

# How to Detect and Enforce Against Brand Abuse in Social Media

## Executive Summary

Many companies tap into social media to foster engagement with their audience and to stay abreast of customer needs, market trends and breaking news requiring attention. However, even the savviest of organizations may overlook the need to monitor for brand protection-related issues, such as brand impersonation, account spoofing or even counterfeit goods. With a growing focus on social media, it is critical to address corporate risk in these channels and combat brand abuse as necessary. This paper explores brand-related risks that frequently surface in social media channels, and details best practices for protecting the brand and enforcing against brand abuse.

## Social Media: The Double-Edged Sword

Digital channels—including social media—are an increasing part of people’s personal and business lives. It’s no wonder that companies are dedicating more branding and marketing resources to these channels. In particular, social media marketing has taken great leaps in the last few years. Simple “buzz building” has evolved to unleash new opportunities for brands to engage with customers and consumers, deliver customer service and even conduct real-time market research. While some executives have not fully adopted and integrated social media into their overall marketing, others have made it an essential component of their brand-building strategy. However, while they are familiar with the rewards of this channel, not all marketers are aware of

“The owner of a trademark has the duty to notify third-party sites that are displaying infringing material... Social media sites are basically innocent infringers until they possess knowledge of the infringement activity.”

— *Brand Protection in the Social Media Frontier*, Maryland Bar Journal, May 2010

the potential pitfalls associated with it. Legal professionals need to work closely with their marketing colleagues to develop strategies that safeguard the brand while meeting the goals of the company’s social media initiatives.

With every new communication channel comes challenges, and social media is no exception. Just as email spawned spam and phishing, and the Internet bred sites selling knock-offs and promoting fraudulent offers, social media is ripe for exploitation by brand impersonators, counterfeiters and scammers. Consider spoof accounts. These are sometimes created by satirists and others who wish to parody a company for entertainment purposes. However, they can also be created by people intent on damaging a brand or lining their pockets by confusing consumers who associate social media with transparency and trust.

Because social media is touted as a way for brands to show their authentic, “human” sides, many consumers take brands’ social media accounts at face value. In fact, the 2012 Edelman Trust Barometer found that social networking (along with microblogging and content sharing sites) rose most dramatically from the prior year in terms of trusted sources of information about a company.<sup>1</sup> Yet, research by Grant Thornton found that the majority (61%) of companies lack a plan for dealing with fraud or privacy breaches that occur via social media.<sup>2</sup> In fact, many companies underestimate the importance of including a brand protection element within their social media strategy.

Because of this common oversight, legal departments need to work closely with the social media marketing team to take measures to protect their intellectual property in social media channels. In companies across industries, in-house counsel needs to stay abreast of the company’s involvement in social media channels, and find ways to detect and, more importantly, take action against brand hijackers, impersonators and others with nefarious intent.

## The Good and Bad of Social Media

The very characteristics that make social media incredibly appealing to consumers are the same ones that make it ripe for those with ill intent. As an emerging channel, social media enjoys a tremendous amount of experimentation. It’s not unusual for fans and consumers to be exposed to something new every day, whether a promotion, contest, fan page or enticing content. And, without much history to signal what is genuine and what is not, consumers find themselves at risk of being hoodwinked—especially those who place unquestioning trust in what they perceive to be authentic, personal and transparent social media channels.

At the same time, the viral nature of social media is a boon for organizations because it affords the opportunity to reach a large number of people quickly.

1. Edelman, Trust in Government Suffers a Severe Breakdown Across the Globe, January 23, 2012, <http://www.scribd.com/doc/79027949/2012-Trust-Barometer-Press-Release>

2. The Realtime Report, 76% Of Companies Do Not Have A Clearly Defined Social Media Policy, November 28, 2011, <http://therealtime.com/2011/11/28/76-of-companies-do-not-have-a-clearly-defined-social-media-policy/>

But this same instant reach can be a curse when consumers are presented with false or misleading information or offers. Just as they've done via emails and other digital channels, scammers, impersonators and counterfeiters are now using social media channels in creative ways to dupe consumers into believing false stories about a brand or into handing over their credit card or other sensitive information. The negative impact on a brand is magnified exponentially when these "offers"—or stories of brand deception—get shared via social media.

As businesses continue making strides in quantifying the business impact of their social media efforts, they must protect their brand in social media channels. Just as important, brands need to be able to take effective action when they identify problems so that they maintain the trust of their customers, fans and communities and avoid tarnishing their reputations.

## Your Brand is at Risk in Social Media

While brand protection is paramount in the social media realm, it starts by understanding the various ways that brands are vulnerable. After all, brand protection issues are unique to each business and must be dealt with appropriately. The key is to identify the effect of brandjackers on your social media programs and your brand.

### **Undermining Brand Engagement**

Impersonators with malicious aims get between your brand and your customers in order to advance their own purposes. Whether they are misappropriating copyrighted images and photos or trademarked brand names or slogans, the intent is to fool consumers and your customers into thinking an offer or message is legitimate. Imagine how such activity could interrupt your brand's attempts to foster engagement and goodwill with consumers.

Sometimes someone with malicious intent simply wants to damage a brand. In such a case, the person may spread misleading or dangerous information, such as a false stock tip or a lie about a product recall. Regardless of the method employed, this person is focused on causing harm, often by casting doubts on the brand's viability or credibility.

