

CDA Immunity - Round 1000

By: Jack Greiner on November 18, 2009 on graydon.law

A state court in New York recently [ruled](#) that Facebook does not lose its immunity under section 230 of the Communications Decency Act just because its terms of service claim ownership of content supplied to the site. The plaintiff apparently confused “content creation” with “content ownership.” There’s an important difference. Under the CDA, an interactive computer service is not deemed the publisher of content supplied by a third party. That means that a service like Facebook isn’t liable for defamation or privacy claims arising from a post out up by a third party. In this case, the plaintiff argued that Facebook became responsible for the third party content when it claimed “ownership” of it. But that’s not the case. For CDA purposes, the question isn’t ownership, it’s creation. The CDA is the metaphorical [snuggie](#) for sites like Facebook - it’s a big thick blanket of immunity. Plaintiffs continue to try to get past it, but to date, for the most part, they’ve proven no match.