



W&L's Joshua Fairfield

The legal side of e-commerce >

Executive Summary:

A Washington & Lee professor has developed a growing interest in the future of Internet relationships and how they can be a legal threat.

By **Stephanie Hardiman**

Are you "friends" with your customers? Are you "following" them? Ten years ago, this question wouldn't have existed, but now it's essential.

Today, being friends is more than an exchange of kind words between transactions; it's interacting with customers on Facebook—the largest worldwide social networking site with more than 350 million users—Twitter, LinkedIn or Myspace, where "friend-ing" means gaining recognition and publicity.

Ninety three percent of Americans using social media believe a company should have a presence in social media, according to a 2008 study from Boston-based Cone Research.

"Online presence is absolutely critical," says Joshua Fairfield, a professor of e-commerce law at Washington and Lee University Law School. Fairfield says it's the equivalent today of a business having a phone number.

Fairfield's love for massive multiplayer online games led to his interest in how the law applies to video games and virtual worlds like Second Life, a role-playing game where users interact with each other through online personas in a virtual world. Players of the games can purchase virtual items to use in play.

"People are willing to spend real money for virtual objects. It's a new and growing e-commercial phenomenon," he says.

And while Fairfield says that not all companies will want or need a presence in a virtual world, the spread of virtual technology into social networking sites and iPhone applications is



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worth noting. "There's no denying that that business model has made a lot of money," he says. Publicly-traded Forrester Research estimates that by 2014, interactive marketing will be a \$55 billion business.

"The way to get in on this is creating highly social, visually limited but still expressive applications for social networking applications," Fairfield says. While important, online interaction will not completely replace face-to-face contact, Fairfield says.


"As our electronic experience grows, the value of person-to-person contact becomes more valuable . . . the personal touch becomes a luxury," Fairfield says. Businesses specializing in a handmade or personal touch should work that into an online presence, he says.

When considering if an online presence is best for your company, Fairfield says one

question is more important to ask than all the rest: Am I going to be liable for things my customers will do with my technology?

Both Facebook and online classifieds site Craigslist have been held responsible for things users have done on their sites, such as preying on children or promoting prostitution.

While Section 230 of Communications Decency Act of 1996 gives a Web site operator total immunity from things users might say or do, Fairfield says the law has not been tried on how it might apply in a mixed reality situation.

Fairfield is teaching an e-commerce practicum in the spring at the law school to meet, what he says will be, a growing field of law. "All commerce is going to be e-commerce. These basic principles are something law students should know," Fairfield says. 

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