Navigating the Corporate Blogosphere

By David B. Wilson and Rita B. Trivedi

Introduction: What Is Blogging and Who Is Doing It?

Blogs have come a long way since their arrival on the Internet scene in the mid 1990s. A blog is a series of online web postings that are accessible to all users for comment and dialogue. These web-logs are frequently updated and chronicle a particular subject, person, or idea over time. Although early blogs were text-only, current sites offer video, pictures, text, and links to other sites. The growth of blogging software and managed blog hosting sites opened the market to lay users and soon heralded an explosion in the personal blog, or online diary. Although the personal blog may be most familiar to today’s population, there are also blogs covering developments in politics, sports, cultural activities, or any other area of interest to a particular niche community. Corporations have also capitalized on the allure of blogs; a virtual buzzword, blogs reach out to clients and allow rapid communication in a medium that people are especially receptive to.

This article will outline some of the benefits of employer-sponsored corporate blogs. Using case studies and examples, it discusses how companies can use blogs to promote new products or services, create a particular image, spread information about corporate policies and build community ties among employees. The article will then go on to consider some of the liabilities that accompany this powerful tool, such as responsibility for the statements employees or executives make on a corporate blog, risks of improperly limiting employee speech and communication with each other through stringent regulation, and breaches of sensitive information such as employee privacy or trade secrets. These obstacles should not stop employers from successfully using blogs to build their company’s reputation or profitability, so we will also offer suggestions on blogging policies and procedures to ameliorate the inherent risks of this burgeoning technology.

Why Employers Should Consider a Corporate Blog

Increased Communication and Collaboration Within the Company

Employers are increasingly using intra-company blogs to foster discussion, debate, and collaboration among their employees. Comparing the approach to traditional brainstorming sessions or group projects, large corporations such as IBM use blogging software to manage discussion groups and coordinate employees across states or even countries. By connecting employees online, companies can take advantage of knowledge and experience that might not otherwise come together in workplace collaboration. Blogs not only provide a forum for employees to coordinate projects, but also serve as searchable archives and records of the development process. “The advantage is the stateless nature of [blogs],” said Ed Brill, a business unit executive in Lotus sales at IBM. “Communicating via e-mail you have to know who you want to read it. Publishing via blogs makes is [sic] searchable and lets it have a corporate memory.”

Blogging offers a way for employers to make large organizations more personal and unify corporate practices. As opposed to a static posting or statement from executives, the interaction of a corporate blog responds to problems and successes as they happen. For example, Cisco Systems offers a blog where employees can discuss the company’s stance on “high tech” public policy issues and share news on recent happenings. The “News @ Cisco Notes” blog offers informal updates on Cisco’s products, employees, and corporate initiatives. In a vast “cubicile” world, the blog is a valuable tool when creating a single corporate culture and image among employees.

Marketing and Client Contact

Blogging offers yet another way for companies to present a positive face to potential clients and communicate with existing users. Many corporations recognize that they can spread word about their companies and products more quickly via interactive blogs than through traditional marketing methods such as print or television advertising. The blog offers a fast paced, readily updated, and interactive interface that increases exposure of the company name among clients and vendors. Some employers even use the blog to imprint a particular image or personality in the minds of potential users so as to associate the company with values or ideas that lure customers.

Public libraries throughout New England are using blogs to communicate with the public about upcoming events, programs, and new acquisitions in the book or media collections. The Darien Library in Darien, Connecticut, maintains a blog where staff and users alike can report on recent reads and share their

reactions with others while engaging in an often lively discussion of new titles. It also offer blogs with postings on special guests and the growing use of technology in the library. In this sense, the blog has become more than a simple bulletin board with facts—it is a business tool intended to create the impression that the library is a tech-savvy, active, and welcoming place for members of the community.

