

Chicago Daily Law Bulletin®

Volume 157, No. 32

Tuesday, February 15, 2011

Attorneys give franchise owners advice about how to use social media

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Franchisees who use social media to connect with local customers find that the Internet marketing tool brings not only benefits, but also challenges to their business, said Beata K. Krakus, an associate and franchising attorney at Greensfelder, Hemker & Gale P.C.

Krakus explained that social media allows franchisees to promote new products or offer updates without oversight from franchisors — which often exposes them to branding issues or legal challenges that come from improper online behavior.

“Franchisees have some right to use the franchisor’s trademark and may believe that they are entitled to use that trademark in social media, too,” Krakus said. “The result is often consumer confusion about whether the social media messages are coming from the franchisor or a franchisee.”

For example, if someone searches for a popular hotel chain like La Quinta Inns and Suites on Facebook, he or she might find 15 pages, Krakus said. While the franchisor operates one of those pages, the other 14 belong to franchisees in different locations who are trying to promote their own local business.

“It can get very confusing,” Krakus said. “Franchisees may be saying things on their sites that are not the message of the franchisor. If it’s not clear who is speaking, it can be harmful.”

Evan D. Brown, an associate and copyright and trademark attorney at Hinshaw & Culbertson LLP, often works with clients who use social media to

promote their goods and services. He said franchisors expect their franchisees to advertise, but they are not always prepared for social media and its open-ended nature.

“Companies for years have been accustomed to controlling the message,” Brown said. “With social media tools, so much of the message is in the hands of the users, or the fans, or the enthusiasts.”

Customers can now build a community around a specific franchise location by offering their own comments about that franchise, Brown said. Negative comments from customers on one franchisee’s Facebook or Twitter page could affect the reputation of the entire company.

To help franchisors and franchisees avoid these problems, Krakus works with their marketing, human resources, sales and information technology groups to set up comprehensive social media policies. As franchisors define how franchisees should act online, they should offer tips on how to use the company trademark on their Facebook and Twitter accounts.

“Usually, the pure use of the trademark should be reserved for the franchisor,” Krakus said. “Their picture shouldn’t be the trademark — it should maybe be a photo of the store or add street names that explain to people what entity they’re actually representing.”

Susan Meyer, counsel at Ungaretti & Harris LLP, who practices in intellectual property and franchise law, works to relieve the “natural tension” that arises from franchisee use of social media.

“Franchisors are sometimes a little overwhelmed by how to balance their goal to protect their trademarks and control

their brand with how can a Twitter account be used to drive sales to the local franchisee?” she said.

Meyer found it works best for the franchisor to control the main website, but provide franchisees with their own links from that website. She also recommends that franchisors assume administration rights over their franchisees’ social media accounts.

“We find that some of the more successful franchises that apply this approach work with their franchisees and build in training practices to show them how to do it successfully and consistently,” Meyer said. “By doing that, they’re able to improve sales, increase brand awareness and add value for their customers.”

Brown agreed that if franchisors want to enhance their brand, they need to present messages in ways that resonate with customers and spread to other like-minded people.

“As consumers we have these tools that allow us to engage in conversations with others and to share our enthusiasm about certain companies and certain services,” he said. “That obviously has to be more in the minds of the marketing and public relations departments of companies who are trying to promote their goods and services online.”

Krakus said today’s customers often demand that companies they support be open to communicating through social media.

“It’s almost akin to if you hear of a business and you Google them and don’t find anything, you think something’s off” she said. “You are expecting that they will be there.”