

SOCIAL MEDIA ACCOUNTS AS PROPERTY: A HISTORICAL ANALYSIS OF PERSONAL PROPERTY CLAIMS OVER PLATFORM ACCOUNTS

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La Baguette, a retail bakery, relied on its Facebook page to reach customers.[1] La Baguette's Facebook page had 4,000 followers to whom the business communicated special promotions and from which it took customer orders.[2] The business hired two employees to run its social media accounts.[3] Those employees later changed the name of La Baguette's Facebook page to advertise their own competing bakery, Tito & Tita Langley.[4] The employees refused to provide La Baguette with its own login credentials and therefore forced La Baguette to create a new Facebook page, this time with less than three hundred followers.[5] Tito & Tita Langley's hijack of La Baguette's Facebook page allowed them to divert a significant amount of customer orders from La Baguette.[6]

Unfortunately, La Baguette's story is not unique.[7] Digital platform accounts drive significant value for businesses of all sizes. As of late 2023, 95% of small businesses in the United States used at least one digital platform.[8] Public companies that use digital platforms create ?much more shareholder value? than businesses who have minimal or no digital presence.[9] The value to and dependence of businesses on digital platforms is unique in that it is not derived by an asset owned by the business. This can leave businesses and individuals vulnerable.

This article explores, through lawsuit tracking, how courts' reasoning regarding property rights in digital assets on platforms, like social media accounts, has transformed from the 1990s to current day. This is ultimately to consider the question: what does it mean to have a property right in an online account? What interest do users have in their accounts if the platform ceases operation?

This issue brings to light the implications of intermediary failure. The rise of online intermediaries has created a layered market structure where the rights and existence of all platform user accounts depend on the platform itself. Another example of this phenomenon is non-fungible tokens (?NFTs?). Congress is considering a bill which would prevent NFTs from being considered a security.[10] This would create a personal property interest in the NFT's owner by putting NFTs in the same class as art, music, literary works, intellectual property, collectibles, and merchandise.[11] But what would happen if the infrastructure that supports the NFT, the blockchain, fails? What personal property interest would the NFT owner have left? The answer may be only a string of code.

While users may feel that their accounts and content expressed on the Internet are their own, the legitimacy of any claim to ownership is contested and contingent on the parties to the particular ownership interest inquiry. Platforms have a superior right to ownership of accounts as against users. However, ownership rights between users are less established.

This paper first documents the rise of online platforms and examines how this evolution impacted courts' recognition of users' property rights in their online accounts. Next, this paper traces twelve specific, illustrative rulings in three phases of the Internet: Early Internet: 1990-2005, The Rise of Platforms: 2005-2015, and Contemporary Internet: 2015-Present. This paper then synthesizes a set of default rules which courts have created through the caselaw as they apply common law property principles to digital accounts. Finally, this paper puts these pieces together to describe the layered ownership structure created by digital platforms.

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[1] [Pan 4 Am., LLC v. Tito & Tita Food Truck, LLC, No. DLB-21-401 \(D. Md. Mar. 3, 2022\)](#) (unpublished mem. op.) (noting La Baguette's reliance on its Facebook page).

[2] Id.

[3] Id.

[4] Id. (noting the Facebook name change to ?Tito & Tita Langley?).

[5] Id.

[6] Id.

[7] See infra [Bearoff v. Craton, 350 Ga. App. 826, 840-41 \(Ga. Ct. App. 2019\)](#); see also [Int'l Bhd. of Teamsters Loc. 651 v. Philbeck, 464 F. Supp. 3d 863, 872 \(E.D. Ky. 2020\)](#); see also [JLM Couture, Inc. v. Gutman, No. 1:20-cv-10575, ECF No. 431 at 26 \(S.D.N.Y. 2023\) \(amended opinion\) \(unpublished opinion\)](#); see also [In re Vital Pharmaceutical 652 B.R. 392, 405 \(S.D. Fl. 2023\)](#). [8] Empowering Small Business: The Impact of Technology on U.S. Small Business, U.S. Chamber of Com. (Sept. 14, 2023), <https://www.uschamber.com/assets/documents/The-Impact-of-Technology-on-Small-Business-Report-2023-Edition.pdf>.

[9] Eric Lamarre et al., The Value of Digital Transformation, Harv. Bus. Rev. (July 31, 2023), <https://hbr.org/2023/07/the-value-of-digital-transformation>.

[10] Mauro Wolfe & Vincent Nolan, NFT Bill Needs Refining to Effectively Regulate Digital Assets, Duane Morris: Bylined Articles (Feb. 27, 2025), https://www.duanemorris.com/articles/nft_bill_needs_refining_effectively_regulate_digital_assets_0225.html.

[11] [H.R. 10544, 118th Cong. \(2024\) \(formerly called the New Frontiers in Technology Act\)](#). [View The Entire Article](#)