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Chapter 277: California's Solution to Cyberfraud in the Political Arena

Denise Pereira

Code Sections Affected

Business and Professions Code §§ 17528.5 (new), 17526 (amended);
Election Code §§ 18320-18323 (new); 8040 (amended).
AB 277 (Dutra); 2003 STAT. Ch. 277.

I. INTRODUCTION

With the introduction of the Internet, cyberfraud and cyberpiracy have become rampant,¹ and due to the unique character of the Internet,² finding a solution has been a slow, tedious process.³ With each proposed solution, issues of jurisdiction,⁴ enforcement,⁵ and constitutionality⁶ arise. As a result, legislatures have been slow to respond to this problem, until recently, when they found themselves victims.⁷ With more and more of the electorate seeking information

1. Sean R. Cabibi, *Dutra Takes on Web Poachers; Fremont Assemblyman's Bill Would Keep People From Using Names of Public Officials, Candidates as Internet Addresses*, ARGUS (Fremont, Ca), Feb. 6, 2003, at Local News (page number unavailable) (copy on file with the *McGeorge Law Review*); see also Letter from Joseph E. Sandler, Attorney, Sandler & Rieff, P.C., to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Apr., 21 2000) [hereinafter Sandler Letter] (on file with the *McGeorge Law Review*) (explaining problems that candidates face with domain names).

2. See Letter from Jan Witold Baran, Attorney, Wiley, Rein & Fielding, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Mar. 30, 2000) [hereinafter Baran Letter] (copy on file with the *McGeorge Law Review*) (discussing the unique characteristics of the Internet).

3. See generally, U.S. DEPT. OF COMMERCE, REPORT TO CONGRESS: THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT OF 1999, SECTION 3006 CONCERNING THE ABUSIVE REGISTRATION OF DOMAIN NAMES (examining the need for more legislation concerning the abusive registration of domain names).

4. See *id.* at 11 (noting the jurisdictional issues involved in domain name disputes); see also Letter from Erik Carter, Corporate Counsel, CMG Worldwide, Inc., to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Apr. 21, 2000) [hereinafter CMG Letter] (on file with the *McGeorge Law Review*) (discussing jurisdictional issues).

5. See Letter from Sumita Chowdhury-Ghosh, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Mar. 31, 2000) [hereinafter Ghosh Letter] (on file with the *McGeorge Law Review*) (discussing the issue of enforceability); see also Letter from Kathryn A. Kleiman, Director, with Dori Kornfeld, Policy Analyst, Association for Computing Machinery's Internet Governance Project, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Apr. 21, 2000) [hereinafter ACM letter] (on file with the *McGeorge Law Review*) (noting the difficulty involved in regulating the use of personal names in a domain name).

6. See Baran Letter, *supra* note 2, at 8-9 (discussing First Amendment issues); see also Letter from Mark Leventhal, Esquire, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Mar. 30, 2000) [hereinafter Leventhal Letter] (on file with the *McGeorge Law Review*) (expressing constitutionality concerns regarding the Fifth Amendment's takings clause).

7. Cabibi, *supra* note 1; Jessica Lee, *Bill Would Protect Trademarks, Names from Cybersquatters*, USA TODAY, Aug. 3, 1999.

on the Internet, the stakes are high⁸ and politicians are outraged that they have little recourse to combat these pirates and squatters.⁹ Further, what recourse they do have seems inefficient and ineffective.¹⁰ Chapter 277 is California's attempt to remedy this situation and provide voters real protection.¹¹

II. LEGAL BACKGROUND

A. Prior Law

In 2001, California enacted Chapter 927, the California Political Cyberfraud Abatement Act ("CPCAA").¹² This Act made it "unlawful for a person, with the intent to mislead, deceive, or defraud, to commit an act of political cyberfraud."¹³ It defined "political cyberfraud" as:

[A] knowing and willful act concerning a political Web site that is committed with the intent to deny a person access to a political Web site, deny a person the opportunity to register a domain name for a political Web site, or cause a person reasonably to believe that a political Web site has been posted by a person other than the person who posted the Web site¹⁴

The CPCAA then went on to list four examples of what would constitute political cyberfraud: (1) using a similar domain name to divert access from one Web site to another; (2) preventing exit from a political Web site; (3) registering a domain name similar to that of a political Web site, intending to cause confusion; and (4) preventing the use of a domain name for a political Web site.¹⁵

8. Matthew Coleman, *Domain Name Piracy and Privacy: Do Federal Election Regulations Offer a Solution*, 19 YALE L. & POL'Y REV. 235, 241 (2000); see generally Baran Letter, *supra* note 2, at 4-5 (discussing the value and impact of political websites).