Larger employers may use a blog to keep clients informed about new developments within the company or explain the corporate direction. The mega-search engine Google has its own corporate blog where managers, developers, and technicians alike post to the public and explain the many new features in the works at the company. Because they are updated weekly or even daily, blogs have a distinct advantage over newsletters or traditional print marketing. It is easy for an employer to add information on a regular basis, allow for different viewpoints to appeal to a broader customer base, and speak directly to clients in an informal manner.

Offering links to trial (or beta) versions of products, Google’s blogs lead users to believe they are privy to the most current and cutting edge technology the company has to offer. The chance to offer comments — it is a business tool intended to create the impression that the library is a tech-savvy, active, and welcoming place for members of the community.

Large, diversified corporations may find the blog invaluable for presenting a single face or idea to clients. It is also a way to respond to industry criticism or challenges in a more personal and friendly way which appeals to the average user. GM’s “Fast Lane Blog” is neatly divided into subcategories, including “Auto Shows”, “Business”, and “Design”, each targeted at a different image the company wishes to highlight. By using executives as bloggers, management becomes less distant and more in tune with their customers’ daily lives. Bob Lutz, a GM Vice-Chairman, exemplifies the new voice of the company in a recent “Business” entry: “The trip to Canada reinforced for me that virtually every market I visit is different, even within the same continent. One of GM’s strengths is that it has product to suit almost every market. Our small cars for Quebec are proof positive of that. It’s a very important market for us and I try to remind them of that every time I go up there.” By using the blog to interweave personal reminiscences about the trip with business growth plans, Lutz and the company smoothly answer critics who argue that GM’s cars and trucks are too large, consume excessive fuel, or lag behind in development. The many user-comments left by average GM owners to Mr. Lutz’s blog entry evidence the impact of blogging on the consumer market: responses repeatedly reference the flexibility of GM cars, their new features, and the opportunities for new ventures ahead.

Creating an Image
Companies often see blogs as a way to portray a particular image or appeal to the values of their target customer base. One of the best recent examples comes from Stonyfield Farms. Their external blog, “The Bovine Bugle” features a farmer who supplies the milk for Stonyfield Farms’ smoothies and yogurt. Farmer Jonathan Gates offers a conversational and often informative look into the family farm, sharing videos of himself and his family on their many adventures in the business of providing organic milk to customers. Through Mr. Gates, Stonyfield effectively re-emphasizes their identity as an organic and eco-friendly company: “We can’t feed our animals the hay we are making on our neighbor’s fields this summer. For organic certification, the fields need to be free of chemical fertilizer for three years and this is only the second year. Luckily, Dennis can use the feed at his farm for the livestock he raises there, and he’ll trade me his feed to use which is certified organic.”

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Recruiting and Hiring
Companies can use blogs to post recruiting information, solicit applications, and spread their name among job seekers around the world. This promotes efficiency as well as a way to vet unlikely applicants: the blog lets candidates ask questions prior to official application so that time is saved in the actual process. Because of the constant updates, open comments, and discussions inherent to blogging, new users can see answers to previously posted questions and gain a better sense of whether they would be a good fit with the company simply by searching though an employer’s blog.

The blog lets the applicant learn more about the company culture and philosophy as well as its financial profitability and clients. This can be a strong inducement to recruits if the company presents itself in a controlled way. It also creates an open environment and lets candidates hear from the company employees themselves on life from within — an important selling point in a culture where there is often great skepticism

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4 Accessible at http://www.darienlibrary.org/connections/books/.
5 Accessible at http://googleblog.blogspot.com/.
6 Accessible at http://stonyfield.typepad.com/bovine/.
8 Accessible at http://fastlanegmblogs.com/.
about the behavior of employers and workplace satisfaction.

Microsoft Corporation has long been a leader in the use of blogs as a recruitment tool. “Jobsblog: Technical Careers @ Microsoft” is a casual place where potential employees can learn about positions from current workers, determine the education and qualifications they would need to successfully work at Microsoft, and get interview or resume tips for the big moment. Bloggers emphasize the friendly culture of competition and enthuse over recent events for interns — simultaneously depicting the positive image an employee looks for and offering insight into life at the company. With links to new product development initiatives and job postings, Jobsblog demonstrates that employers who reach out to potential recruits in a fast-paced, interactive way will have a broader pool of qualified applicants to build their companies.

