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Silence Can Be Toxic - Or, Tips for Counteracting Trademark Bullies

November 1, 2011 by [James E. Lukaszewski](#)

On July 20, 2011, Steve Baird wrote in this blog, *When Silence Is Not Very Golden*, “We’re not recommending silence as a strategy for dealing with trademark demand letters”, and he pointed out the probable pitfalls of remaining silent rather than, in Steve’s words, providing, “an intelligent response that details the weaknesses or baseless nature of the trademark infringement claims inserted in the demand letter.”

From a communications perspective, failure to respond is almost always a toxic strategy to either the perpetrator, who should be responding to challenges, or the target, who chooses to suffer in silence as a method of avoiding the inevitable confrontation.

Remember, bullying is assault. Ninety percent of bullying is verbal, or written, but this type of victimization is often more profound and personally devastating than if the victim had been physically beaten.

Victims often remain silent rather than risk further abuse or exposure. They feel helpless, hopeless, alone and betrayed. This is the power bullies have.

Yes, honorable companies, organizations, and individuals can and should respond to questions, allegations or negative comments thrown their way. Sadly, the first casualty of the silent approach is the integrity of those remaining silent. It’s just how audiences, whether friendly or critical, tend to assess those who fail to speak for themselves, when speaking would clearly be responsive and perhaps resolve questions, impressions, and clarify serious allegations.

In the allure of social media, where everyone is a commentator, bloviator or bellyacher, failure to manage your own destiny simply opens it up for someone else to step up to the plate and do it for you. On top of this, whatever others do for you, or to you, will last forever in the ethosphere. Failure to correct, clarify or comment on erroneous, negative or stressful information turns out to subtract directly from your integrity. In this day and age, original comments tend to live forever. If corrected or



clarified both can live together forever.

Today's reality of hyper and social communication is that if you fail to manage your own destiny somebody else will. In the situation characterized as trademark bullying, forcing a different destiny on those who should be managing their own is the price paid for silence.

On the issue of remaining silent, I often talk about the "gap problem" silence tends to bring. The gap between the time of an allegation or negative event and a response of any kind tends to determine the size of the hole in one's reputation - the damage done may be nearly impossible to recover and repair - and the size of a penalty, fines, judgment, or sanctions against the company.

Besides, the greatest antidote to bullying is sunshine. Bullies only succeed when they are allowed to be hidden in the shadows because victims refuse to speak out. Bullies count on this, expect it, and are often quite surprised, even devastated, when they are taken on and exposed for what they are doing.

Here are some truly practical tips for dealing with those attacking in negative ways:

1. Always use positive, declarative language in response.
2. Avoid using any negative words or phrases. They simply become points of contention, and offer opportunity for continued negative rebuttal by the bully.
3. Your underlying strategy for communicating needs to be positive, sensible, constructive and simply direct. Lose one of these attributes and you find yourself face-to-face with additional allegations and punishment.
4. This strategy seems to take the energy out of negative opponents and attacks, makes it more difficult to attack, but more importantly your simplicity, sensibility and positive, constructive approach preserves the link you have between those who support you and want to see you successfully survive these encounters.
5. If you talk in military terms (i.e. attackers, battle, enemies, struggle), you'll have these very things coming back at you. The lesson is to always wage peace, because war creates additional critics, enemies and victims, all of whom will live and haunt you forever.
6. Remember, negative language is always confusing, agitating, defensive, generally inaccurate and often triggers other negative responses. Divorces, contention, conflict, bad feelings and irritation start with the use of negative, defensive language.
7. Watch your language. Constantly strive to [translate negative thoughts and ideas](#) into positive concepts and comments. Here are some useful examples. If you'd like to see more, you can check out these interesting items on my website, www.e911.com:



1. [The Ingredients of Leadership](#)
2. [The Bad News Eradicator](#)
3. [The Strategic Power of Positive Language](#)

Here's a sample of what you'll find:

Negative Phrase	Positive Translation
1. "I don't believe you . . ."	"Here's what I believe . . ."
2. "My answer is not no . . ."	"My answer is . . ."
3. "He is not happy about this."	"He'd rather see . . ."
4. "I wasn't there, I can't comment . . ."	"What I can tell you is . . ."
5. "I don't know."	"What I do know is very limited . . ."
6 "That's not true"	"What's true is . . ."
7. "We didn't need to do that."	"What we should have done was . . ."
8. "He's not deranged anymore."	"He's better now."
9. "I didn't say that."	"What I said was . . ."
10."I am not a crook"	"I am a crook . . ."
11. "I did not have sex with that woman . . ."	"Oh yes I did... ."

(If you'd like 200 more examples, ask for the "Bad News eradicator" at jel@e911.com)

Silence causes unnecessary suffering; negative language can empower whoever you choose to use the negative language on. Wage peace and prevail; wage war and die a death of a thousand cuts and insults.

Because bad news ripens so badly, so quickly, getting this situation detoxified through exposure and disclosure is essential to getting beyond, even overpowering the bullying and reducing the victimization that bullying causes.

