



Four Steps to Protect Your Brand on Social Media

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Howard Schultz, the CEO of Starbucks, once said that, “If people believe they share values with a company, they will stay loyal to the brand.” With the rapid proliferation and acceptance of social media over the past decade, businesses now have unprecedented opportunities to share their values with customers and develop brand loyalty.

Of course, social media is a double-edged sword. Just as a business can instantaneously deliver positive brand messaging through social media, social media also is fertile ground for infringement and other misconduct. In an instant, anyone with a smart phone can create a phony social media account bearing your company’s name and logo to post unflattering or politically-charged remarks, lure your customers to other sites with fake coupons, or communicate false information. To make matters worse, the parties responsible for such mischief are often impossible to identify, and even if they could be identified, they may be beyond the reach of U.S. courts.

Below are four simple steps every company can take to protect itself and its image on social media:

1. Don’t Be the Source of the Problem

Businesses can create problems for themselves on social media that pale in comparison to those created by the worst of infringers. For example, the Seattle Seahawks football team created a stir by Tweeting “We Shall Overcome” during its 2015 playoff run, suggesting that the Seahawks’ struggle to win the Super Bowl was on par with the struggle of African-Americans during the civil rights movement. Blackberry subjected itself to ridicule when it used an iPhone to send Tweets to its customers. And in one of the worst social media gaffes in history, an apparel company intending to post an image of Fourth of July fireworks on its Tumblr stream mistakenly used an image of the space shuttle exploding.

Companies can avoid such problems by placing tight controls on their social media accounts. Consider requiring internal approvals of all social media posts, preferably by multiple people, because any one person— no matter how intelligent, experienced, well-meaning, and loyal— could miss potentially controversial implications of any given post. Also, legal counsel should clear any unique phrases or images that the company plans to post to avoid infringing the intellectual property rights of others.

2. Implement a Social Media Monitoring Program

All too often, companies that encounter infringements on social media discover that their problem is not an isolated incident, and that multiple infringing uses have proliferated through social media. Companies can proactively protect their brands with the assistance of vendors who provide subscription-based services that identify and track all social media mentions of a company’s brands and trademarks. These vendors frequently are able to alert companies to potential problems before any major damage occurs.

Companies also can designate an employee or engage legal counsel to periodically conduct searches for the company’s trademarks on social media websites. While this approach is less comprehensive and takes more effort, it allows the company to customize

its social media monitoring to focus on unique or recurring threats—for example, by searching for key words in tandem with the company's name and/or trademarks.

3. Develop Criteria for Identifying True Threats

Most businesses simply do not have the resources to respond to every social media infringement. And, responding to every infringement might not be in the best interests of the company. In some cases, taking a heavy-handed approach can backfire, resulting in more harm to the company's brand than that posed by the infringement. While each company must assess its own pain tolerance and act accordingly, here are the two key questions to ask when evaluating a potential threat: (1) is anyone likely to believe that the social media content comes from or is associated with the company? and (2) is the content likely to harm the company? If the answers to these questions are both "yes," then take action.

4. Use the Complaint Procedures Offered by Social Media Outlets

Social media outlets are aware that infringers may sometimes misuse their platforms to inflict harm on brand owners. Hence, virtually all such platforms provide a streamlined mechanism for brand owners to submit infringement complaints. Complaint forms are simple to complete and are submitted electronically. For instance, in a typical trademark infringement complaint, the brand owner simply identifies the registration number of the infringed trademark, notes the URL where the infringement occurs, and provides a brief description of the infringement.

Social media outlets generally respond quickly to complaints, often within a matter of hours. In clear cases of infringement, the remedy is swift and complete – the infringing content, page, or post is removed. Aside from efficiency, addressing infringements directly with social media platforms eliminates the hassle (and, many times, the impossibility) of identifying the infringer.

Below are links to the complaint procedures and forms of the most popular social media platforms:

- Facebook: <https://www.facebook.com/help/contact/634636770043106>
- Twitter: <https://support.twitter.com/forms/trademark>
- Instagram: <https://help.instagram.com/535503073130320>
- Pinterest: <https://about.pinterest.com/en/trademark>

By following these steps, your company can enjoy the benefits of social media while minimizing the risk of harm to its brand.

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