A company with its own blog is also better equipped to use the blogs of others to its own advantage. Much as job-seekers research their target companies prior to appearing for an interview, employers can use blogs created by potential candidates as a way to learn more about them and decide if they are a good fit for the company. Blogs are often very revealing and offer insight into general attitudes and personalities beyond what can be learned in a brief interview. They can demonstrate a recruit’s ability to express herself, analytical skills, tact, and general maturity. They can also reveal what might have been left unsaid at the interview but significantly impacts hiring choices. For example, a candidate who appeared promising based on her resume was nevertheless passed over for an interview after the employer examined his personal blog and found he had referred to him as a “belligerent jerk”. The applicant had posted a message describing the interview with negative comments about the employer, including a statement that he didn’t really want to work there in the first place. Without the blog, the employer might have suffered from a non-productive, non-cooperative employee with a negative attitude that impacted all those around him. As Steven Rothberg of collegerecruiter.com recently explained, many applicants don’t realize that their postings on blog sites such as myspace.com can “potentially be accessed by anyone at anytime and forever.” Employers with the tools to take advantage of the blog can significantly improve their hiring and screening practices.

Making Blogging Work: Choosing the Terms

Executive or General?

Employers have two options once the decision to start a corporate blog has been made. The company may choose to: (1) allow the average employee to blog; or (2) restrict blogging to executives/management. There are advantages and limitations to each, generally concerning content and oversight. A related question is the context of the blogging. Some companies make blogging a part of their employees’ job duties (promoting the company and collaborating with other workers in a new way) while others consider contributions to a corporate blog as a private undertaking to be done on the employee’s own time.

Companies that limit blogging to executives or management positions frequently enjoy greater control over the corporate message. In part, this is simply a function of having a smaller number of contributors to oversee, but it also reflects the reality that management has a very different perspective on the company and its direction than the average mid-level worker. Corporate elites have the same general interest and definition of success; opening blogging to all employees (or even a larger subset) risks bringing in too many viewpoints and contradictory positions. Some employees may be less satisfied with their work or the company’s policy on a particular matter and allow that position to spill into their blog entries. Although the contents of contributions may be reviewed, it is difficult to draft a policy that would allow general employees to blog and yet monitor/censor what they say (for reasons discussed below). In addition, there is more authority associated with an executive’s comments: the general public is more likely to believe they have the practical power to make their assertions and visions a reality. When an employer uses a corporate blog as a way to secure a place in the industry or create a solid image for itself it can greatly benefit from the executive-driven blog.

Advantages to a more general blog have to do with corporate image and accessibility. Using feedback from the average worker and creating group discussions makes the company seem more user-friendly and personal, as evidenced in Google’s blogs described above. For potential clients or the community at large, the company seems as if it has nothing to hide. If a company is planning to use the blog as a recruitment tool, including entries from midlevel employees may be worthwhile as it offers more insight into daily working life and can seem more “in tune” with the concerns of potential applicants.

On the Job or Off?
Companies that make blogging part of their employees’ work activities have the legal benefit of easier monitoring and control over contents. When an employee blogs at work or as part of his job description, it is work product that the employer can criticize, demand changes to, or ask to see at any time (even without the employee’s knowledge). Since it is done on the company’s equipment in the corporate office, it is less of a privacy concern and review is often covered under existing electronic or technical policies. Even when done from home, the blogging can be analogous to ‘working from home’ or telecommuting and warrant similar scrutiny.

However, there is the practical danger that blogging — a time consuming venture — will interfere with other business and reduce real-time interaction with other employees. It also opens the door to difficult liability issues regarding the right to speak for the company: Does a low-level employee’s blog contributions (when done on the clock) really express the corporate position in a binding way? What if that blog has defamatory content? Has the employer sanctioned it? Some corporations attempt to protect themselves through an express blogging policy defining liability and personal responsibility as well disclaimers on the corporate blog site itself regarding the independence of each blogger’s opinion. However, as will be discussed below, this might not always be enough.

