

Controlling the Message

Fighting Back Against Negative Online “Reviews” and Companies That Steal Your Internet Traffic and Reputation

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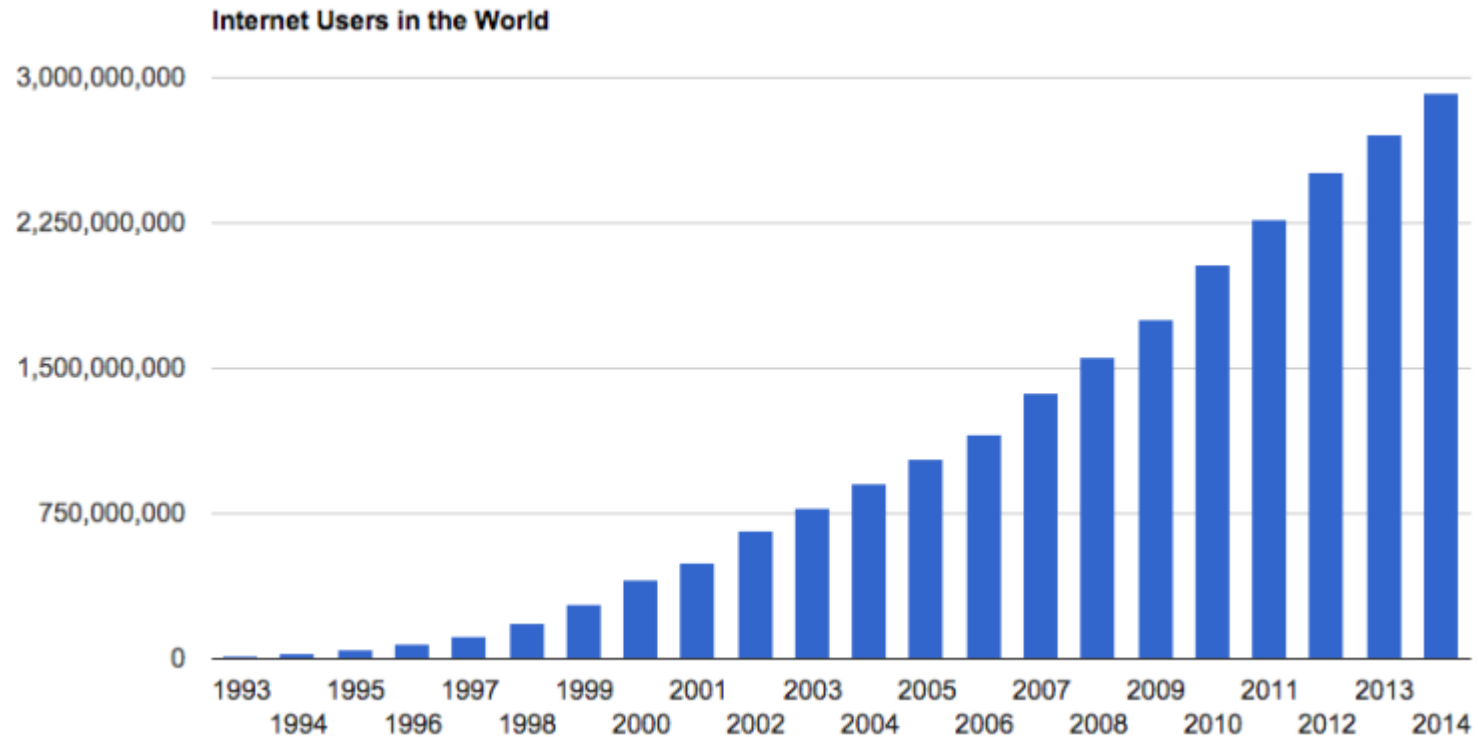
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The Internet as the Wild West



The Internet Today



The Traditional “Easy” Target

- ▶ A rival company
- ▶ That defames your company
- ▶ To a third party; or
- ▶ On its website, social media space, or other platform

Legal Theories Against Traditional Targets

- ▶ Federal Law
 - Lanham Act
 - Unfair Competition
 - False Advertising
- ▶ State, Common Law
 - Trade Libel (Defamation)
 - Unfair Competition

