

## Social Media and the Law Firm



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Intrigue. Inform. Inspire.



## **Social Media and the Law Firm**

Social Media has emerged in the past year as an area of significant interest in the legal sector, in part because it affects so many different aspects of law firm operations. Consider the following examples:

### *Internal Operations:*

- Human Resources – Law firms are recognizing the importance of developing internal workplace policies regarding appropriate Web 2.0 behaviour, and addressing privacy, confidentiality, productivity and reputation management issues;
- I.T. – Technology departments are being tasked with assessing and managing the risks associated with malware and network speed capacity;
- Knowledge Management – Progressive firms are exploring ways to use social media technologies to source and manage relevant legal and business intelligence information more effectively within the organization.

### *Client and Stakeholder Facing Operations:*

- Labour & Employment advice – Business clients are wrestling with the same internal HR issues law firms are facing, and will increasingly look to their legal counsel for guidance on social media best practices;
- Litigation Evidence – News reports continue to accumulate of trial proceedings being affected by social media evidence, such as

facebook entries posted by a litigant that are at odds with their testimony;<sup>1</sup>

- *Trial Management* – Canadian courts have allowed social media reporting of trials in specific cases<sup>2</sup>, substituted service of court documents in part via facebook<sup>3</sup>, and there are numerous reports in the American context of jurors using social media tools such as twitter to comment directly on proceedings, resulting in mistrials in some cases;<sup>4</sup>
- *Marketing* – Law firms are adopting a wide range of social media tools to differentiate and position themselves in the legal marketplace. Legal blogs have become a relatively mainstream phenomenon, with more than 25% of the AMLAW 200 firms currently blogging.<sup>5</sup> LinkedIn shows significant growth in usage among the legal community<sup>6</sup>. The JD Supra website is gaining recognition as a legal document portal where lawyers and law firms can extend the reach of their intellectual property.<sup>7</sup> Several other new social media platforms specifically geared to the legal community have also emerged in recent years;<sup>8</sup>
- *Recruiting* – Law firms are also devoting resources to maintaining a presence on sites such as Facebook, including some specifically oriented towards student recruitment.

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<sup>1</sup> See, for example: <http://www.cbc.ca/canada/newfoundland-labrador/story/2009/05/11/facebook-lawsuit-cp-511.html>

<sup>2</sup> <http://www.nationalpost.com/news/canada/story.html?id=1562685>

<sup>3</sup> <http://www.slaw.ca/2009/09/24/substitutional-service-via-facebook-in-alberta/>

<sup>4</sup> [http://www.nytimes.com/2009/03/18/us/18juries.html?\\_r=2](http://www.nytimes.com/2009/03/18/us/18juries.html?_r=2)

<sup>5</sup> <http://kevin.lexblog.com/2009/06/articles/large-law/state-of-the-amlaw-200-blogosphere-june-2009/>

<sup>6</sup> <http://www.stemlegal.com/strategyblog/2009/linkedin-lawyers-hit-840k/>

<sup>7</sup> [www.jdsupra.com](http://www.jdsupra.com)

<sup>8</sup> For e.g., Legal OnRamp and LexisNexis Martindale-Hubbell's "Connected" sites.

## Challenge And Opportunity

A 2009 survey by Deloitte LLP entitled “Social Networking and Reputational Risk in the Workplace”<sup>9</sup> lays out some eye-opening statistics regarding social media in the context of the workplace. 74% of employees surveyed feel it is easy to damage a company’s reputation on social media. 58% of executives agreed that reputational risk and social networking should be a boardroom issue, but only 15% say it actually is. Less than a quarter of executives (22%) indicated that their company has formal policies in place dictating how employees can use social networking tools. These results suggest that social media issues will likely continue to grow in importance for law firms as an area of business opportunity, assisting clients in structuring appropriate workplace policy around these new technologies, and dealing with the consequences flowing from widespread use of social media tools both within and external to client organizations.

## Ignore at Your Peril

While many lawyers’ instinctive reaction to the identified risks of social media might well be to give tools like Twitter (a “micro-blogging” platform) a wide berth indeed, others see opportunity, and are rapidly embracing these new tools. Lextweet.com, a website developed by a leading American law blog development company to track use of Twitter in the legal community, counts more than 5,000 lawyers and legal professionals (in-house legal marketing staff, law librarians, etc.) in its database. A survey conducted on behalf of Forbes Magazine<sup>10</sup> suggests that these lawyers are in sync with a younger

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[http://www.deloitte.com/dtt/cda/doc/content/us\\_2009\\_ethics\\_workplace\\_survey\\_220509.pdf](http://www.deloitte.com/dtt/cda/doc/content/us_2009_ethics_workplace_survey_220509.pdf)

<sup>10</sup> *Forbes Insights | The Rise of the Digital C-Suite: How Executives Locate and Filter Business Information*

[http://www.forbes.com/forbesinsights/digital\\_csuite/index.html](http://www.forbes.com/forbesinsights/digital_csuite/index.html)

generation of business executives who have adopted social media tools much more rapidly than their older peers. The survey, "The Rise of the Digital C-Suite: How Executives Locate and Filter Business Information" polled over 350 senior executives from US companies with annual sales exceeding \$1 billion. Over half of executives under 40 reported using Twitter daily or several times a week. One passage from the Forbes study summarizes the divergence between these older and younger executives very well:

Ask older executives how they feel about Web 2.0 tools, and they're likely to dismiss them without a thought. Asked about Twitter, the chief legal officer for a major U.S. energy company and a member of Generation Wang [50+] gives a simple, "Frankly, I don't see the business value in it."

