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Do You Know Who Owns Your Company's Social Media (Facebook, Twitter, LinkedIn) Accounts?

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With the ever-evolving world of digital media, it is imperative that companies remain ahead of the curve by making sure that you have appropriate policies in place to address social media – whether it's Facebook, Twitter or LinkedIn, to name a few – and other digital media issues. For example, while most employers at this point are aware of the importance of maintaining an Employee Handbook, the same importance should now be placed on maintaining company Digital Media and Social Media policies. As the case below illustrates, your failure to proactively address these issues now may cost you substantially later.

Ruskin Moscou Faltischek's Digital Media Law Capabilities:

- Digital & Social Media Policies
- Domain Name Monitoring
- Website Agreements
- Online Reputation Monitoring
- Internet Startup Advice
- Intellectual Property Protection
- M&A Due Diligence

For additional information on this or any digital media related issue, please contact Kimberly Malerba, chair of Ruskin Moscou Faltischek's Digital Media Practice Group. She can be reached at 516-663-6679 or kmalerba@rmfpc.com.

In a currently pending case, PhoneDog LLC filed a federal complaint in the United States District Court in the Northern District of California against its former employee Noah Kravitz (See PhoneDog LLC v. Kravitz, (11-cv-03474 MEJ)). PhoneDog LLC operates a popular mobile device and app review site that purports to use a variety of social media, including Twitter, Facebook and YouTube to market and promote its services. Kravitz was a product reviewer and video blogger. While employed at the company, Kravitz utilized a Twitter account under the name Phonedog_Noah and over time had amassed 17,000 followers. When he resigned from the company, Kravitz changed the Twitter handle to @NoahKravitz to continue communicating with PhoneDog's followers. Kravitz claimed that PhoneDog had told him he could keep the Twitter account in exchange for posting occasionally. However, eight months after Kravitz left the company, PhoneDog filed a law suit alleging that the Twitter account and Kravitz's access thereto was part of PhoneDog's confidential information and that Kravitz's Twitter followers constituted a proprietary customer list. PhoneDog asserted claims for misappropriation of trade secrets, intentional and negligent interference with prospective business advantage and conversion, and seeks damages of \$2.50 a month per follower for eight months for a total of \$340,000.

While it is unknown whether PhoneDog will prevail in its suit against Kravitz, it is clear that these issues will continue to arise with greater frequency as the use of digital media continues to gain momentum with companies of all sizes. Now more than ever, it is essential that businesses consult with competent counsel who is well-versed in the use of digital technology to ensure that they are protected in their use of this medium. The increased use of social and digital media by companies and employees alike will undoubtedly begin to cost companies money when a company's policies are lagging behind the continually evolving digital media world. As PhoneDog illustrates, social media can be an important tool for businesses to provide marketing and business development opportunities; however, there are also prudent steps that a company should take to protect its assets – namely, its customer lists, confidential information, intellectual property, trademark and brands. A digital media policy should address, among other things, the disclosure of confidential information and should contain clear parameters concerning ownership of a company's digital media assets and social media accounts. In addition, the policy should address post-employment issues that will undoubtedly continue to arise as companies become more savvy with their use of social media.

Ruskin Moscou Faltischek's Digital Media Practice Group is one of the first of its kind in the region. Our interdisciplinary team of legal professionals brings together their expertise to offer a full suite of digital media legal services, including in the areas of digital and social media policies, domain names, Internet startup advice, web site agreements, internet defamation, employment-related social media issues, online reputation monitoring, intellectual property protection, privacy issues and M&A Due Diligence.

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