MARSH

Emerging Risks
Social Media & Social Networking

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Web 2.0

Social Media

Web 2.0 Today

- Apps that facilitate info sharing, interoperability, user-centered design and collaboration on the world wide web

- Cumulative changes in the way developers and end users use the web

- Transforming people from content consumers to content producers

Social Networking: LinkedIn, FaceBook

Micro-blogging: Twitter

Blogs: Technorati, WordPress, Blogger, Blogspot

Photos & Images: Flickr, Picasa

RSS & Newsreaders, GoogleReader

Wikis: Wikipedia

Podcasts: Podcast.com,

Videos: Audacity, YouTube, Hulu

Avatars: Second Life

Bookmark storage: Digg, Diigo, Delicious, StumbleUpon

Browsers: FireFox, Safari, Chrome

Video Conferencing: Skype

Presentation sharing: Slideshare

Social Platform: Ning

Polling: Survey Monkey, PollDaddy

Synchronous webinar tools: GoToMeeting, Eluminate

Course Management Systems: Moodle

E-Learning development tools: Camtasia, Articulate,

Social Media Landscape

Social News – Content Sharing

User-Generated Content (UGC) Producing

Social Networking – Relationship Building

Social Media:

- **Highly interactive technology tools**

- **Many-to-Many**

- **Online communities**

- **Free, easy, fun**

- **Content producers**

- **New, more efficient way to communicate**

Blogs

- **"Web-log"**

- **Commentary, descriptions of events, graphics, and video.**

- **Entries in reverse-chronological order**

- **Standard source of news and info**

- **77 Million+ Americans visit blogs**

- **346 Million blog readers worldwide**

- **How to blog: Wordpress, Blogger**

- **Who to follow: Technorati**

- **How to organize: Google Reader, RSS**

LinkedIn Facts & Issues
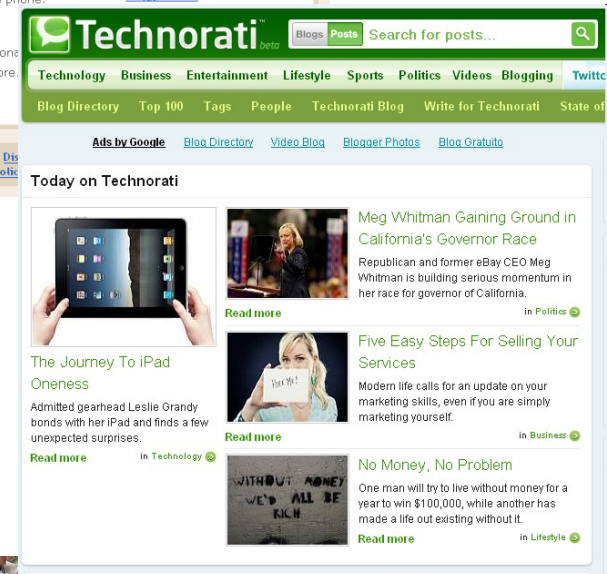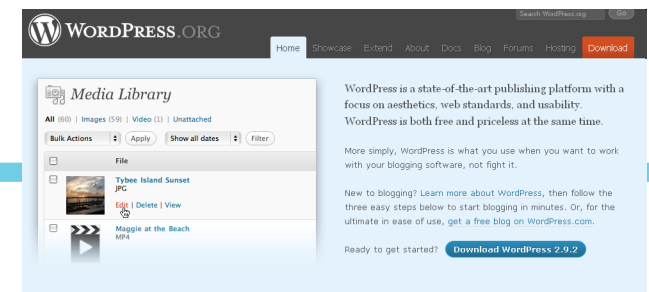
FACTS:

- **Business-oriented social networking site**
- **Launched in May 2003**
- **80 million registered users**
- **More than 200 countries / territories worldwide**
- **A new member joins LinkedIn every second**
- **50% of members are outside the U.S.**
- **Executives from all Fortune 500 companies are LinkedIn members**

ISSUES:

- **Recommendations – how should companies use them for applicants**
- **Authentication of users**
- **To be or not to be a LION**

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Facebook Facts & Issues

facebook

FACTS:

- **Launched February 2004**

- **More than 500 million active users**

- **50% of active users log on to Facebook daily**

- **Average user has 130 friends**

- **People spend > 500 billion minutes / month on FB**

- **More than 25 billion pieces of content**

- **"Like" buttons spreading across internet**

- **User set their own privacy settings and choose who can see what parts of their profile.**

- **Need 25 fans to get vanity URL**

ISSUES:

- User privacy

- Intellectual property rights

- Terms of use

- Data mining

- Inability to voluntarily terminate accounts

Twitter Facts

There are more than
106 million
accounts on Twitter.

