

The Illinois Manufacturer

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Fall 2009

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How to reduce business interruptions and maximize manufacturing efficiencies	10
by Tim Calahan, RSM McGladrey	
Employees do use social networking sites at work: Dealing with the reality	15
by David B. Ritter & Sonya Rosenberg, Neal, Gerber & Eisenberg LLP	
Protecting your products and packaging with trade dress, design patent and copyright.....	19
by Jeffrey Brown, Michael Best & Friedrich LLP	

Columns

President's Report: There is general agreement among experts that the beginning and end of economic cycles is best viewed in hindsight	Page 4
Legislative Report: There is absolutely no doubt, however, that the failure of our elected officials to create a long-term vision for the state's economy will continue to result in the diminished role of manufacturing	Page 6
Management Techniques: Preparing a business transition plan while you're still actively involved with the business allows you to . . . guarantee the productive life of your business for generations to come — from Plante Moran Financial Advisors ..	Page 7
Energy Issues: Electric competition leads to innovative energy management tools, and Constellation NewEnergy is a leader in Illinois	Page 9
Human Resources: Could your company cope without a significant portion of its workforce? Doing nothing could prove very costly as the Department of Health and Human Services recently renewed its determination that a public health emergency exists nationwide involving swine flu — from Dykema Gossett PLLC	Page 11
Legal Issues: The unwary employer may reduce payroll costs but wind up with a wage and hour lawsuit as a result. The good news is that a well-informed employer can avoid such risks — from Vedder Price PC	Page 13
Member News: News for and about IMA members around the state	Page 24
New IMA Members: Welcome!	Page 30
IMA & MIT Calendar of Events	Page 30

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Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

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Share your company news with IMA . . .

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Challenges ahead for Illinois manufacturers



More than a half-million workers in Illinois are currently receiving Unemployment Insurance benefits and virtually all are, or will be, receiving extended benefits.

Recent news reports suggest the economy may be improving; that the worst of the recession may already be behind us. If that's true, it's good news for Illinois manufacturers and their employees. However a historic look at how Illinois' economy reacts during economic downturns offers a more sobering view.

Traditionally, Illinois is one of the last states to sink into recession. Unfortunately it is also among the last of the states to recover, often long after the rest of the country, and this recession is taking on the characteristics of following that path once again.

There is general agreement among experts that the beginning and end of economic cycles is best viewed in hindsight. And while most economists seem to agree that the recession began last fall, unemployment in Illinois didn't begin to ratchet up significantly until months later. When the recession finally gripped Illinois this past January, it did so with a vengeance. Unemployment skyrocketed from December's 7.2 percent rate to 10.4 percent by July. More than a half-million workers in Illinois are currently receiving Unemployment Insurance benefits and virtually all are, or will be, receiving extended benefits.

Economists at the University of Illinois' Regional Economics Applications Laboratory believe it could be the third or fourth quarter of 2015, or early 2016, before Illinois can restore non-farm employment to levels we saw in 2000. That is particularly disturbing news given the state of the Illinois treasury. Illinois again faces severe shortfalls generated by a state legislature and governor who insist on spending more and more taxpayer money on new programs every year.

Even more distressing is the news that the state's Unemployment Insurance Trust Fund has exhausted its reserves. As of August 31, the fund was already more than \$300 million in debt and that number is expected to climb to more than \$1 billion by the end of the year. Projections offered by the Illinois Department of Employment Security say we could be facing deficits of more than \$5.5 billion by 2011, a staggering figure by any standard.

Illinois business and labor leaders see troubling times ahead. The agreed bill process that rescued the Unemployment Insurance Trust Fund from more than \$500 million in debt in 2003, and over \$1 billion in 1983, will again be necessary to lessen this daunting debt. This time the solution will demand considerable concessions on both sides.

I'm bringing all of this to the forefront now because the 2010 election cycle has already begun and will certainly affect next spring's legislative session. A good number of quality candidates from both political parties have announced their intentions to run for Governor, Lieutenant Governor, U.S. Senate, Congress and various state legislative seats. As members of the IMA, we need to ask every candidate, both incumbents and challengers, some hard questions, such as . . .

1. What will your administration specifically do to speed economic recovery in Illinois?
2. What specific spending cuts will you propose to bring the state budget into line with available revenues?
3. What specific state policies will you support to encourage economic development in Illinois and stop the exodus of thousands of manufacturing jobs to other states?
4. What will you do to relieve the pressure of frictional costs like Workers Compensation, Unemployment Insurance and the host of other government mandates?
5. How will you do any or all of this in an economy that isn't expected to see full recovery for another five or six years?

Just remember, though, that asking the questions is just part of the equation. The other part, and all too often the more difficult part, is to get an answer. This time, demand the answers. The future of manufacturing depends on it. ■



Manufacturing

SUCCESS

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We won the battle, need to keep fighting the war

Late on a Friday afternoon in the early dog days of August, long after state offices had closed for the weekend, we received a personal telephone call from Governor Quinn's office letting us know that they had signed into law a critical bill, initiated by the Illinois Manufacturers' Association, that extended three key manufacturing tax incentives for an additional five years. Coming on the day that the current law was set to expire, the eagerly-anticipated, but much-doubted legislative victory was the culmination of more than six months of hard work and leadership by the IMA and our partners. We successfully convinced lawmakers and the state's

chief executive of the importance of protecting and preserving Illinois' manufacturing climate. As late as that final morning, an IMA Board member who spoke with both the Governor and his top aide remained unsure of the final outcome.

Personally, I don't think the decision to encourage innovation and production in Illinois was all that tough. After all, manufacturing directly employs nearly 580,000 Illinoisans. Studies show that for every manufacturing job, there are an additional two or three associated jobs. Despite the loss of nearly a quarter-million jobs in Illinois during this decade alone, manufacturing continues to contribute a full 13 per-

cent — the single largest share — of the state's Gross Domestic Product (GDP). There is absolutely no doubt, however, that the failure of our elected officials to create a long-term vision for the state's economy will continue to result in the diminished role of manufacturing. This will have a significantly detrimental impact on Illinois and the Midwest.

Manufacturing job levels have fallen as a share of the state's total employment since the late 1960s and this decline is projected to continue. Under the tutelage of economist Dr. Geoffrey Hewings, the Regional Economics Applications Laboratory (REAL) at the University of Illinois produces a monthly economic update including specific industry projections. In April of this year, REAL projected that Illinois manufacturers could shed a whopping 120,000 jobs, or nearly 20 percent of the workforce over the next 12 months. From May through June, more than 25,000 workers lost their industrial sector jobs. This number is only slightly less than previously estimated.

That's why the decision to pass and sign this legislation into law should have been a slam dunk. Our legislation encouraged manufacturing companies and graphic arts businesses to purchase and locate new equipment and machinery within Illinois, leading to job creation and retention, and Illinois-based production. The Manufacturers Purchase Credit, in particular, allows companies to get a credit for their purchase of equipment which can only be used for limited purposes, including fostering research and development (R&D) activities in Illinois. