

Fishing with the Crowd

Catch and Release?

By Jan Bissett and Margi Heinen

Much of what we do in business litigation research is akin to finding a goldfish in the Barrier Reef. Oftentimes, we need to find essential, accurate, publicly available business intelligence on companies or individuals that defines them for a judge, a jury, or our client. Legal researchers turn to public documents, business directories, news and other articles, and court filings for this information. We have used vendors and database aggregators such as Westlaw, Lexis, and Bloomberg as well as the Internet to uncover details. Recently, options to create and share content collectively described as social media and crowdsourcing have entered the research mix. Much has been written about the value of adding social media research to your evidence-finding tasks.¹ The Securities and Exchange Commission has approved the use of Twitter and Facebook to announce news releases and company information for investors,² and recently provided additional guidance on social media platforms.³ Valuable information is shared daily via social media. So, what sources do we use to fish the shoals of social media? And what role, if any, might crowdsourcing play in researching business-related litigation?

Social media

Searching and monitoring online communities' content sharing has evolved with the social media platforms. Many options are available to search social media both for a fee and free and, as with many research projects, the most complete coverage of sources costs money. Be sure to review exactly what information is provided—you may not need an enterprise search with a marketing or advertising focus for your discrete query. Popular fee-based monitoring tools are summa-

rized in Customer Relationship Management's *Find the Right Social Media Monitoring Tool*⁴ emphasizing brand monitoring, analytics, and demographics as well as social mentions and tracking. One fee-based service recently mentioned on a discussion list is Trackur,⁵ which promotes itself as the broadest social media monitoring service. It covers Twitter, Facebook, and more at costs ranging from \$97 to \$447 a month. Another entry, TLOxpSocial Media Search, from one of the originators of the familiar Acurrant, touts its ability to “[g]ain collective insight on a subject.”⁶ A brief description of searching, pricing, and its value in examining 145 sources is available from Carole Levitt's Internet for Lawyers.⁷

The free sources may not offer as much sophistication or search manipulation but are useful tools to help you manage and track social media. If you're searching for what people are saying about you, your company, or product in real time, Social Mention⁸ may be of assistance. Topsy⁹ lets you search tweets galore, indexing and ranking search results “about each specific term, topic, page, or domain queried.”¹⁰ Verification Junkie,¹¹ “a growing directory of tools

for verifying, fact checking and assessing the validity of social media and user-generated content,” was developed to provide tools to check the accuracy of breaking news being distributed among the social media networks.¹² Social Searcher¹³ provides a dashboard approach to searching Facebook, Twitter, and Google within recent time frames. The site recommends using Google Social Search¹⁴ to go further back in time or to find people profiles.

Many options exist in this expanding world of social media searching, monitoring, and listening. Sites such as StayOnSearch¹⁵ offer a list of useful search tools for social media, and Brandwatch, a fee-based monitoring service, offers its take on the “Top 10 Free Social Media Monitoring Tools” for the “social media rookie.”¹⁶ And don't forget the power of a search engine! The iBraryGuy's recent two-part posting¹⁷ on searching social media focuses on improving relevancy in search results of Facebook and Twitter without signing in to these social networking sites. Tips and tricks with illustrations of advanced functions of Google-searching of Facebook and the advanced search functions of Twitter are provided.

As the tide keeps rolling in with new electronic and technological approaches to sharing and collaborating on social networks, researchers will continue angling for useful information and toss back those suggestions and insights that don't meet their research needs.

Crowdsourcing

Crowdsourcing refers to obtaining information or input by enlisting a group of people (a crowd), usually via the Internet. How does crowdsourcing impact litigation? An interesting article in 2013 argues for more use of crowdsourcing in assessing the outcome of proposed litigation and for online jury research.¹⁸ Intellectual property folks have seen a number of articles discussing crowdsourcing prior art.¹⁹ The Patent and Trademark Office recently requested public comment and announced a Roundtable on Crowdsourcing for prior art.²⁰ On the legal research side, CaseText,²¹ its citator, WeCite,²² and Mootus²³ (online, open argument) offer opportunities to those interested in crowdsourcing case annotations and issues. What other roles might crowdsourcing play? Jurify²⁴ (corporate, securities, and mergers and acquisitions transactions), Legal Brief.ly²⁵ (sell your research product), and the UK's My Learned Friend²⁶ (from the land of PLC) are some examples. And a recap of the ABA Techshow's "How Crowdsourcing Can Power a Lawyer's Research" notes Robert Ambrogio's discussion of crowdsourcing by citizen journalists as a way to follow active trials.²⁷

While there will likely be many future advances in crowdsourcing and searching social media, both already offer some unique opportunities to businesses—and those researching business intelligence. As the tide keeps rolling in with new electronic and technological approaches to sharing and collaborating on social networks, researchers will continue angling for useful information and toss back those suggestions and insights that don't meet their research needs—their own catch and release. Practitioners will want to keep their eyes on the developments in social media and crowdsourcing as they relate to litigation and legal research. ■

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ENDNOTES

1. Page, *Time to 'friend' Facebook? Using social media to win your case*, 31 Westlaw J Computer & Internet 5 (September 2013), available at <<http://www.youngmoorelaw.com/wp-content/uploads/2013/09/Social-Media.pdf>>. All websites cited in this article were accessed July 23, 2014.
2. Holzer, *SEC Embraces Social Media*, Wall Street Journal, April 2, 2013, available at <<http://online.wsj.com/news/articles/SB10001424127887323611604578398862292997352>>.
3. See Posting of Michael Loatman to Social Media Law Blog, *SEC Rolls Out More Guidance on Social Media* <<http://www.bna.com/sec-rolls-guidance-b17179889926/>> (April 25, 2014); SEC, Securities Act Rules 134, 165, and 433 <<http://www.sec.gov/divisions/corptin/cfnew/cfnew0414.shtml>>.
4. Aquino, *Find the right social media monitoring tool*, 16 CRM 33–37 (June 2012), available at <<http://www.destinationcrm.com/Articles/Editorial/Magazine-Features/Find-the-Right-Social-Media-Monitoring-Tool-82502.aspx>>.
5. <<http://www.trackur.com/>>.
6. <<http://www.tlo.com/social-media.php>>.
7. Internet for Lawyers, Automated Social Media Search at TransUnion/TLO <<http://www.netforlawyers.com/content/social-media-background-investigative-search-transunion-tlo-0099>>.
8. <<http://www.socialmention.com/>>.
9. <<http://topsy.com>>.
10. Topsy, Topsy Social Search Support <<http://about.topsy.com/support/search/>>.
11. <<http://verificationjunkie.com>>.
12. Stearns, *Introducing Verification Junkie* (July 30, 2013) <<http://stearns.wordpress.com/2013/07/30/introducing-verification-junkie/>>.
13. <<http://www.social-searcher.com>>.
14. <<http://www.social-searcher.com/google-social-search>>.
15. <<http://www.stayonsearch.com/top-25-social-media-keyword-search-tools-and-engines>>.
16. Brandwatch Blog, *Top 10 Free Social Media Monitoring Tools* <<http://www.brandwatch.com/2013/08/top-10-free-social-media-monitoring-tools/>>.
17. Posting of Stosh Jonjak to iBraryGuy <<http://www.ibraryguy.com/>> (May 8, 2014 and May 22, 2014).
18. See Davidoff, *Following Business Trends: Crowdsourcing Litigation*, USLAW, Spring/Summer 2013, p 44, available at <<http://web.uslaw.org/wp-content/uploads/2013/07/Galina-Davidoff-Ph.D.-uslaw-mag-article.pdf>>.
19. See Koering, *Technology: It takes a village*, Inside Counsel (June 7, 2013) <<http://www.insidecounsel.com/2013/06/07/technology-it-takes-a-village?page=1>>.
20. 79 FR 15319, Request for Comments and Notice of Roundtable Event on the Use of Crowdsourcing and Third-Party Preissuance Submissions to Identify Relevant Prior Art (3/19/2014), available at <<https://www.federalregister.gov/articles/2014/03/19/2014-05996/request-for-comments-and-notice-of-roundtable-event-on-the-use-of-crowdsourcing-and-third-party>>.
21. <<https://casetext.com/>>.
22. <<https://casetext.com/wecite>>.
23. <<http://www.mootus.com/>>.
24. <<https://www.jurify.com/>>.
25. <<https://legalbrief.ly/external/faq.aspx>>.
26. <<https://www.mylearnedfriend.co.uk/home/welcome>>.
27. Legal Current, ABA Techshow: Day one recap (March 27, 2014) <<http://www.legalcurrent.com/aba-techshow-day-one-recap/>>.