The alternative is to make blogging a private matter, but allow it to be company-facilitated. In this scenario, the employee blogs on his own time on a voluntary basis but does it through the company server/host site and opines on corporate matters. This is much riskier in that it is harder to demand screening of the content and creates the chance of overlap between personal opinions and the “company agenda”. Employees might refer to information they learned in the course of their employment and intermingle their views with those of the company, thereby creating a false impression of corporate doings for the public. On the other hand, personal-time blogging may create a more accessible, free-flowing discussion that helps employees develop new ideas and discuss what they need from the workplace. Clients and the general public may also be more likely to trust views from non-regulated blogs as the messages don’t seem so filtered.

When deciding which approach will be right for a given company, it is critical that the employer consider the nature of its business and the goals it hopes to achieve through the blog. Both can work effectively, as long as the employer is aware of the inherent risks and takes steps to protect itself as completely as possible.

Legal Liabilities and Risks
An employer faces many risks when deciding to create a corporate blog. Along with the opportunity to convey a distinct message to clients and shape the image of the company comes the danger that what is said will be “held against you” — either in litigation from employees, third parties, from regulators, or to the company’s own business detriment. Blogging is a relatively new area for the law to deal with, however, and little clear precedent on liability exists. It is therefore essential for an employer to think outside the box, looking to existing doctrine and drawing parallels to try to create the best protection possible for itself.

The Consequences Matter, Not the Means
An employer might find itself liable for illegal actions or harm to third parties (such as harassment, intellectual property theft, or defamation) done by employee bloggers as part of their job duties. Traditional tort law has long maintained that “an employer is liable to a third party for the torts of one of its employees if that employee is acting within the scope of his or her employment.”13 An employee’s conduct is considered to be within the scope of employment if the conduct: (1) is of the kind he/she was employed to perform; (2) occurred substantially within the authorized time and space limits; (3) was actuated, at least in part, by a purpose to serve the employer; and (4) was not unexpected by the employer.14 Examples of liability in the blogging context could include:

- improper comments about a competitor resulting from an employee’s assignment to respond to industry charges regarding a company product
- defamatory statements about a difficult co-worker stemming from the use of a blog designed to foster group collaboration on a project when an employee tries to discredit her colleague’s ideas
- copyright violations when creating a blog entry that attracts readers’ attention

Because these blog postings arguably meet the “scope of employment” criteria discussed above, an employer’s good intentions for company development can easily backfire.

The greater control or supervision the employer retains over the blog site, the more likely it is that a legal action would be sustained. In a recent New Jersey case, a Continental Airlines employee complained of sexually harassing comments by co-workers, some of which were also allegedly defamatory in nature. The comments were posted on an online bulletin/discussion board that the employer used to notify employees of schedules and assignments as well as a forum to exchange ideas and information. Continental Airlines maintained that it had no control over employee postings and that the site was to be accessed primarily from employee’s homes — thus, it claimed, it could not be held liable. In contrast, the employee argued that Continental was on notice as to the illegal behavior (as it sponsored the site) and should have taken corrective action.15

Applying a combination of traditional agency law and the principles underly underlying employer liability for sexual harassment by employees, the New Jersey Supreme Court held that “employers do not have a duty to monitor private communications of their employees; employers do have a duty to take effective measures to stop co-employee harassment when the employer knows or has reason to know that such harassment is part of a pattern of harassment that is taking place in the workplace and in settings that are related to the workplace.”16 It also recognized that many elements of agency liability are met in the online sphere: a business derives benefit from having well-connected employees and often authorizes electronic postings or blogging as part of work.17 However, lacking more information on the facts in the case, the Court remanded the case to determine the extent of the benefit to Continental and the degree of integration of the forum into its workplace.

