Where does freedom of speech stop? The removal of 'Innocence of Muslims'

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Two years ago, the provocative movie “Innocence of Muslims” caused massive demonstrations and violent protests all over the world, especially the Middle East. The protests resulted in hundreds of injuries and over 50 deaths. One Egyptian cleric ordered the deaths of everyone involved with the film. In Libya protesters attacked the U.S. Consulate in Benghazi and killed Ambassador J. Christopher Stevens and three embassy staff. Lastly, protests in Pakistan resulted in 16 people dying. During those days in the U.S., discussions over the movie centered around the First Amendment, which prevents the government from taking steps to restrict freedom of speech.

Shortly after, Cindy Lee Garcia, an actress from the movie, filed suit in a U.S. District Court for the Northern District of California and brought claims of fraud, libel, unfair business practices, and copyright infringement against the film's producer, and sued YouTube and Google as well to remove the movie. She

claimed that her performance was intended for a different film but that she was spliced into this movie. Thus, the legal basis for her request was “infringement her copyright due to her performance”. Two years ago the Los Angeles Superior Court rejected her request to remove the movie from YouTube and Google. However, Garcia brought the case before the court of appeals.

Irreparable harm *vs.* Freedom of speech

Last week, on February26th, the appellate court found Garcia’s claim admissible and ordered Google and YouTube to remove movie. Garcia asserted that movie infringed on her copyright over her performance. On the other hand, Google asserted that removal of the movie would violate its First Amendment right to free speech. However, the court responded that “the First Amendment doesn’t protect copyright infringement” and the “the balance of the equities and the public interest weighed in favor of her.” Furthermore, the court deepened its analysis with the assertion of a potential harm. As the actress was subject to death threats there was a “likelihood that irreparable harm would result”; thus the court stated that “the harm Garcia complains of is real and immediate.”

To this end, the court’s decision and the removal of the movie carry several implications. First, although YouTube and Google voluntarily blocked the video in several countries, they did not remove it in the name of freedom of speech. Secondly, politicians considered this video as falling under freedom of speech and did not regard it as “hate speech”. Thirdly, the ruling of the court is significant because it draws the line between two important terms—“copyright infringement” and “freedom of speech”—but also between “irreparable harm”-“public interest” and “freedom of speech”. Thus, if there is a real and immediate harm, even the possibility of harm, concern for that harm outweighs freedom of speech.