified evaluation standards brought up by online social networks extending beyond geographical and chronological limits. While individual reputation is of great concern and open to public opinion, the whole world may speak on the same matter at the same time. New information will appear, together with much diversified views based on totally different morals. This will certainly change our impression, or just strengthen our old prejudices.<sup>92</sup>

### Reputation management

The shift of gravity of personal reputation to the digital form challenges the traditional methods of reputation management. Individuals now have new ways to establish, maintain and develop their reputations. However, when confronting challenges, they are rather vulnerable with respect to effective means of self-defence. Ordinary people can be famous online overnight expectedly or unexpectedly. The overnight celebrity, South Korean singer PSY, demonstrates the power of the cyberworld in creating a new world star. Online celebrity means popular attention, and in turn means more mouse clicks on one's names and relevant links. One can be an online celebrity because others disclosed information about him like Steinbuch. In both cases, the internet has provided a useful instrument to forge quick reputation.

Personal reputation management becomes much harder than in the pre-internet age, when cameras, smart phones and CCTVs are around us and all connected. The circulation of personal information concerning our behaviors, private or public, is hardly under control. Stepping out of our home means exactly a choice of less privacy and more exposure to the public for continuous scrutiny. The idea that a person, when walking in a crowded New York street and surrounded by many others, can still enjoy privacy, is out of date now.<sup>93</sup>

Neither can one control the contents of information, nor the circulation boundary. Online defamation and cyber bullying are more popular threats to individuals, especially juveniles. Victims of online defamation and privacy invasion are in a much weaker position to defend their name due to the Streisand effect. The more one tries to correct negative information online, the more people will know about it.<sup>94</sup> In the wildness of the internet, law provides no sufficient remedy as witnessed in Steinbuch's situation, nor our morals. Self-defence can have certain practical uses. Some wrote to defamers and information hosts requiring the withdrawal or deletion of offensive information. Some post more information to correct the malicious contents. Others resorted to professionals such as reputationdefender who uses technical measures to push down calumnious messages of Google search results.

In this context, data holders are a vital player in online reputational games. Without their agreement and help, there is no final success against online defamation and privacy invasion. The right to be forgotten proposed by the European Commission is the first systematic legal reaction to devastating cyber-harms.<sup>95</sup> The proposal puts

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<sup>91</sup> Bussel, Rachel Kramer: Spanking Jessica Cutler

<sup>92</sup> See in general Sunstein's discussion of group polarization. Sunstein, Cass R.: On Rumors: How Falsehoods Spread, Why We Believe Them, What Can Be Done: 32–46

<sup>93</sup> Think about the impact of Google glass in the near future.

<sup>94</sup> Cacciottolo, Mario: The Streisand Effect: When Censorship Backfires

<sup>95</sup> Reading, Viviani: The EU Data Protection Reform 2012

a legal duty on data hosts to block or remove offensive information upon the request of online defamation victims.

### Modified functions

The above changes brought by the internet have modified the social functions that personal reputation performs in modern society. Reputation basically is a classification system to evaluate and separate people from each other by certain social-moral standards. For reputation subjects, reputation is self-presentation or self-promotion at public stage.<sup>96</sup> One performs or presents before others in order to be treated in desired ways. A university Professor can establish a reputation as a dreaded professor to gain maximum class efficiency. Reputation, as selective self-disclosure, is also an important means to control personal boundary.<sup>97</sup> The popular use of online social networks and online searching strengthens this role to the extent that many law professors edit their own Wikipedia pages for better public images.

Another enhanced function is the anonymous self-expression and personality construction in the cyberworld. Without reputational identification, an individual can disclose the "real self". One may post dirty words and unusual contents that he would not do in real life, trying to achieve an "ideal" reputation or identity for psychological needs. This inner-self, once identified with the external self, can cause trouble, putting the subject under social pressure for deviation from accepted social norms. Real reputation can be successfully separated from bogus reputation. But the more a person wants to benefit from online reputation, the more true information he has to reveal, the more he will be under other's scrutiny.