A driving part of the court’s analysis in Blakey was the degree of constructive or actual knowledge on the part of the employer as well as the extent to which it monitored or controlled the use of the website. For many reasons — both business and legal — an employer will likely want to monitor blog postings quite closely. However, this may lead to liability if improper conduct falls through the cracks of supervision. When deciding to create a corporate-sponsored blog, therefore, an employer must be aware that with greater use of this tool comes the risk of greater liability if mishandled.

Right to Speak for the Company
Another issue deals with the right to speak for the company and create binding promises on its behalf. When an employer decides to use blogs as a recruitment or customer relations tool, it will often use employee bloggers as conduits, sharing their experiences, asking questions, and posting plans regarding upcoming projects. However, a corporation must be aware that the assertions made by employees might constitute binding promises that induce reliance from blog readers. Under traditional promissory estoppel, if reliance is reasonable, the statements can be foreseen to induce action, and the reader has taken detrimental action as a result of the reliance, he will have a claim for breach of contract if the promise fails to materialize.18 For example, if an employee who is presented on a corporate blog site as a representative of his department to answer questions from prospective job applicants states that the company values practical experience highly (over formal education), he might create the impression that even those without the formal qualifications will be hired. If the applicant acts in reliance on this (moves his residence or quits his current job), and is subsequently harmed as a result, the company may be liable for the acts of an authorized blogger doing his job. The same problem may result from intra-company communications: a manager who communicates with her employees via an internal blog can reasonably be perceived to speak for the company and creates reliance on her statements of company policy or procedure. As IBM notes in its blogging guidelines, “managers and executives [have] a special responsibility when blogging. By virtue of their position, they must consider whether personal thoughts they publish may be misunderstood as expressing IBM positions.”19

The same problem can arise in the context of bloggers commenting on the prospective plans or profitability of the company. Often a company will want to keep its investors apprised of its financial health in an easily updated, informal way. A blog is the perfect means of doing so, but even casual postings by mid-level employees may be interpreted as an official statement of corporate status by clients who rely on the corporate backing of the blog site as an endorsement of its contents.

16 Id. at 62.
17 Id. at 60.
Employee Communication and Free Speech

One of the primary concerns when developing a corporate blog is controlling or limiting what contributors may post to the site. Whether midlevel or executive employees are blogging, the employer will want to direct and channel the content to the particular goal of the company (e.g., image, client contact, recruiting, communication, etc.). This may present a problem if the means of monitoring are such that they “chill” the freedom of communication employees enjoy regarding the conditions of their workplace.

Section 7 of the National Labor Relations Act protects the right of employees to communicate with each other and with third parties on the terms and conditions of their employment (including wages, hours, and working conditions as protected subjects of discussion). Both the courts and the National Labor Relations Board have found that an employer cannot limit the freedom of workers to communicate regarding the terms of their employment, even if that communication is in the context of another forum. In *Cintas Corp.*, the Board held that a confidentiality provision in an employee handbook threatening workers with discipline if they referred to confidential information regarding the company, its business partners, new business ventures, or internal accounting violated the National Labor Relations Act. Citing the possibly stifling effect of such regulation on the free choice of workers to discuss their conditions with others, the Board stated that such a broad, “unqualified prohibition … could be reasonably construed by employees to restrict discussion of wages and other terms and conditions of employment with their fellow employees and with the Union.”

Some courts do recognize the right of employers to limit the speech of their workers when such speech would reasonably be considered disruptive to office productivity or the business needs of the company. Under this reasoning, an employer can explicitly limit what a worker may say or suggest on a corporate blog, because inflammatory comments are likely to (a) reach other workers and incite them; (b) reach potential clients/users and undermine the corporate message/image; or (c) interfere with the employee’s own productivity or work duties.

Nevertheless, it is critical that any blogging policy created by an employer consider not only the direct limitations but the possibility of perceived attempts to quash free speech.