9. See Press Release, Assemblymember John Dutra, Legislation to Target Political Cyberfraud: Bill Introduced After Dutra and Other Legislators Have Their Names Misused as Internet Addresses, available at <http://democrats.assembly.ca.gov/members/a20/press/p202002015.htm> (Mar. 30, 2004) [hereinafter Press Release] (copy on file with the *McGeorge Law Review*) (condemning political cybersquatting and advocating for stronger laws); see also Amity Hough Farrar, *Virtual Politics and the 2000 Election: Does First Amendment Protection Extend to Political Speech on the Internet*, 7 J. INTELL. PROP. L. 395, 395-97 (2000) (explaining George W. Bush's reaction to a parody site).

10. See Letter from Nancy Bastian, Helen Wells Agency, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Mar. 29, 2000) [hereinafter Bastian Letter] (copy on file with the *McGeorge Law Review*) (discussing the inefficiency of the law); see also Sandler Letter, *supra* note 1, at 2 (explaining how existing law is inefficient because of the "short time periods involved in political campaigns").

11. See *supra* note 9.

12. CAL. ELEC. CODE §§ 18320-18324 (West 2003) (enacted in 2001 by Chapter 927) (repealed 2003).

13. *Id.* § 18320(b).

14. *Id.* §18320(c)(1).

15. *Id.* §18320(c)(1)(A)-(D).

Sanctions provided for under the CPCAA consisted of a fine of up to one thousand dollars per day that the violation existed.¹⁶

Additionally, the CPCAA granted an extension of the existing deadline for the Bipartisan California Commission on Internet Political Practices (“Commission”) to submit a report of its findings and recommendations to the Legislature.¹⁷ The Commission was to conduct a study on the need for state regulation given the increased political activity on the Internet.¹⁸ That deadline was to be September 30, 2002.¹⁹ Subsequent legislation has further extended the deadline for the Commission’s report to December 31, 2003.²⁰

Chapter 927 also provided for its own repeal as of January 1, 2003, unless a new statute was passed to delete or extend that date.²¹ No such statute was passed as the author of the bill was awaiting the Commission’s report.²² As a result, Chapter 927 sunsetted January 1, 2003.²³

B. Existing Law

1. Federal Law

In 1999, Congress passed the Anticybersquatting Consumer Protection Act (“ACPA”). Under the ACPA, it is unlawful to register or traffic in a domain that is identical or confusingly similar to a protected mark or personal name afforded the same protection if done so in bad faith.²⁴ The ACPA sets forth nine factors a court may take into consideration when making a bad faith determination.²⁵ A

16. *Id.* § 18322.

17. SB 412 § 4 (2001) (enacted by Chapter 927) (repealed 2003).

18. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 6 (July 8, 2008).

19. SB 412 § 4 (2001) (enacted by Chapter 927) (repealed 2003).

20. ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 6 (Apr. 22, 2003).

21. CAL. ELEC. CODE §18324 (West Supp. 2003) (enacted by Chapter 927) (repealed 2003).

22. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 6 (July 8, 2003).

23. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 277, at 2 (Mar. 19, 2003); SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 6 (July 8, 2003).

24. 15 U.S.C.A. § 1125(d)(1)(A) (West Supp. 2003).

25. *Id.* § 1125(d)(1)(B). Those factors are:

(1) the trademark or other intellectual property rights of the person; (2) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person; (3) the person’s prior use, if any, of the domain name in connection with the bona fide offering of any goods or services; (4) the person’s bona fide noncommercial or fair use of the mark in a site accessible under the domain name; (5) the person’s intent to divert consumers from the mark owner’s online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site; (6) the person’s offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person’s prior conduct indicating a pattern of such conduct; (7) the person’s provision of such material and misleading false contact

violator of the ACPA may face fines up to \$100,000 per domain name.²⁶ However, domain name registries are exempt providing they cooperate with the court as defined by the ACPA.²⁷

One version of this bill contained a provision that required the government to establish a top-level domain name for politicians and official candidates.²⁸ However, these provisions were deleted and replaced with a provision that required the Department of Commerce to conduct a study and report to Congress with their findings and recommendations.²⁹ In its report, the Department of Commerce found such legislation unnecessary at the time and advised against it.³⁰ The report concluded that existing law appears to provide effective remedies, and suggested that the World Intellectual Property Organization (“WIPO”) in conjunction with the Internet Corporation for Assigned Names and Numbers (“ICANN”), should continue conducting ongoing studies to reach a global solution to remedy any shortcomings in existing law.³¹ Thus, no changes have been made to federal law to provide further protection to political Web sites or personal names.