### **Misleading Consumers in the Name of Fraud and Counterfeits**

Scammers and impersonators also set up fake pages or profiles with the unauthorized use of copyrighted materials and/or trademarks to give off an aura of legitimacy. And, they are savvy enough to tap into the latest trends, such as the growing use of digital coupons (up 41% in 2010 from the previous year)<sup>3</sup> and gift cards (projected to reach sales of more than \$130 billion by 2014).<sup>4</sup>

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3. MediaPost, Digital Coupon Users Are An Upscale Market, February 23, 2011, <http://www.mediapost.com/publications/article/145227/>

4. Corporate Executive Board, The Power of Plastic - Gift Cards to Surpass \$100 Billion in 2011 Sales, December 20, 2011, <http://news.executiveboard.com/index.php?s=23330&item=97351>

Scammers don't hesitate to circulate fake coupons and gift cards that unsuspecting consumers try to present—unsuccessfully—at the checkout counter. In a digital twist on an age-old problem, counterfeiters promote e-commerce sites selling fake goods through spoofed social media accounts. By posting links on their fake profiles or fake pages featuring your brand's logo and legitimate product photos, they may mislead consumers into purchasing counterfeit wares. Whether a high-priced fashion accessory or an everyday necessity such as batteries, no product is off limits and no brand is exempt from counterfeiters.

Bottom line: These scammers pose serious danger to your brand, potentially leading to customer service nightmares, brand damage and lost brand trust. Moreover, impersonators' and counterfeiters' activities in the digital realm can increase your marketing costs while negatively affecting social media metrics. Consider this finding from Bain & Company research that found that “the average [fan on a popular social network] ‘likes’ no more than seven companies or brands.”<sup>5</sup> This insight underscores

how brandjacking in social media can have a big impact on increasingly selective consumers. By including social media as part of your brand protection strategy, you can proactively reduce corporate risk associated with brand abuse, including brand confusion, a tarnished reputation and competitive disadvantage.

## Proven Ways to Protect Your Brand in Social Media

While more and more companies are monitoring the social media channel, they often overlook the need to monitor for brand misuse or misappropriation. By incorporating the following best practices into your social media program, you can safeguard your brand and preserve customer trust.

### **Establish a Registered, Official Presence on Social Media**

Whether you've created a blog, microblog and/or social network page, be sure you've taken steps to “make it official.” Some social media platforms make it possible to prove your legitimacy. If your chosen platforms let you add a “verified” label to your pages, for example, take advantage of this. If they don't offer a way to show that your pages are bona fide, make sure your company's main website includes information about and links to your presence on social media.

5. Bain & Company, Putting Social Media to Work, September 12, 2011, <http://www.bain.com/publications/articles/putting-social-media-to-work.aspx>

### 3 Signs Your Brand Has Been Hijacked in Social Media:

1. Someone is using your brand as their registered username, such as with a maliciously-intended spoof account.
2. Your trademarks and copyrighted content are used liberally, including within the name or description of pages, blogs, etc.
3. The look and feel is difficult to distinguish from your legitimate social media presence.

### How to Respond:

1. Proactively register your brands as usernames across both leading and emerging social media sites.
2. Use tools to automatically search social media for unauthorized use of your brands and trademarks.
3. Take appropriate action—whether notifying the individual or contacting the social media site to report a violation of its terms of service—against unauthorized use.
4. Make sure your monitoring program is designed to provide constant vigilance to discourage repeat offenders as well as opportunists.

And while you've probably already registered and/or recovered all of your brand's vanity URLs, don't overlook emerging, special interest or lesser-known social media sites. After all, the Internet is home to hundreds of these sites, and new ones are cropping up all the time making this an ongoing process.

### **Monitor for Impersonation and the Misuse of Brands and Trademarks**

In social media, scammers can easily impersonate a brand. The key is to prevent those with ill intent from fooling consumers and your customers into thinking they're engaging with your brand when they're actually interacting with an imposter. Actively watch for signs that impersonators are tampering with your brand and trying to lead consumers astray.

### **Take Action Against Brandjackers**

It's not enough to keep an eye out for scammers, impersonators and counterfeiters—you need to work with your colleagues in social media marketing to take appropriate action. Depending on the circumstances, this may mean contacting the individual to understand their motives, establishing a relationship and explaining how his or her activity is in violation of your brand guidelines. Or, it may require cataloging the activity and reporting the malicious impersonator, counterfeiter or scammer to the social media site so the site can enforce its terms of service. Remember, while social media sites want to provide safe environments for their users, they can't possibly be monitoring and catching every instance of brand infringement. That's why it's critical that your brand protection strategy incorporates a social media component to watch for brand misuse, conduct appropriate enforcement measures and monitor for compliance.

## **Conclusion: Protect Your Brand Integrity and Value**

Along with the advantages of social media—such as the ability to engage with consumers—come risks. The far-reaching, transparent and viral nature of social media makes it ideal for scammers seeking to exploit the value and power of established brands.

Businesses have no choice but to fight back. Due to the growing importance and prevalence of social media channels, they can't afford to be undermined by brand impersonators and counterfeiters intent on causing damage to reputations and the bottom line.

With so much at stake, it's imperative to extend the brand protection strategy to social media. Doing so will empower your organization to more easily stop problems in their tracks—before they negatively impact relationships with fans, friends and followers. This is the first step to protecting intellectual property and hard-earned brand value, and ultimately, revenues.

## About MarkMonitor

MarkMonitor®, the world leader in enterprise brand protection and a Thomson Reuters Intellectual Property & Science business, uses a SaaS delivery model to provide advanced technology and expertise that protects the revenues and reputations of the world's leading brands. In the digital world, brands face new risks due to the web's anonymity, global reach and shifting consumption patterns for digital content, goods and services. Customers choose MarkMonitor for its unique combination of industry-leading expertise, advanced technology and extensive industry relationships to preserve their marketing investments, revenues and customer trust.

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