The number of Twitter users increases by
300,000 every day.

140 characters is maximum lenght of a single Tweet.

Twitter users are sending **55 million** Tweets per day.

That gives circa **640** Tweets per second.

Twitter's search engine gets **600 million** queries every day.

Huge conversation on any topic imaginable

Twitter gets more than **3 billion** requests each day, generated by over **180 million** unique visitors.

Twitter message types

Private conversations 27%

30% User's current status

3% Links to images and videos

3% Links to other web content

4% Spam

4% Advertisements

4% Product recommendations/complaints

Links to news and blog articles 10%

Other 8%

6% Politics, sports, current events
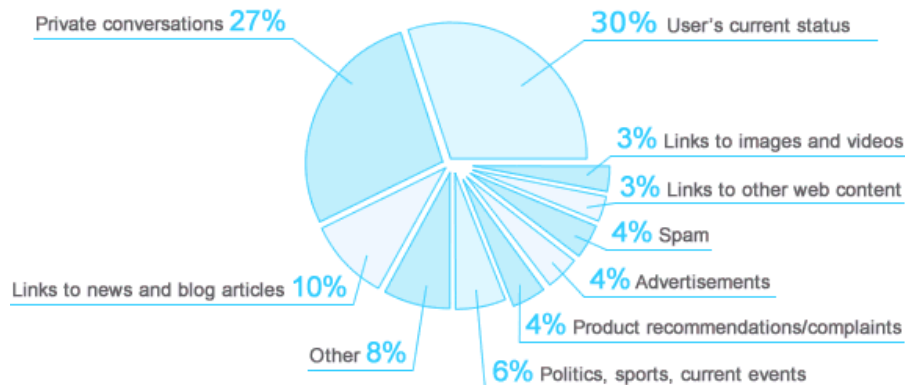
The highest spam level - almost **11%** of Tweets was noted in August 2009.

Follow Me

NARCISSISM

myspace   facebook

twitter

ADHD   STALKING

tweetstalk

© DESPAIR.COM

Twitter Issues

ISSUES:

- Breaking news stories by eyewitnesses

- Freedom of speech

- Tweet ups

- Twitter imposters

- Character limits for handle and profile name

- Delay in updating – hard to find accounts

- Self-help customer service

- Will hashtags prompt keyword-like trademark infringement lawsuits?

Social Media Issues:

- Privacy
- Errors and omissions
- Security
- Protecting proprietary information
- Transparency
- Lawsuits
- Your Posts and Pics Can Come Back to Haunt
- YouWorkforce Darwinism

Social Media involvement by your company
Start by asking these questions:

1. Will your company participate?
2. Which employees have an appropriate business use for social media?
3. Can only certain employees use these tools during business hours?
4. To what extent will you monitor employee use, and how?
5. How would you prefer an employee mention your company on their personal sites?
6. You will need a clear company philosophy defining your company's attitudes toward social networking.
7. You should also make it clear whether employees are allowed to identify themselves as representatives of the company on their personal social networks.

Your employee posted a bad, bad thing on the internet, now what?

Social Website Dangers for Unwary Employers

Pietrylo v. Hillstone Restaurant Group (2009)

- Plaintiff created a group on MySpace called "The Spec-Tator," where employees – by invitation only – could engage in "sh*t talking" about the restaurant and its managers

- Site contained ethnic slurs and derogatory comments about guests and managers and discussions about drug use and sexual acts

- A non-manager employee joined and showed content to a manager, who used non-manager employee's account name and password to access the account and show it to other managers

- Plaintiff and another co-worker were fired

- Plaintiff claimed the termination violated federal and state statutes that prohibit "knowing" and "unauthorized access" to stored electronic information; violations of privacy rights; and unlawful termination

- Tried to jury in June 2009

- Verdict for plaintiff – violation of Federal Stored Communications Act

- Damages for plaintiff were nominal, but plaintiff's counsel applied for and will likely receive close to $125,000 in attorney fees

