

When an Employer and Employee Break Up, Who Gets the LinkedIn Account?

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The new Google SEO algorithm, [Penguin](#), gives a high ranking to social media use. Businesses that seek to optimize their web site benefit by encouraging their employees to move their business content around the internet. What happens when a business invests in an employee's [LinkedIn account](#) and that employee leaves to take a job elsewhere?

A Federal judge in Pennsylvania recently considered this question. While the issue may be novel, [social media ownership rights](#) promises to grow in importance as businesses learn more about Google *Penguin* and understand that passive, paid link building is out and active use of social media is in.

In *Eagle v. Edcomm*, plaintiff Linda Eagle alleged that her former employer violated the Computer Fraud and Abuse Act (CFAA) by taking over her LinkedIn account after she was terminated. The lawsuit also alleged a number of other claims, including trademark infringement, invasion of privacy by misappropriation of identity, misappropriation of publicity, and identity theft.

According to court documents, Edcomm, using Eagle's LinkedIn password, accessed her account and changed the password so that Eagle could no longer access the account. The company then allegedly changed Eagle's account profile to display her successor's name and photograph. Eagle maintains that these actions resulted in business contacts or potential customers of Dr. Eagle's, who were searching for her profile, being routed to a LinkedIn page featuring someone else's name and photograph, along with her honors and awards, recommendations, and connections.

On Motion for Summary Judgment, the court dismissed Eagles' CFAA and trademark infringement claims, while leaving her state law claims intact. In its [opinion](#), the court specifically noted Edcomm's social media policy that "when an employee left the company, the company would effectively 'own' the LinkedIn account and could 'mine' the information and incoming traffic, so long as it did not steal the former employee's identity."

The Court further determined that the loss of business opportunities, particularly such speculative ones as Eagle alleged, were not compensable under the CFAA. It ruled similarly with respect to her claims of damage to her reputation and to the relationships she maintained with her clients.

Finally, with regard to the trademark infringement claims, the court concluded that there was no likelihood of confusion, noting that "someone viewing the account would not be confused into believing that Ms. Morgan was Dr. Eagle or that Dr. Eagle remained affiliated with Edcomm." In addition, the court highlighted that the account was only compromised for a two-week span of

time before it was returned to Eagle. “Such a brief period mitigates any possibility of confusion,” the court concluded.

A court in California also sided with the employer earlier this year by refusing to dismiss a trade secret lawsuit involving the ownership of a former employee’s Twitter account. In *PhoneDog v. Kravitz*, the employer, PhoneDog, contends that it is the rightful owner of the Twitter account and its 17,000 followers, characterizing it as a proprietary customer list.