

Jenna Communications

- **Program 2: Legal/Ethical Considerations with the Use of Social Media**



Twitter Updates

- Don't forget to hashtag **#jennacommsocialmedia** throughout the class!

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Avoiding Legal Pitfalls in the Deployment of Social Media Applications in Your Business

December 8, 2011

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Introduction

- Social media applications (whether used solely internally to a company or also externally) have tremendous potential:
 - **Can both encourage and capture the benefits of employee innovation**
 - **Can help capitalize on innovation within user/customer community**
 - **Can enhance employee and user/customer identification with the company**
 - **And much more**

Introduction (cont.)

- **However, the use of these applications is not without legal risk**
 - Tort/hostile workplace claims from employees based on offensive conduct of employees using applications
 - Tort claims from non-employees
 - Intellectual property disputes
 - Warranty/misrepresentation claims

Risk Mitigation Techniques – Communication and Policy Setting

- **Enact a written policy, consistent with other preexisting policies**
- **Require use to be compliant with existing policies**
- **Expressly subject violators to corrective action/discipline in the normal course**

Risk Mitigation Techniques – Communication and Policy Setting

- **Communicate organizational goals for applications**
- **Be clear about whether nonprofessional use allowed, and to what extent**
- **Delineate off-limits topics**

Risk Mitigation Techniques – Communication and Policy Setting

- **Communicate expectations as to use of applications for approved purposes, with courtesy and respect for others, as well as common sense**

Risk Mitigation Techniques – Regulating and Policing Content

- **Reserve right to monitor, supplement, modify or withdraw content, and exercise those rights**
- **Appoint ombudsman**

Risk Mitigation Techniques – Regulating and Policing Content (cont.)

- **Consider prohibition of certain content/conduct:**
 - profane, lewd, obscene or indecent
 - offensive, harassing or embarrassing to others
 - invasive of others' privacy
 - a personal attack on another user
 - reflective of animus or bias with respect to race, ethnicity, religion, or sexual orientation
 - defamatory or disparaging
 - knowingly false or misleading

Risk Mitigation Techniques – Regulating and Policing Content (cont.)

- **Consider prohibition of certain content/conduct (cont.):**
 - **prohibited from disclosure by securities laws or other laws governing financial disclosures**
 - **violative of any law or regulation applicable to the user or to the company**
 - **confidential or proprietary to third parties (i.e., customers, vendors, commercial partners)**
 - **belonging to the company but intended not to be disseminated generally**
 - **infringing on the intellectual property or other proprietary rights of others**
 - **of a nature that contains malicious code, or files or other content that would tend disrupt, degrade or materially slow system performance**

Risk Mitigation Techniques – Regulating and Policing Content (cont.)

- **Consider prohibition certain uses of accounts**
 - Impersonation
 - Allowing other people to use or access accounts or content
 - Pseudonymous or anonymous use
 - Unauthorized disclosure of information

Risk Mitigation Techniques – Protecting and Clarifying the Ownership of

- **Clarify ownership of copyright, patent and other intellectual property in works**
- **Obtain appropriate license as to use of works from users**
- **Regulate use of trademarks**

Risk Mitigation Techniques – Obtaining Appropriate Warranties, Releases and

- **Obtain appropriate indemnification, releases of liability from users**
- **Obtain appropriate representations/warranties from users**
- **Requirement of disclaimer of authorization and/or agency**

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