

*by Boyd Byers*

## **MySpace, YouTube, and Your Company**

Did you see the naked Burger King worker taking a bath in the restaurant's utility sink? Or the college debate coach mooning the audience during a tournament in Wichita? Millions of people did, thanks to the Internet. Those incidents, which cost the employees their jobs, are good case studies that show how easy it is for you — and everyone else in the world with access to a computer — to gather information about your company's job candidates and employees.

### ***15 minutes of fame, lifetime of regret?***

The Burger King employee had a coworker record him enjoying a soapy bath in the kitchen sink to celebrate his birthday. (It must have seemed like a good idea at the time.) He then posted the four-minute video on MySpace. Restaurant management learned about the prank after it showed up on the Internet and soon parted ways with the employees who were involved.

Fort Hays State University also found itself in the national spotlight when a video of its debate coach cussing at another coach and dropping his pants surfaced on YouTube. The "debate" took place last March, but the video wasn't posted on the Internet until September. Not long after that, the university fired the coach, a professor of communication studies, for violating the faculty code of ethics. (Fill in your own punch line here — the jokes practically write themselves.)

### ***Digging for 'digital dirt'***

More and more, HR professionals are using the Internet to check out applicants and investigate employees. That shouldn't be surprising; Internet searches are easy and free. And given the time and cost necessary to select and train new employees, not to mention enhanced concerns about uncivil behavior and violence in the workplace, it's important to conduct due diligence on job candidates.

What if the applicant you are considering maintains a website advocating his white-supremacist views? Or references his ongoing recreational drug use on his Facebook profile? Or posts a rant about how much he hated his previous job and is thinking about "going postal" on his old boss and coworkers? Or blogs his efforts to avoid doing any productive work? The list goes on and on, but you get the idea. (If you think nobody in the job market would be stupid enough to put this type of stuff out there for the world to see, take a look at some of the personal networking sites.)

Employers may have legitimate business and legal reasons for taking adverse employment actions based on this type of information. That doesn't mean, of course, that you can rely on everything you find on the Internet when making employment decisions. So keep these thoughts in mind to stay clean when digging for "digital dirt":

- Apply the same level of scrutiny to all similarly situated candidates. If you only Google applicants of a certain race, for example, you're asking for trouble.
- A simple Internet search may yield information you would never directly ask an applicant, including information about his age, religious beliefs, or involvement in past employment lawsuits. Your decisionmaking and recordkeeping processes need to be above reproach and leave no doubt that your knowledge about such things didn't affect your judgment.
- Some states (but not Kansas) have laws that protect employees' political activities, tobacco and alcohol use, and other lawful off-duty activities. Public employees also have free speech rights. These considerations may limit your ability to make employment decisions based on certain types of information.
- Ensure that Internet information is authentic before you use it. Verify it with other sources. Discuss it with the person and give her a chance to explain or respond. You might learn something that affects your decision. Even if you don't, at least you've been up front and fair.

Above all, don't lose sight of the fact that the Internet is simply one of many tools at your disposal for gathering information to help you consistently make good employment decisions based on legitimate job-related criteria.

***He said it***

*Getting information off the Internet is like taking a drink from a fire hydrant.*

— Mitch Kapor