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## **Candidate may be able to shut down bogus Web site, but is it worth political cost?**

**By Carol Lundberg**

When U.S. Rep. Pete Hoekstra, R-Holland, decided to run for the office of governor, his campaign team set up a Web site for him, [hoekstraforgovernor.com](http://hoekstraforgovernor.com). But the campaign team didn't acquire [www.petehoekstra.com](http://www.petehoekstra.com).

And that wasn't a problem – until someone else did.

The “someone else” in California Internet entrepreneur Ben Padnos, who hails from Holland, in Hoekstra's district

in west Michigan, and he doesn't much care for the congressman's politics.

On the day after Christmas, when Hoekstra sent out what Padnos said was a distasteful campaign fundraising letter, Padnos registered the Web site and started posting unflattering news stories and blog posts about Hoekstra.

Hoekstra's team has a basis to challenge the site and have it shut down, said Kathryn L. Ossian of the Detroit office of Miller, Canfield, Paddock and Stone, P.L.C.

“There is a provision in the Anticybersquatting Consumer Protection Act that says if it's your actual name in the Web address, you could prevent someone else from using it,” Ossian said.

But whether or not to pursue the issue is another question altogether, said Charles R. Spies of Washington, D.C.-based Mckenna Long & Aldridge LLP, Hoekstra's lawyer for the campaign.

“If we were to take action against them, it would just raise the ID of a primary opponent who doesn't even register on the polls,” Spies said, adding that he thinks Padnos is supporting Hoekstra's Republican opponent in the primary, Rick Snyder. “Dirty tricks like setting up a fake Web site usually backfire.”

Spies would not comment on whether the campaign will try to have the site shut down.



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PLC**

“Cases like this have been brought in the commercial context under the [act],” he said. “The political impact, however, is that taking legal action draws attention to the very site you’re concerned with, so the suits are usually not brought in the political context. Taking legal action would just be a diversion against Pete’s agenda of fixing Michigan’s economy and creating jobs,” he added.

Daniel P. Dalton of Tomkiw Dalton, PLC in Royal Oak said that trying to shut down the anti-Hoekstra site is possible, and it could be done quickly.

He recently represented the public relations firm of Tanner Friedman Strategic Communications when a rogue employee of a competing firm set up a Twitter social networking account under the Tanner Friedman name.

The case was a little different than the Hoekstra site, in that the bogus Tanner Friedman site was used to impersonate the real firm, whereas Padmos’ site is clearly un-affiliated in any way with the candidate and congressman.

Dalton said that if the Hoekstra camp decides to act, it needs to move quickly.

“The longer the site is operating, the harder it will be to make the argument to shut it down,” he said.

Another sticking point would be that the content of the site is political speech, Ossian said.

“That’s protected by the Constitution. It’s different when it’s just a celebrity name and someone who clearly has to claim to use that name,” she said. “That’s easy to shut down. But this is commentary, and that’s protected speech.”

Still, she said if she were advising Padnos, and she’s not, she would recommend that he immediately put up a disclaimer on the site’s home page.

“I would make that disclaimer as clear and as prominent as possible,” she said. “That would be the strongest protection he could have.” ■



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