Meanwhile, Zappos, CEO Hsieh, who at 35 is at the heart of Generation Netscape, jumps at the chance to use these tools. "We have over 400 employees on Twitter, and we've created a website that aggregates all mentions of Zappos." The workplace value of the tool, says Hsieh, is that it can be harnessed "to help build and enhance our company culture."

Hsieh maintains that it is important for his company to embrace cultural phenomena such as Twitter, blogging, or social networking because "our belief is that our culture and our brand are really just two sides of the same coin." The brand may lag behind the culture, he explains, but eventually everything catches up. "The world is becoming more and more transparent whether companies choose to accept it or not." At Zappos, says Hsieh, "We've decided that we want to embrace transparency as much as possible."

## **Conclusion**

As social media technologies continue to increase their influence on how information is generated, disseminated and acted upon at all levels of society, the key insight for lawyers and law firms is the need to turn focused attention

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towards first understanding these new tools, and then assessing which of them are relevant for the particular needs or objectives of the specific lawyer, law firm, case or client in question. Attached is a suggested reading list of relevant materials including social media research, workplace policies, ethical guidelines and articles the author has found to be of particular value.

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**About the Author**

Doug Jasinski is the Agency Principal at Skunkworks Creative Group Inc. ([www.skunkworks.ca](http://www.skunkworks.ca)), a boutique professional services marketing agency with a primary focus on marketing for the legal profession. Prior to founding Skunkworks, Doug practiced law for five years in the Vancouver market, first with a large downtown law firm and later with the City of Vancouver's in-house law department. He can be reached at [doug@skunkworks.ca](mailto:doug@skunkworks.ca)

## Skunkworks

### 2009 Social Media Online Resource Links

#### Social Media Research

*Deloitte LLP 2009 survey on social networking and reputational risk in the workplace*

[http://www.deloitte.com/dtt/cda/doc/content/us\\_2009\\_ethics\\_workplace\\_survey\\_20509.pdf](http://www.deloitte.com/dtt/cda/doc/content/us_2009_ethics_workplace_survey_20509.pdf)

*Leader Networks on behalf of LexisNexis Martindale-Hubbell: 2009 Networks for Counsel Study*

[http://www.leadernetworks.com/documents/Networks\\_for\\_Counsel\\_2009.pdf](http://www.leadernetworks.com/documents/Networks_for_Counsel_2009.pdf)

*Forbes Insights | The Rise of the Digital C-Suite: How Executives Locate and Filter Business Information*

[http://www.forbes.com/forbesinsights/digital\\_csuite/index.html](http://www.forbes.com/forbesinsights/digital_csuite/index.html)

ABA Law Practice Magazine (March 2009) : Online Social Networking – Is it a Productivity Bust or Boon for Law Firms?

<http://www.abanet.org/lpm/magazine/articles/v35/is2/pg28.shtml>

#### **Business, Government and Legal Articles:**

*Forbes Magazine - A corporate Guide for Social Media*

<http://www.forbes.com/2009/06/30/social-media-guidelines-intelligent-technology-oreilly.html>

*Office of the Privacy Commissioner of Canada (Multiple Articles):*

[http://www.priv.gc.ca/information/social/index\\_e.cfm](http://www.priv.gc.ca/information/social/index_e.cfm)

*Deacon's social media spotlight:*

<http://www.deacons.com.au/news-updates/search/eyelevel/>

CNW Group – Canadian Law Firms and Their Use of Social Media

[http://www.newswire.ca/en/extras/custom/mediaroom/CNW\\_LawFirms\\_SM.pdf](http://www.newswire.ca/en/extras/custom/mediaroom/CNW_LawFirms_SM.pdf)

#### **Social Media Policies for the Workplace:**

*20 things law firms need to have in their social media guidelines:*

<http://virtualmarketingofficer.com/2009/03/19/20-things-law-firms-need-to-have-in-their-social-media-guidelines/>

*30 sample social media policies*

<http://123socialmedia.com/2009/01/23/social-media-policy-examples/>

Jaffe Associates: Social Media Policy Template:

[http://www.jaffeassociates.com/pages/articles/view.php?article\\_id=330](http://www.jaffeassociates.com/pages/articles/view.php?article_id=330)

*Doug Cornelius: Blogging/Social Media Policy for a Law Firm:*

<http://www.jdsupra.com/post/documentViewer.aspx?fid=44b6b9e9-d303-4399-ba73-47076fc6e592>

**Ethical Guidelines:**

Canadian Bar Association (August 2009): Your presence in the e-world –  
Guidelines for Ethical Marketing Practices Using New Information Technologies

<http://www.cba.org/CBA/activities/pdf/ethicsguidelines-eng.pdf>