



Facebook 'likes' touch off lawsuit in Illinois

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EAST ST. LOUIS • The seemingly innocent computer clicks of teenagers "liking" a product on Facebook has touched off a legal fight over whether the social networking giant can allow those clicks to drive advertising.

St. Louis law firm Korein Tillery sued Facebook this week in U.S. District Court in East St. Louis, claiming minors' names and pictures are being used for advertising and marketing without parental approval. The suit, seeking class action status, is similar to at least two others filed against Facebook in other states.

The lawsuit names as plaintiffis Melissa Dawes and Jennifer DeYong, two Madison County mothers who the firm says are upset about Facebook exploiting their children for corporate interests.

Facebook has become fertile ground for advertisers hoping to connect with young people but also has faced increasing questions about protecting its users' privacy and personal information.

The site has harnessed its power by allowing its 500 million active users to endorse companies, products and services that advertise on the site.

All users are able to click a "like" button on a company's Facebook page, which is then announced to the users' friends via the "news feed." The user's name and profile picture is then visible to friends who visit the company's Facebook page.

Teens, like adults, are also able to "like" various advertisements and Facebook pages, ranging from designer jeans to the latest Lady Gaga album.

The issue the lawsuit poses is whether those teens' parents need to sign off before their kids' "likes" are used to drive business.

Facebook scoffed at the suit on Thursday.

"We believe this suit is completely without merit, and we will fight it vigorously," said Andrew Noyes, a Facebook spokesman.

Similar suits have been filed in New York and California.

Asked what damage has been done because of the advertising, Steven Katz, an attorney with Korein Tillery, said it is "the invasion of privacy for commercial interests."

Dawes and DeYong could not be reached for comment. Katz declined to discuss his clients, saying they wanted to protect their privacy.

Korein Tillery has a history of big-money class action suits, including a \$10 billion trial verdict against Philip Morris in 2003.

Facebook declares to users when they register that "your name and profile picture may be associated with commercial, sponsored, or related content (such as a brand you like) served or enhanced by us. You give us permission to use your name and profile picture in connection with that content, subject to the limits you place."

Users have to OK the non-negotiable statement to register.

The lawsuit filed Wednesday states that minors lack the capacity to consent and agree to such terms. The suit estimates that more than 14 million U.S. residents younger than 18 are Facebook users.

Aaron M. Zigler, another Korein Tillery lawyer, said parental approval is critical.

"A 16-year-old can't get a tattoo," he said, "or get a credit card."

Marc Rotenberg, executive director for Washington-based Electronic Privacy Information Center, said the suit poses a "fascinating case."

The inability to use a person's name or likeness for commercial purposes without their consent "is one of the most well-established privacy claims in the United States," said Rotenberg, who also teaches information privacy law at Georgetown University. "It's not at all clear that Facebook can assume it has the right to make use of a minor child's image for its own commercial benefit."

Such lawsuits date back to 1905, when the Georgia Supreme Court ruled that a man's right to privacy was violated when an insurance company used his picture in a newspaper ad without his permission.

"Regarding Facebook, the company has always pushed the envelope on the use of its users' images for commercial purposes," Rotenberg said.