2. State Law

Presently, under the Unfair Practices Act (“UPA”),³² it is illegal in the State of California to “register, traffic in, or use a domain name, that is confusingly similar to the personal name of another living person or deceased personality,” goods and services of one in violation are irrelevant if violation of the act is done in bad faith.³³ Domain name registries and Web sites “connected to a work of authorship are exempt from this statute.”³⁴ The law sets forth nine factors that a court may consider when making a bad faith determination.³⁵ They are nearly

information when applying for the registration of the domain name, the person’s intentional failure to maintain accurate contact information, or the person’s prior conduct indicating a pattern of such conduct; (8) the person’s registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names without regard to the goods or services of the parties; and (9) the extent to which the mark incorporated in the person’s domain name.

Id.

26. *Id.* § 1117(d).

27. *Id.* § 1114(1)(b)(2)(D)(i)(I)-(II).

28. Baran Letter, *supra* note 2, at 7-8.

29. *Id.*; S. 1948, 106th Cong. § 3006 (1999).

30. U.S. DEPT. OF COMMERCE, *supra* note 3.

31. *Id.* at 9-10, 12.

32. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 1319, at 1 (June 20, 2000).

33. CAL. BUS. & PROF. CODE § 17525(a) (West. Supp. 2003).

34. *Id.* § 17525(b).

35. *Id.* § 17526.

identical to those listed in the ACPA, which was enacted a year earlier.³⁶ The UPA serves as a gap filler, in that it does not require a violator to have an intent to profit to incur liability, as does the ACPA.³⁷ It also extends protection to the names of deceased personalities, thereby providing stricter provisions than the federal law.³⁸ A violation of this law may result in a court ordered transfer of the domain name, as well as costs and attorney's fees.³⁹

III. CHAPTER 277

Chapter 277 is California's attempt to effectively deal with the deceptive online practice of cyber-squatting in the political arena, by making such activity unlawful and providing for injunctive relief.⁴⁰ In order to reach these ends, Chapter 277 makes changes to both the Business and Professions Code and the Elections Code.

Chapter 277 makes two changes to the Business and Professions Code. First, it adds a tenth factor that a court may consider when determining the bad faith of a party who has registered, trafficked in or used the domain name identical or confusingly similar to the personal name of another or a deceased personality.⁴¹ As amended, a court may now consider the party's intent to "mislead, deceive, or defraud voters," in addition to the factors already provided by the statute.⁴² Second, it allows a court to order the transfer of the domain name, in addition to any existing legal remedies.⁴³

Chapter 277 also makes two changes to the Elections Code. First, it re-enacts the CPCAA,⁴⁴ which, as noted above, was repealed by operation of law per its own provisions. However, in reenacting the CPCAA Chapter 277 expanded its scope by making it applicable to all ballot measures,⁴⁵ rather than state wide ballot measures only, and now it permits a court to order the transfer of the domain name.⁴⁶ Second, at the urging of the American Civil Liberties Union,⁴⁷

36. 15 U.S.C.A. § 1125(d)(1)(B) (West Supp. 2003).

37. See CAL. BUS. & PROF. CODE § 17525(a) (West Supp. 2003) (stating that a violator must have only a "bad faith intent"); see also Eric J. Moore, *Chapter 218: Stopping Cybersquatters from Harming One of California's Valuable Resources: Hollywood*, 32 MCGEORGE L. REV. 495, 504 (2001) (discussing how "intent to profit" is just one of the many factors in determining liability).

38. CAL. BUS. & PROF. CODE § 17525(a) (West Supp. 2003).

39. *Id.*

40. ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 3-4 (Apr. 22, 2003).

41. CAL. BUS. & PROF. CODE §§ 17525(a), 17526 (amended by Chapter 277).

42. *Id.* § 17526.

43. *Id.* § 17528.5 (enacted by Chapter 277).

44. CAL. ELEC. CODE §§ 18320-18323 (enacted by Chapter 277).

45. *Id.* § 18320(c)(1).

46. *Id.* § 17528.5.

47. Letter from Francisco Lobaco & Valerie Small Navarro, Legislative Director & Legislative Advocate, respectively, ACLU, to Assemblymember John Dutra, Cal. State Assembly (Apr. 14, 2003) [hereinafter ACLU Letter] (copy on file with the *McGeorge Law Review*).

