



FALL 2014 E-NEWSLETTER

At Digital Mountain we assist our clients with their computer forensics, e-discovery and cybersecurity needs. One of our primary areas of growth is social media preservation and monitoring. With the increasing popularity of social media usage and its content as admissible evidence in court, we chose to theme our Fall 2014 E-Newsletter on the topic.

SOCIAL MEDIA AS THE NEXT WAVE OF DIGITAL EVIDENCE



Facebook boasts over 1.23 billion monthly users after just a decade of existence. This staggering number of users is over four times the population of the United States and is clear proof that social media will only continue to grow in usage and popularity. As a result, the courts are increasingly weighing in on what "online" information is permissible in litigation as digital evidence. Additionally, firms and companies have found it necessary to track social media sites for disclosure of sensitive or confidential company information. With this exploding area of communication, what types of cases can be affected, and which websites should your management team be monitoring?

The types of cases that seem to be most affected by social media include, but are not limited to:

- Wage and hour lawsuits
- Workers compensation claims
- Personal injury (products liability)
- Family law/divorce
- Defamation/libel
- Securities
- Trade secrets/intellectual property
- Juror monitoring
- Rape/murder

While more and more social media sites crop up, the most popular ones that organizations tend to monitor or request information preserved from for cases are:

- Facebook
- Twitter
- LinkedIn
- Google+
- Instagram
- Pinterest

Examples of such use would be evidence from posts or pictures on Facebook about an employee's activities. If an employee posted a photo of him/her skydiving on a particular day that he/she also claimed to have been working, this could be used in wage and hour lawsuits. Alternatively, a skydiving selfie could also be used in a workers compensation claim in which an employee claims to be suffering from a work-related back injury.

For defamation cases, a simple tweet amongst the approximately 271 million monthly Twitter users, could be grounds for litigation. Despite a rejected libel verdict in favor of celebrity Courtney Love brought by her former legal counsel, the fact that the case was brought to trial, sets a precedence for further defamation cases.

Securities or trade secrets violations could be pulled from posts from LinkedIn's 313 million users. The SEC investigation into Netflix CEO Reed Hastings' Facebook post back in 2012 in which he disclosed that Netflix subscribers watched more than 1 billion hours of video in just the month of June 2011 (and purportedly, as a result, the Netflix stock rose that day), shows that even government agencies are looking to social media for unlawful activity. Similarly, law enforcement professionals may disguise themselves on social media as prey to lure sex offenders or other criminals, in order to prosecute them for rape, murder or other crimes in the court of law.

At Digital Mountain requests for social media preservation has tripled in the last year. We expect that number to continue to rise. As Bill Gates said as far back as August 2010 "Social networking-type applications will become as ubiquitous in the workplace as Microsoft Office tools and will likely replace email as the dominant form of corporate communications." How are you embracing this new medium of communication in your digital evidence preservation and discovery plans?

UPCOMING INDUSTRY EVENTS

October 2014

Association of Corporate Counsel Annual Meeting: October 28-31

November 2014

The Sedona Conference All Voices Meeting 2014: November 4-7

LawTech Miami: November 5

Georgetown Law's The Advanced EDiscovery Institute: November 20-21

[Click here to see more upcoming events and links](#)



Digital Mountain, Inc. Founder and CEO, Julie Lewis, will be presenting at some upcoming industry events. Please send requests for speaker or panel participation for her to marketing@digitalmountain.com.

Please update your records with our corporate headquarter's new address below as of November 1, 2014!

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