

In light of a recent decision of the UK High Court, tweeting might just have a new meaning. To make things a clearer, recently the UK High Court allowed an injunction to be served on an unknown/anonymous blogger who had been posting threads on twitter impersonating Donal Blaney, a solicitor and Conservative blogger.

For further details, Donal Blaney (principal at Kent firm Griffin Law and right wing blogger) runs a blog called Blaney's Blarney and posts updates on Twitter under the name [Donal Blaney](#). The anonymous blogger posted ten times to Twitter under the name Blaneysblarney. People were obviously fooled by the impersonation, and friends and colleagues of Blaney believing that it was in fact Donal Blarney were following the blog. As per [news reports](#) the contents of the fake blog were mildly objectionable. Hence, Blaney's case was that the unauthorised use of his name breached his copyright and intellectual property rights.

In relation to service of injunction orders, UK law states that an injunction does not have to be served in person and can be delivered by several different means including fax or e-mail. A [BBC news report](#) quoted Danvers Baillieu (a solicitor specializing in technology) as saying, "..it was possible for anyone to approach the court about any method of serving an injunction if the traditional methods are unavailable. The rules already allow for electronic service of some documents, so that they can be sent by e-mail, and it should also be possible to use social networks."

This order follows a recent Australian case where Facebook was used to serve a court order. Note that in the Australian case, the court allowed the service of an injunction via Facebook after the defendants had refused all other means of service. The difference being, in the present case the defendant was an unidentified blogger posting on twitter, while in the Australian case the 'identified' Defendants refused to accept service of notice. However, the underlying problem in both the cases is the same, i.e., the difficulty/impossibility of being able to serve notice/an order on the other party. The solution being similar, the use of social networking sites to achieve the goal.

The injunction is now famously known as the Blaney's Blarney Order. The status presently is that the injunction order was duly served and is covered by

confidentiality but the blogger has agreed to pay damages to Help for Heroes, the charity set up in 2007 to help British soldiers injured in wars since 9/11.

This case is quite interesting given the situation of serving notices/orders in India. The most evident question is whether such service would be possible in India? Our readers will remember the [case](#) brought by Shiv Sena against Ajith D, a 19 year old Computer Science student for defaming them through an anti Shiv Sena community on Orkut. The case made headlines because the Supreme Court refused to quash proceedings against the student, even though the defamatory remarks on the community were mainly through the medium of comments of visitors to the community (More importantly, there was a death threat to Bal Thakeray by way of a anonymous comment on the website.)

What is more interesting was that Orkut readily shared the IP address of Ajith with the police and they managed to trace him. One wonders what the case would be in a situation where privacy and data protection laws were stronger or the internet community/portals were more user friendly, and consequently such details did not go out. Would service of notice through Orkut by way of a comment and link to the court order be sufficient?

The law on service in India is found in Rule 9, Order V of the CPC. Rule 9 (extract) reads as follows:  
9. *Delivery of summons by Court*  
(1) *Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent either to the proper officer to be served by him or one of his subordinates or to such courier services as are approved by the Court....*  
(3) *The services of summons may be made by delivering or transmitting a copy thereof by registered post acknowledgement due, addressed to the defendant or his agent empowered to accept the service or by speed post or by such courier services as are approved by the High Court or by the Court referred to in sub-rule 1 or by any other means of transmission of documents (including fax message or electronic mail service) provided by the rules made by the High Court*  
*Provided that the service of summons under this sub-rule shall be made at the expenses of the plaintiff....*

Thus, the relevant provision allows for service through electronic mail service and fax messages. Can Indian courts interpret the rule in a manner similar to the interpretation of the UK High Court? More importantly, should such a step be taken given that it might just be used as a tool by intolerant entities to curb Freedom of Speech and Expression on the Internet?

On an unrelated note, please find below links of two interesting articles I came across while researching for this post:

1. A.Varma, "India's cops get Orwellian", available at <http://www.livemint.com/2007/09/06001248/India8217s-cops-get-Orwelli.html>, and

2. S. Ninan, "The New Evil Empire", available at <http://www.hindu.com/mag/2008/09/14/stories/2008091450100300.htm>.