In the physical world, being labeled a journalist may confer little prestige and may even evoke some contempt. But being a journalist can also confer certain privileges, like the right to keep sources confidential. And for that reason many bloggers, a scrappy legion of online commentators and pundits, would like to be considered reporters, too.

A lawsuit filed in California by Apple Computer is drawing the courts into that question: who should be considered a journalist?

The case, which involves company secrets that Apple says were disclosed on several Web sites, is being closely followed in the world of online commentators, but it could have broad implications for journalists working for traditional news organizations as well.

If the court, in Santa Clara County, rules that bloggers are journalists, the privilege of keeping news sources confidential will be applied to a large new group of people, perhaps to the point that it may be hard for courts in the future to countenance its extension to anyone.

"It's very serious stuff," said Brad Friedman, who describes himself as an investigative blogger (his site is bradblog.com). "Are they bloggers because they only publish online? I think you have to look at what folks are doing. And if they're
reporting, then they're reporters."

Apple has long had a devoted following, and leaked information about new Apple products has appeared on Web sites for years. To combat this, the company filed the suit late last year against the sources of these leaks - people the company assumes are employees or contractors.

Apple has asked the court to compel the Web sites that displayed the product information to disclose their identity. Bloggers are fighting Apple's efforts, which it has focused on three Web sites - Thinksecret.com, Appleinsider.com and PowerPage.org.

The judge in the case, James Kleinberg, is required only to interpret a California statute that recognizes a privilege protecting reporters in keeping news sources confidential. A ruling could come as early as this week.

On its face, the lawsuit brought by Apple has to do with theft of trade secrets. But Susan Crawford, a law professor at Cardozo law school of Yeshiva University (and a blogger herself), says that the steps Apple has asked the court to take open a broader question.

"Under what circumstances should an online forum be forced to disclose a source behind information that they're posting?" Ms. Crawford said. "There is no principled distinction between a New York Times reporter and a blogger for these purposes. Both operate as news sources for wide swaths of the general public."

Blogs, she added, are already becoming more and more powerful, and some have readerships that exceed those of small-town newspapers. "We've seen it with Rather being brought down by bloggers," she said, referring to the CBS news anchor, who came under intense scrutiny by bloggers after a "60 Minutes Wednesday" segment on President Bush's National Guard service was broadcast.

Judge Kleinberg is likely to try to decide the case on the narrowest possible grounds, perhaps reading the text of the California law at issue to cover only people who work for traditional newspapers and magazines or television news programs, and to avoid deciding if bloggers are indeed journalists, Ms. Crawford said.

Whatever the judge's decision, it is all but certain to be appealed. But the question of who is a journalist is to many a matter of deeper concern.

Some bloggers want any protection available to journalists at traditional media companies to also be available to them, and journalists at those companies want to make sure that the reporter shield privilege is preserved.
Yet if recognizing a privilege for bloggers means that everyone online can maintain that they are journalists, judges may conclude that rather than giving everyone the privilege, no one should have it. That possibility worries reporters, who could find themselves at new risk for what they write or broadcast.

Apple has not sued the Web sites for damages for publishing the trade secrets, but it could try, said Eugene Volokh, a law professor at U.C.L.A. He is considering filing a friend-of-the-court brief in the case on the side of the bloggers, saying that the privilege should extend to them.

"This turns out to be an unresolved question of First Amendment law," Mr. Volokh said, referring to the issue of liability for the Web sites.

Attempting to draw a distinction based on the medium used by the blogger or reporter is misguided, said Jack Balkin, a professor at Yale Law School (also a blogger). "In 15 years, there may be no clear distinction between reporters on the one hand and bloggers on the other," he said. "It won't just be an either-or, where you have a reporter for The Chicago Tribune on the one hand, and a guy sitting in his pajamas drinking beer on the other."

Not all blogs are equally influential and not all blogs even try to report, in the usual sense of cultivating sources, actively gathering information and then organizing and presenting it to the public, Mr. Balkin added. "There are millions and millions of blogs, and most of them are for gossip."

Many states have privilege statutes like the one in California, and others may consider enacting them. To determine who should be able to claim any kind of privilege against disclosing news sources, he said, courts and lawmakers should look at exactly what the would-be reporter does.

"It should be extended on a functional basis," he said. So a blogger who interviews people and spends significant amounts of time gathering and organizing information could claim the privilege; a blogger who wrote about good and bad recipes, and who one day stumbled onto a copy of the Pentagon papers and printed them, might not.

Such a functional definition could prove elastic, and an enterprising blogger would have every reason to assert any available privilege. Mr. Balkin - asked whether he would assert the privilege if a former student leaked information to him about a Supreme Court justice that then appeared on his Web site - did not hesitate to claim it for himself.

"I would be willing to claim that if you look in my blog, what I'm doing is so similar to what Lewis or Krugman or Safire do," he said, referring to Anthony Lewis, Paul Krugman and William Safire, current and former columnists for The Times,
that "although it's done more informally and it's about a much narrower area, that I could claim that I was in the functional definition. That's what happens when you start taking a functional approach."

Mr. Friedman, the blogger, said that ultimately, bloggers' role as purveyors of important information that traditional news organizations might ignore made online journalists more important than before, and so more deserving of protection.

"As the mainstream media has become more and more corporate and more and more like the governmental and corporate bodies that mainstream journalists used to report on," he said, "a lot of this stuff has fallen now to the bloggers - to do what mainstream folks used to do. It's still serving the exact same purpose: keeping the bad guys honest."

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