Privacy Breaches and Sensitive Information

The risk of a breach of privacy comes in several forms when an employee contributes to a corporate blog. These include trade secrets, proprietary information, client confidentiality, state and federal securities laws, and HIPPA provisions. Employees may air opinions based on information learned directly as a result of work, unaware of the consequences it holds for the company. This opens the employer to liability if the information concerns a client, especially in the financial analysis/consulting industry. It may also constitute a breach of the company’s own obligations under applicable regulations.

For example, under Securities and Exchange Commission regulations, a company about to take its business public may not make any public pronouncements from the moment that it first registered its initial public offering with the Commission until its registration becomes effective just prior to entering the market. Known as the quiet period, the only statement a company can make at this time is via a preliminary prospectus. However, it is quite likely that a mid-level employee contributing to a company sponsored blog on new research and development within the company might inadvertently write about the effect of these projects on the company’s future – thus violating the above regulation and creating employer liability. Material misstatements could also constitute a violation of Rule 10b-5.

An employee who blogs about research and development or new products/ideas circulating in the company may reveal trade secrets or upcoming corporate projects. Aside from the immediate harm of leaks to competitors and the business losses, possible patent law complications exist. Under 35 U.S.C. § 102(b), a patent may be granted unless, among other things, the innovation was “described in a printed publication”. It is unclear if blogs constitute a printed publication, but the possibility certainly exists. Even the one year grace period between the publication and the application during which a patent may be granted might not save the company if an employer is unaware

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20 Compuware Corp. v. NLRB, 134 F.3d 1285, 1291 (6th Cir. 1998).
21 344 NLRB No. 118, 2005 NLRB LEXIS 309 (June 30, 2005).
22 Id., 2005 NLRB LEXIS 309, at *3.
23 *E.g.* Connick v. Myers, 461 U.S. 138, 147 (U.S. 1983) (“when a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee’s behavior”).
that the blog entry has described the innovation and misses the deadline. Disclosure of a third party’s trade secrets might open the company to a charge of misappropriation.

Ways to Reduce the Risks

The legal liability associated with developing a corporate blog is very real. However, it is equally evident that there are many business incentives to use blogging to develop and manage a profitable business. Employers can take steps to control this risk as they control so many others: via a strong blogging policy, creative foresight as to possible problems, and pre-emptive structural action to minimize the chances of long term problems.

A Strong Blogging Policy

Perhaps the best option, a strong blogging policy offers employers the chance to set down the expectations for employees who blog, explicitly define the scope of business matters that may be discussed, create concrete and consistent consequences for violations, and generally frame responsible blogging behavior as a job expectation. Specific elements of a sound policy include:

(1) explanation of the goals and intended uses of the corporate blog;

(2) a disclaimer of corporate responsibility over contents, views and opinions;

(3) a requirement that employees comply with corporate rules of confidentiality, trade secrets, and other information held sensitive as general practice;

(4) warnings to employees against revelation of finances or future growth that potentially violate securities regulations;

(5) explanations of when, how, and if the corporate logo may be used;

(6) discussion of copyright concepts and copyright material online;

(7) notice that employee contributions to blogging are considered part of their work duties and, as such, will be monitored and reviewed comparably to any other work product;

(8) a general clause on respectful attitudes and comments on clients, co-workers, and the company.

Both employers and employees would be well served to implement regular training programs in addition to a formal blogging policy. This offers the chance for explanations in a personal setting, allows employees to ask questions, and gives the employer the ability to update the company’s stance on blogging as they develop over time.

Judicious Use of Disclaimers and Agreements

Along with a blogging policy comes the need for disclaimers — not just to the viewing public but also to the employees. Like all disclaimers, they should be prominently displayed on both the blog site itself and in the employee handbook or manual.

To protect against a possible violation of Section 7 of the National Labor Relations Act, any statement regarding the limitation of speech or the use of confidential information should include a clause to the effect that nothing in this limitation is to be interpreted as a ban or regulation of employee communication regarding the terms and conditions of their work.

