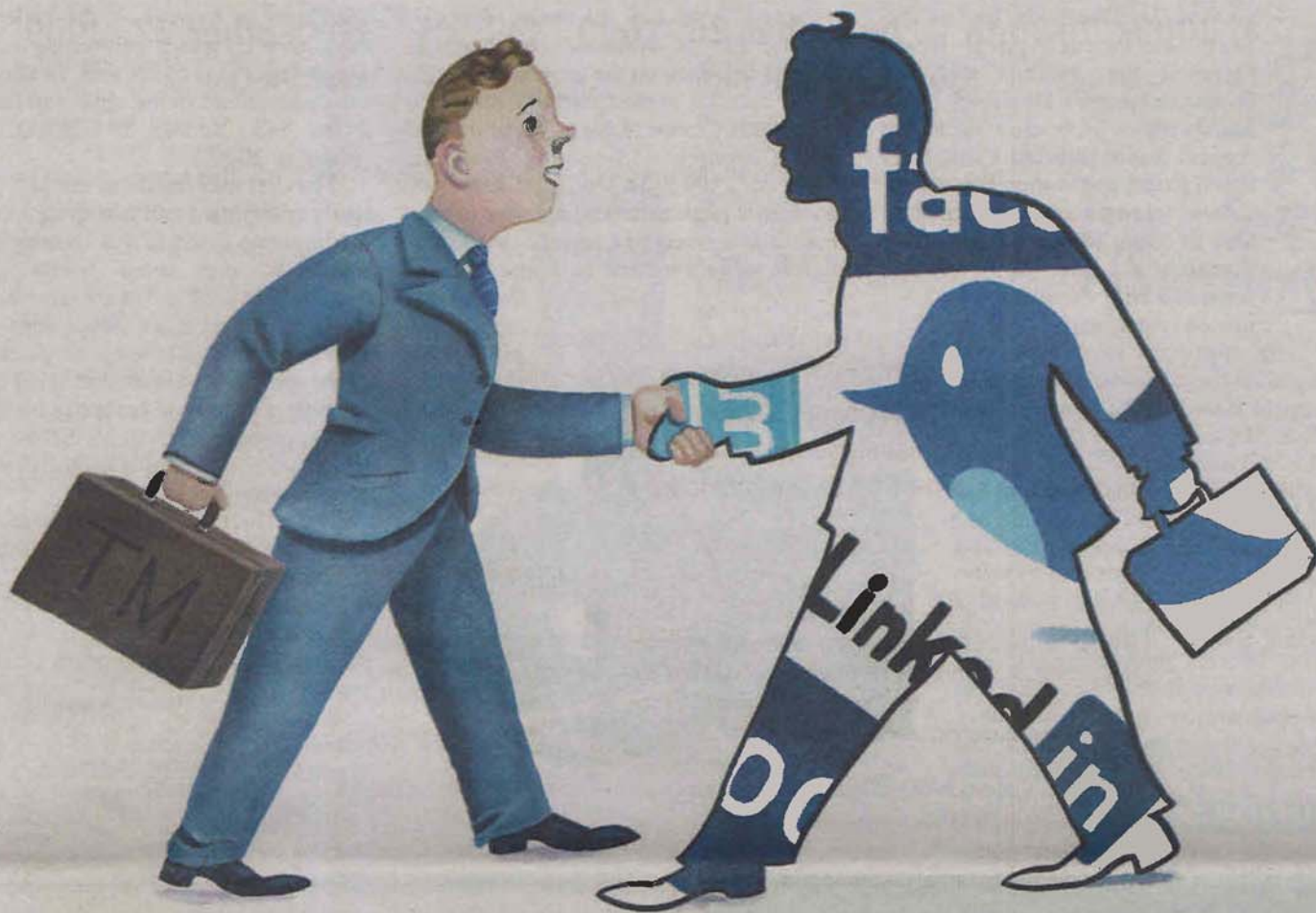


FOCUS

ON INFORMATION TECHNOLOGY



Working the Net

Legal strategies in the age of social networking

An eager trade-mark lawyer enters a convention centre in 1997 filled with thousands of people keen on meeting each other. Inside the convention centre are countless brand owners waiting to be his future clients. After hours of networking, the lawyer leaves with a few business cards and materials that he later skims and files away.