HILLSTONE
RESTAURANT GROUP
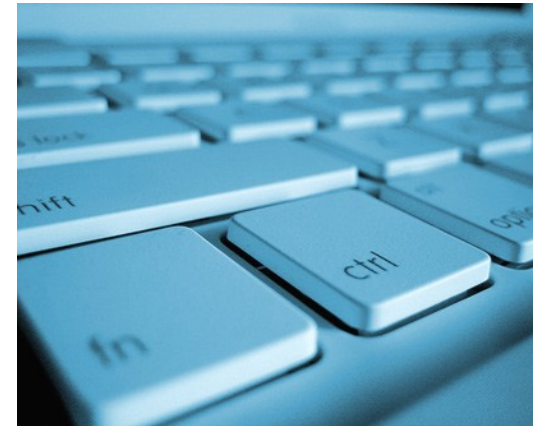
Discharging employees for internet postings

"Safe" cases:

- When the content of the posting
  - Violates the law
  - Discloses trade secrets or other company confidential or proprietary information

- When the content was posted during work hours, and violates the company's policy on use of the internet

"More Difficult" cases:

- When the employee says disparaging, but not unlawful, things about:
  - **The company or it products or services**
  - **Co-workers, the work environment, etc.**

NO POSTING ALLOWED!

HOTEL

Discharging employees for internet postings –
When not to discharge

- **When employee's comments are protected by law:**
  - Federal and state anti-discrimination laws, including wage and hour laws
  - NLRA: Section 7
  - Constitutional laws applicable to state/federal employees (1st and 4th Amendments)
  - Other laws that may protect employee postings/blogging:
    - Electronic Communications Privacy Act of 1986 (18 USC § 2510 *et seq.*)
    - State laws regarding "lifestyle statutes"

Company Social Media Policies

- **Often not publicly available**

- **Some common elements of social media policies:**
  - **Identify yourself and make it clear when you are speaking on behalf of or about the company**
  - **Employee versus individual capacity (*e.g.,* are any employees executive officers?)**
  - **Liability**
    - **Seek advice from the legal department or management when necessary (*e.g.,* permission to comment if the content is work related)**

- **Information that can be disclosed**

- **Information should be accurate**

Corporate Social Media Policy

NO twitter   NO myspace.com a place for friends.

NO facebook   NO flickr

NO You Tube   NO SECOND LIFE

"...but wait! I have SO much to SAY!"

© HighTechDad

- **Personal liability for content**

- **Disclaimers are advisable, but not a shield from liability**

- **Do not disclose company confidential or financial information**

- **Follow established company guidelines, policies and codes (e.g., code of conduct / ethics, etc.)**

Should I have a Social Media policy?

- **Consider your company's culture, and history with technology**

- **Do you have policies in place already that address this issue?**
  - **Anti-harassment**
  - **Non-disparagement**
  - **No divulging company secrets/proprietary information**
  - **Computer use policy**

- **Does your company have an intranet or other company-sponsored forum where employees may post comments?**

- **Social Media Policy Database**

ABC Company

Example Social Media Policy

- No access to social/web networking sites or blogs using company-provided equipment (computers, cell phones, etc.)
  - Consider blocking access to the well-known accounts
  - Who is blocked now at work? YouTube?

- Employees *may not* access social/web networking sites and may not blog during work hours

- Employees who access social/web networking sites or who blog during non-work hours, using non-work computers, *may not:*
  - *disclose or discuss* confidential or proprietary information (include definition)
  - *disclose or discuss* information regarding the company's clients or business partners, or details of a particular client engagement
  - *use* the company's trademarks, logo, and any copyright protected material of the county in the blog, posting, etc.
  - *promote* competitors' goods, services, products, etc.

- Employees *may not*:
  - Post any material or content that is discriminatory, harassing, etc. *or* Engage in any activity that reflects or may reflect negatively on the company, its affiliates, employees, or clients/customers

- Employees who access social/web networking sites or who blog during non-work hours, using non-work computers, *must*:
  - Remain respectful of the company, its products/services and clients/customers, affiliates, vendors and suppliers, competitors (and competitors' products and services).

- Employees *must*:
  - Make clear in any post or blog that the views and opinions they express about work-related matters:
    - Are their own,
    - Have not been reviewed or approved by their employer, and
    - Do not necessarily represent the views and opinions of their employer.

- Employees should expect that any information created, transmitted, downloaded, exchanged or discussed on social networking sites and/or blogs may be accessed by the company at any time without prior notice

Overall Recommendations: Company Use of Social Media

- **Register key trademarks as Twitter usernames and Facebook vanity URLs**

- **Monitor social media**

- **Consider all disciplines / areas affected by social media**

- **Review company procedures and revise or establish new policies as needed**

- **Make sure company policies are consistent and integrated**

- **Train marketing, customer service, human resources, investor relations, employees and others who handle company's social media**

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Thank You

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