Disclaimers may also serve to limit the company’s liability for third party claims of reliance. This is best achieved through language stating that the contents of the blog constitute a general statement regarding the company but are not to be relied on as representing the corporation’s future conduct. An additional clause urging viewers to contact a pre-selected company representative before taking any action or with questions regarding the blog should aid in diffusing a promissory estoppel claim.

Most employers dealing in proprietary information already require their employees to sign confidentiality agreements. The text of these documents should be modified to include prohibitions on publishing confidential information on company blogs. An additional provision may indicate that all contributions will be reviewed prior to posting to ensure no inappropriate information passes through. While this constitutes a significant onus on the employer, the price of monitoring is small compared to the business and legal ramifications of revelation.

Limit Bloggers and Blog Time

Employers should consider limiting corporate blog contributions to only those in management, with perhaps a selected group of lower-level employees who agree to careful review of their work. This will help minimize the risk of inadvertent disclosure of sensitive information as well as ensure that the contents of the blog fit with the image the corporation is trying to portray. It also addresses the question of limiting free speech — executives are less likely to require extensive monitoring and have their own interests in being careful about the content of their postings.

In addition, corporations should make sure that blogging is done only on corporate time. While this might seem counterintuitive, forbidding at-home contributions emphasizes the work-related nature of the activity and may strengthen any defense the employer invokes if challenged on issues of invasion of employee privacy during monitoring or oversight.
Conclusion

Blogging is a powerful new tool for businesses of almost any size. With easy-to-use blogging and intra-company communication software, corporations can readily integrate a blog onto an existing website. This will allow the business to project a particular image to potential clients, recruit new employees, update current investors, and facilitate employee collaboration.

However, employers must be mindful of the legal liabilities and risks they face when creating a blog. Not only must they worry about the inadvertent disclosure of corporate trade secrets or employee misconduct towards their co-workers, but they should guard against the potential of liability to third parties for statements made by employees on-line, including claims of collateral estoppel, violations of securities laws, copyright infringement, and patent implications. Some of these risks will always exist. But there are several steps an employer can take to minimize exposure to liability.

The first step is a solid company blogging policy that defines the scope of employee contributions and the goals of the blog, establishes the employer’s right to monitor any postings and review employee work, includes various disclaimers directed both at third parties and employees themselves, and clearly explains what corporate information may and may not be disclosed. Some employers may further choose to limit blog contributions to upper level employees, while others may be comfortable allowing more general postings. Training sessions can help employees recognize that blogging is part of their job requirements like any other task and allow the employer to set certain baseline limits on how, when, and where blogging will take place.

With these elements in mind, an employer should seriously consider what it hopes to achieve through its blog and craft a policy addressing the most likely liabilities for that use. But the risks of corporate blogging should not deter an employer from using the blog altogether. Issues raised in the blogging context are only part of the latest challenge for the legal system: dealing with traditional doctrine in an electronic age. These same concerns carry over into e-discovery, Internet commerce, personal jurisdiction in a increasingly global or virtually connected world, and digital copyright. By facing such questions and using the tools at their disposal to make blogging work in their favor, employers have the chance to help define this growing area of the law and offer a new business model for their peers while achieving their own corporate growth objectives.

Most employers and companies that use blogs do so in a well thought out and regulated way, as part of their employees’ job requirements. A judicious blogging policy and understanding of the legal liabilities or arguments involved can significantly reduce the risks discussed above and allow a corporation to use the blog as the powerful business tool that it is.

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David B. Wilson is a partner in the Boston office of Robinson & Cole LLP where he counsels and trains employers in all areas of employment relations law. Mr. Wilson also litigates employment, real estate, maritime, and general commercial disputes in the state and federal courts of Massachusetts and New Hampshire. He can be contacted at dwilson@rc.com.

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Rita B. Trivedi is a 3rd year law student at Duke University School of Law and graduated from Brandeis University with an M.A. and a B.A. in Politics. She was a summer associate at Robinson & Cole LLP in the summers of 2005 and 2006; she is scheduled to begin as an associate at Robinson & Cole LLP in September 2007.