While he connects with a few people, he is unable to maintain visibility and continue interaction with all of the contacts he met or could have met within the four walls of the convention centre.

Fast-forward to November 2009, and the same lawyer logs onto several online social networking sites. Within a few weeks, the lawyer has built a network consisting of hundreds of practitioners, accountants, CEOs, CFOs, marketing managers and social media thinkers. This network grows daily and joins media organizations publishing breaking news and official company websites showcasing famous brand names and products worldwide.

Welcome to Web 2.0 — the emerging age of interactive online social networking tools for millions of people, including legal professionals and brand owners. But while social



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networking has many advantages, companies and their legal advisors need to protect their marks by monitoring sites for unlawful activity.

Benefits

Joining other constituencies on Twitter are law firms worldwide, including firms headquartered in Canada and the U.S. that regularly tweet about changes in the law, firm news and display links. In just a few keystrokes, one learns the number of “followers” of a particular brand or firm.

The central tenet of Twitter is that the “tweet” must consist of 140 characters or less. This is just enough space to communicate a win in a particular case or a popular brand that needs to quickly disseminate recall information.

Twitter can help guide consumers, clients and the general public to find detailed information, photographs and other multimedia content on the Web. Topping off Twitter’s benefits is the

recent rollout of Twitter Lists, a feature enabling users to group favorite tweeters and allow others to follow the handpicked group. It can help enhance a lawyer’s online reputation, which may be viewed countless times throughout the world.

LinkedIn is widely used by lawyers to establish, maintain and keep connections with professionals not only in the legal industry, but in virtually every sector of commerce. It easily allows for swift business networking, lead research and the ability to stay on top of trends in the industry by joining online niche groups.

Users are able to recommend books to others, share PowerPoint slides and detail upcoming trips to other parts of the world through TripIt. LinkedIn recently surpassed the 45-million user mark worldwide.

Facebook is another site to join and follow, particularly for brand owners. Facebook has added 100 million users in less than nine months. It is not only of interest to Generations X and Y, but to brand owners because it allows companies to build an online “fan” base, post information on their products and create an online and resulting

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Think before you tweet

Networking

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offline buzz about valuable products and services.

Potential IP pitfalls

For all the benefits social media networking brings, Canadian brand owners and their legal advisers still must be proactive and vigilant in protecting their intellectual property in the U.S. Prior to tweeting or blogging about up and coming products, intent-to-use trade-mark or service mark applications should be filed with the U.S. Patent and Trademark Office.

Google now archives all tweets, making it even more important to use trade-marks correctly — used as adjectives rather than nouns — to avoid registered marks being deemed generic. Regular policing of marks can be accomplished by performing a search in the Twitter search box.

Companies need to keep a careful watch on social network sites to see how their marks are used by others as well as competitors. Social networking sites can also lead people to websites selling infringing and counterfeit goods, making it even more important to monitor sites for unlawful activities. The rules of comparative advertising are likely to apply to postings made on such sites. A cardinal rule is therefore to think before you tweet.

If a Canadian brand owner discovers that its company name has been “brandjacked,” or stolen by an unauthorized third party, trademark counsel should be contacted for immediate action. A brand name in the hands of others can be damaging and could cause harm to a company’s hard-earned reputation and valuable goodwill.

Getting brand owners onboard

Is online social networking a fad? “Absolutely not,” according to Jan Vermeiren, the author of *How to REALLY Use LinkedIn*. According to Vermeiren, LinkedIn “is a great tool to find the right people to help you reach your goals.”

The future of online social networking may be unknown, but it promises to play a pivotal role in branding for all. Canadian brand owners must follow the emerging trends closely to stay ahead of this fast-moving virtual world. ■

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