For reputation audience, reputation marks others' personal identity and personal boundary. At present, information from online search brings first impression of strangers, shapes our opinions of acquaintances, and even overturns our trust in close friends when unknown information is revealed. Besides, reputation nowadays puts more restrictions on a subject who claims a special identity. Thus an audience is likely to have a moral right to rely on a proclaimed reputation for further action, for example a trustable friend. Backed by crowd sourcing, the internet has considerably strengthened the power of audience in checking departed deeds. However, as above said, our judgment can be misled by the de-contextualization or re-contextualization of online information. Last, a noticeable, yet vicious use of digital reputation is to smear or defame others for various purposes like revenge or retaliation at little risk.<sup>98</sup>

Regarding community as a whole, scholars have stressed reputation's role in providing mutual trust to reduce transaction cost.<sup>99</sup> Apparently this function has been developed to the best by online rating systems. However, the internet has impeded other social functions. Community as a whole, according to Post, has interest in protecting individuals' reputation to maintain civility, communal identity and social ordering.<sup>100</sup> To achieve those goals, individual reputation must be protected as an affirmation of righteous deeds that accord to certain mutually accepted moral standards to assert community's moral boundary.

The boundary breaking feature of online social networks helps break down such moral coherence, exposing previously hidden discrepancy and deviation to the public, and menacing mutual respect. This is particularly true when we regard reputation as intangible property and dignity.<sup>101</sup> Similar to the cases of Cutler and PSY,

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<sup>96</sup> Goffman, Erving: *The Presentation of Self in Everyday Life*

<sup>97</sup> Privacy is the contrary means in self boundary control. See: Derlega, V. J. and Chaikin, A. L.: *Privacy and Self-disclosure in Social Relationships*: 102–115

<sup>98</sup> Hence the proposal for criminalization of online defamation, see: Brenner, Susan W.: *Should Online Defamation Be Criminalized*

<sup>99</sup> See e.g., Posner, Richard: *The Right of Privacy*

<sup>100</sup> Post, R. C.: *The Social Foundations of Defamation Law: Reputation and the Constitution*

<sup>101</sup> Post took reputation as honor, intangible property and dignity, but honor is less a popular concept in modern society. *Ibid.*

reputation is more of pure public attention, but less a result of hard work; and a negative reputation can be beneficial, and achieved at the price of sacrificing others' dignity.

Furthermore, present-day personal data processing has torn down the conventional separation between the public and the private spheres.<sup>102</sup> An American website called Reportyourex offers a public forum allowing self-claimed victims to condemn ex-lovers and list their vicious deeds to warn others. But such disclosed private matters are not to be proved true.<sup>103</sup> Another telling example is the recently famous Duke University "Fuck List", posted by a formal female student to reveal her sensational experiences and rank her sex partners.<sup>104</sup> This is typically invasion of privacy by putting others under false light and disclosing their private lives, which will all be kept on the internet forever. As such, we are living under the heavy shadow of our past that is constructed on disclosed personal information and relative comments online. As a consequence, our personal identity development is thwarted largely when old identity sticks so closely to us.<sup>105</sup>

## Conclusion

In the information age, digital reputation becomes the prevailing form of reputation and online social network the unavoidable part of our social life. This has fundamentally changed our personal reputation with considerable consequences. As individuals, we have to know the pros and cons of such changes while relying more and more on online information to make decisions in social interactions. We have to know how to prevent ourselves from potential harms of online defamation and privacy invasion, while we are enjoying the numerous benefits of the information age.

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<sup>102</sup> See in general Nagel's account of the public and private distinction. Nagel, Thomas: Concealment and Exposure: 17–22

<sup>103</sup> <http://reportyourex.com/page/10/>

<sup>104</sup> Hill, Kashmir: Will the Duke F\*\*k List Lead to Lawsuits?

<sup>105</sup> Thus some scholars advocate online reputation bankruptcy. See e.g. Zittrain, Jonathan: The Future of the Internet--And How to Stop It: 228–229

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