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A new password every fortnight

By Briefcase/Pavan Duggal, | 29 Jun, 2003, 12.41AM IST

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I run a small company. We have two PC's on which we do all our work. I had an employee I trust a lot, and I had given him my username and password. He has not been coming to work for the last couple of days over a money dispute. Meanwhile, I have noticed that a couple of important mails, which I had expected did not come and so I checked with the concerned parties who said they had already sent me the mails. However, the mails are missing from my inbox. I did manage to get these mails again by requesting the concerned parties to send them again. However, I feel that my ex-employee has been reading my mails and deleting them. What can I do?

ST

The golden rule with regard to internet access is that you must change your password at least once in a fortnight and as far as possible, you must change the password once your employee does not continue his business relationship with you. This is necessary so as to prevent misuse of username and password. The potential loss that can be caused by misuse of username and password is immense.

In this case, you need to write to your internet service provider that somebody has been misusing your email account and has deleted some of the mails. It is likely that your ISP will ask you to change your password. Further, you must also write to your ISP to retain logs of the access to your account. You can also complain about the matter to the police. This is a clear case of hacking and can be registered by the police as your concerned employee, with an "intention to cause wrongful loss to you or having knowledge that his act is likely to cause wrongful loss" to you, has actually deleted your mails. In such a case, as your employee does not have your authority or your express permission to use your username and password without your permission or knowledge, he is likely to be booked under the provisions of hacking under the Indian cyberlaw.

We have just entered into a very important agreement, which is valid for seven years, by electronic means. The email communications, which have led to the contract is very important for us. How can we retain it in a manner which complies with law?

SSR

In today's world where people are increasingly making transactions and contracts by means of the electronic medium, it becomes extremely imperative that the electronic documentation in question should be appropriately retained. This retention is important to protect your legal interests in case there is a problem or if the matter goes to court. You are required to legally retain the electronic documentation.

The Indian cyberlaw provides for retention of electronic records. It states that "where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if-

- (a) the information contained therein remains accessible so as to be usable for a subsequent reference;
- (b) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the

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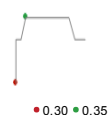


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information originally generated, sent or received;

(c) the details which will facilitate the identification of the origin, destination, date and time of dispatch or receipt of such electronic record are available in the electronic record." It is important to note that these requirements do not apply to any information, which is automatically generated solely for enabling an electronic record to be dispatched or received.

It's also important to note that though the Indian cyberlaw provides for the general requirements for retention of electronic records, in case there is a specific law, which expressly provides for the retention of documents, records or information in the form of electronic records, these general requirements will not apply. The specific requirements of the special law will apply to the exclusion of the provisions of the Indian cyberlaw. Though the government was expected to notify the formats for retention, there has been no notification so far. And so it will be sufficient now if you are able to ensure that your retained electronic record fulfils the three requirements mentioned above — your retained electronic record will then be granted legal recognition. Otherwise, it will not be acceptable for the purposes of law.

It will also be pertinent to take backup copies of the email correspondences on CDs, floppies, removable disks and zip drives so that if your computer gets corrupted, or if your hard disk has to be formatted or the data in question is wiped out, the backup will be available for corroboration or reference.

Thus, you must take all steps possible to ensure that your electronic information is, as far as possible, authentic and not retained in a manner where its authenticity can be challenged.

I am doing the final year of my BA graduation course in Maharashtra. I have also done a diploma course in civil engineering and I would now like to study cyber law. Please tell me which institute I can do this course from? I would like to do it from an institute that has government-recognition.

A

None of the institutes recognized by the University Grants Commission offers a diploma on cyberlaw. However, there are some private players, but the diplomas given by them are not yet recognized by any government department. You will have to examine the course content and decide which one to opt for.

I have a personal website which acts like my blog. I write my thoughts and upload them on the internet. I also have a feedback section. Recently I wrote about somebody in my community, which was not very well liked by the person concerned. He has sent me an email stating that if I do not stop airing my views about him on my website, he will hack into my site. I am making my site as secure from hacking as I can but I just wanted to know about the legal status of the threat.

YZ

It is quite apparent that your writings have not been appreciated by the concerned individual and so he has threatened you. Such behavior is pretty normal. Recently in fact, when Madonna circulated pirated files of her music on the internet which when downloaded, played expletives in Madonna's voice, the downloaders did not take to it very kindly. Soon after, her website was hacked by music downloaders as a retaliatory measure.

Regarding the legalities of the threat, it's clear that the person concerned has threatened to hack into your website if you continue to air your views. The question is whether the threat to hacking is a penal offence. Is it a ground for legal action? The Indian cyberlaw shows that hacking has been made a penal offence punishable with imprisonment and fine. This has been done under Chapter XI of the Indian cyberlaw where hacking has been made punishable with three years imprisonment and a fine of Rs 2 lakh.

The language in which hacking has been defined is very important. Hacking takes place when an act of "deletion, alteration, destruction, affection or diminution" is done. A mere threat won't do. The IT Act does not make a threat to commit any of the offences detailed under the IT Act, itself an offence. Consequently, in the absence of any statutory provisions to that effect, threat to commit hacking by itself is not an offence. However, the said threat is of such a nature that if it is carried out, it can cost tremendous loss to you and your data. As such, it does give you a ground for civil action.



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You may seek an injunction against the said person restraining him from hacking into your website. Under the provisions of the Indian cyberlaw, a threat to commit hacking does not give you a ground for grant of damages, but you can certainly seek remedy of injunctive relief. However, if the person actually hacks into your website you have enough remedies under the law. You can actually complain against him and a case of hacking can be registered. Similarly, you can also seek damages to compensate for the loss incurred.

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