Chapter 277 provides a section on the Declaration of Candidacy form for the candidate to list their official Web site.⁴⁸

IV. ANALYSIS OF CHAPTER 277

The Internet has the potential to dramatically change the face of politics in the twenty-first century.⁴⁹ With more and more Americans seeking information online, and more and more politicians seeking out voters online, we could see an enormous increase in voter turn out as the public re-engages and begins to participate in the democratic process once again.⁵⁰ This enormous potential is stifled, however, as cybersquatters⁵¹ and cyberpirates⁵² make this information inaccessible and difficult to find.⁵³ A person's patience is finite, and if political Web sites are difficult to find or deceptive in nature, the public will cease to seek out such information on line.⁵⁴ This was a price too great to pay according to the California Legislature, and with the enactment of Chapter 277, such conduct is now unlawful.⁵⁵

However, the cost of this legislation remains to be seen.⁵⁶ This attempt to protect the legitimacy of political Web sites and candidate's names may, at the same time, sacrifice our zealously protected freedom of speech.⁵⁷ The U.S. Supreme Court in *Buckley v. Valeo* stated that:

[d]iscussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government

48. CAL. ELEC. CODE § 8040 (amended by Chapter 277).

49. See Baran Letter, *supra* note 2, at 2 (discussing the potential impact of the Internet on the democratic process).

50. *Id.*

51. See Moore, *supra* note 37, at 495 (defining cybersquatter as "an individual who collects domain names with the intent of selling the domain names to the person or company, who owns the mark or personal name.").

52. See 2003 Cal. Stat. Ch. 277, § 1(e) ("'Cyber piracy' involves, among other things, the misuse of a domain name with a bad-faith intent to profit from a legal name by using a domain name that is identical or confusingly similar to the legal name and selling it to the owner of the legal name.").

53. See Baran Letter, *supra* note 2, at 3-4 (discussing the confusion that cybersquatters create); see also 2003 Cal. Stat. Ch. 277, § 1(b) ("Political cyberfraud stifles that open exchange, thus undermining the essential element of our democracy.").

54. See Baran Letter, *supra* note 2, at 6 (illustrating the frustration a voter may encounter in trying to find accurate information about a candidate online); see also U.S. DEPT. OF COMMERCE, REPORT TO CONGRESS: THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT OF 1999, SECTION 3006 CONCERNING THE ABUSIVE REGISTRATION OF DOMAIN NAMES, at 2 (noting the concern that voters may discontinue seeking political information on line).

55. 2003 Cal. Stat. Ch. 277, § 1(d) (stating that the legislature seeks to protect "the free and open exchange of ideas at the heart of our electoral system").

56. See ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 3-4 (Apr. 7, 2003) (explaining the need for AB 277 according to the author).

57. U.S. DEPT. OF COMMERCE, *supra* note 3, at 3 (noting the opposition to change in state law due to concern for the "First Amendment guarantee of freedom of expression").

established by our Constitution. The First Amendment affords the broadest protection to such political expression in order "to assure (the) unfettered interchange of ideas for the bringing about of political and social changes desired by the people."⁵⁸

Thus, because the legislation restricts political speech, it may not survive a constitutional attack.⁵⁹ The California Legislature, aware of this risk, took steps to guard against constitutional challenges while still moving forward with the new legislation. For example, the author ultimately deleted the stiff monetary sanctions contained in the original language of the bill.⁶⁰ The Legislature recognized that Chapter 277 may encroach on freedom of speech and, as originally written, citizens innocently believing that they are exercising a constitutional right may unknowingly violate of this law.⁶¹ Furthermore, legislators understood, perhaps more than anyone, the importance of how precious the right to vehemently protest a politician, and recognized that excessive damages were inappropriate and unfairly punitive.⁶² However, Chapter 277 still encroaches on the First Amendment.⁶³ It is much stronger as amended and will ultimately act as a legislative experiment for the rest of the nation to observe.⁶⁴

Chapter 277 also raises Fifth Amendment issues. Some opponents have argued that this kind of governmental action is an unconstitutional taking.⁶⁵ The current system of assigning and registering a domain name operates on a first-come first-serve basis.⁶⁶ Thus, opponents argue that when one lawfully registers a domain name, it becomes his or her personal property, and if a court orders the transfer of that property to another, without payment, the transfer constitutes a taking without compensation.⁶⁷

Opponents of protecting personal names note that there is an overabundance of remedies available in existing laws.⁶⁸ Presently, those who believe that their name has been used in bad faith on the Internet have several options.⁶⁹ They may

58. 424 U.S. 1, 14 (1976).

59. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 6-7 (July 8, 2003); *see also* ACLU Letter, *supra* note 47 (discussing concern about the constitutionality of AB 277).

60. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 5 (July 8, 2003) (recommending that the author delete the proposed fines of \$1,000.00 for violations).

61. *Id.*

62. *Id.*

63. *Id.*

64. *See* U.S. DEPT. OF COMMERCE, *supra* note 3, at 5 (describing California as a legislative laboratory).

65. *Id.* at 4.

66. Matthew Coleman, *Domain Name Piracy and Privacy: Do Federal Election Regulations Offer a Solution?*, 19 YALE L. & POL'Y REV. 235, 242-43 (2000) (describing the domain name registration process).

67. Leventhal Letter, *supra* note 6.

68. Letter from Steven J. Metalitz, Attorney, Smith & Metalitz, L.L.P., to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Apr. 20, 2000) [hereinafter Metalitz Letter] (copy on file with the *McGeorge Law Review*) (writing on behalf of the Motion Picture Association).

69. *Id.*

sue under common law or statutory versions of right of publicity, defamation, libel, slander, false light invasion of privacy, intentional infliction of emotional distress, and disparagement or trade libel.⁷⁰ Those who have commercial interests in their name may also be protected under the ACPA.⁷¹ Finally, ICANN has implemented a dispute resolution policy, whereby one may file a complaint and have that dispute resolved quickly and inexpensively.⁷²

The author of this bill contend that existing law is insufficient.⁷³ First, there is no law that addresses political Web sites,⁷⁴ and second, politicians have been denied trademark protection of their personal names.⁷⁵ Further, common law and current statutory remedies are lengthy to prosecute while elections are short; the problem may end before adequate relief can be provided through lengthy litigation.⁷⁶ Thus, Chapter 277 seeks to remedy those deficiencies in existing law by providing protection to politicians' personal names, making it unlawful to establish deceptive political Websites and providing injunctive relief against those who do.

V. CONCLUSION

It is clear that the Internet has a valuable role to play in the future of politics.⁷⁷ It is also true that deceptive online tactics are commonplace and serving to sabotage this potential.⁷⁸ However, it is unclear how effective Chapter 277 will be in combating these problems. As noted earlier, with Internet litigation, jurisdiction is a major obstacle.⁷⁹ First, Chapter 277 is California state law and therefore will not apply to residents of other states or other countries.⁸⁰ Furthermore, it is possible California courts will lack the jurisdiction necessary to

70. *Id.*

71. *Id.*

72. U.S. DEPT. OF COMMERCE, *supra* note 3, at 10.

73. Press Release, *supra* note 9 (asserting that laws need strengthening).

74. ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 5 (Apr. 22, 2003).

75. Steven Bonisteel, *Maryland Lt. Governor Denied in Cybersquatting Tiff*, NEWSBYTES, Apr. 2002 (providing an example of recent case where politician was denied protection of her personal name); *see also* Coleman, *supra* note 66, at 244 (explaining why candidates are not afforded this protection).

76. *See* Sandler Letter, *supra* note 1 (stating that the ICANN procedures may not be useful because of the short time period involved in elections).

77. *See* Edward Epstein, *Internet Alters Art of Campaigning / Candidates Use World Wide Web to Reach Voters*, S.F. CHRON., Oct. 14, 1996, at A7 (discussing the growing importance of the Internet and elections).

78. Letter from Donald J. Simon, Attorney, Law Offices of Sonosky, Chambers, Sachse & Endreson, to Sabrina McLaughlin, Office of General Counsel, U.S. Department of Commerce (Apr. 21, 2000) (copy on file with the *McGeorge Law Review*).

79. *See supra* note 4 and accompanying text.

80. ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 6 (Apr. 22, 2003) (noting that Chapter 277 is state law and therefore inapplicable to other states or countries).

enforce this new law.⁸¹ Since, the federal government granted the power to issue domain names solely to ICANN. Thus this federal conflict may limit a California court's authority to transfer domain names.⁸² Also, the constitutionality of Chapter 277 is uncertain because a court may find it violative of free speech or be held to constitute a taking.⁸³ While it is arguable that new regulation was needed in this area, it is unclear whether state legislation was the most appropriate means to reach that end.⁸⁴

81. ASSEMBLY COMMITTEE ON ELECTIONS, REDISTRICTING AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 277, at 5 (Apr. 22, 2003).

82. *Id.* at 5-6.

83. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 277, at 6-7 (July 8, 2003).

84. Amy Hough Farrar, *Virtual Politics and the 2000 Election: Does First Amendment Protection Extend to Political Speech on the Internet?*, 7 J. INTELL. PROP. L. 395, 415 (2000) (suggesting that cyberpiracy "may be an issue that is best left to the market").