The New, Relatively “Easy” Target

- ▶ A rival company
- ▶ That defames your company
- ▶ On a supposedly *neutral* “review” website
- ▶ That pops up when you search for your company

Manipulating Search Results

The screenshot shows a Google search for "pronabolin". The search bar contains the word "pronabolin". Below the search bar, the results are displayed. The first result is an advertisement for "Pronabolin™ - (Official Site) - Natural Male Enhancement" from www.pronabolin.com/. The second result is a review from dietspotlight.com. The third result is from Amazon.com. The fourth result is another review from consumerhealthdigest.com. The fifth result is a warning about buying Pronabolin.

Google pronabolin

About 9,240 results (0.39 seconds)

Pronabolin™ - (Official Site) - Natural Male Enhancement
(Ad) www.pronabolin.com/ (877) 925-3128
The Best Selling Low T Booster on the Market. Reclaim Your Manhood Today!
Up to \$125 Off - Regain Your Manhood - Boost Low T - Free & Fast Shipping - 120 Day Guarantee
[Order Now](#) · [Ingredients](#) · [FAQs](#)

Pronabolin Review | (UPDATED) Is this the Safest Testosterone ...
<https://www.dietspotlight.com/pronabolin-review/> ▼
★★★★★ Rating: 3.6 - Review by Summer Banks
Pronabolin review, with side effects, ingredients for low t supplement, Does Pronabolin work for testosterone?

Amazon.com: Pronabolin Natural Testosterone Booster, 90 Count ...
<https://www.amazon.com/Pronabolin-Natural-Testosterone-Booster.../B01259NVJK> ▼
★★★★★ Rating: 2.8 - 41 reviews
Buy Pronabolin Natural Testosterone Booster, 90 Count on Amazon.com ✓ FREE SHIPPING on qualified orders.

Pronabolin - Testosterone Booster
<https://www.pronabolin.com/> ▼
Fight mother nature and feel younger than ever before with Pronabolin. The formula used with Pronabolin is safe and effective, so you don't have to worry about ...

Pronabolin Review (UPDATED 2017): Does This Product Really Work?
<https://www.consumerhealthdigest.com/testosterone-booster/pronabolin.html> ▼
★★★★★ Rating: 2.5 - Review by Mark Simms
Pronabolin WARNING: Do Not Buy Pronabolin Until You Read This Review! Does Pronabolin Work? Learn More About its Ingredients and Side Effects from Our ...

Competitors' Review Sites



Legal Theories Against These Targets

- ▶ Federal Law
 - Lanham Act
 - Unfair Competition
 - False Advertising
- ▶ State, Common Law
 - Trade Libel (Defamation)
 - Unfair Competition

Pepper Successes

- ▶ Pepper has filed a string of suits against these types of “review websites”
- ▶ Bringing claims for unfair competition & false advertising under the Lanham Act
- ▶ Plus, claims for trade libel and unfair competition under state common law
- ▶ Achieved multiple favorable settlements and stipulated permanent injunctions

The New, Challenging Targets

- ▶ A truly independent website
- ▶ That does not sell a competing product or service
- ▶ But nonetheless publishes a negative review
- ▶ Or uses your mark / name to grab page views

Independent Reviewers

The logo for highya, featuring a stylized icon of a speech bubble with a checkmark inside, followed by the word "highya" in a lowercase, sans-serif font.The logo for POPSUGAR, featuring the word "POPSUGAR" in a bold, uppercase, sans-serif font. The letter "O" is replaced by a white star on a pink circular background.The logo for Women's Health, featuring the words "Women's Health" in a pink, serif font. The apostrophe in "Women's" is stylized.

Novel Theories Against These Targets

- ▶ Lanham Act
 - Competition for Internet Traffic
- ▶ Tortious Interference
- ▶ Civil RICO

The Next Set of Targets?

- ▶ “Service Providers”
 - “Host Sites” that publish / synthesize user comments
 - Amazon, Facebook, and Yelp
- ▶ Currently immunized from state law liability under CDA
- ▶ Generating significant advertising revenue, off reviews and search techniques that incorporate others’ marks
- ▶ Could that expose them to liability?

QUESTIONS

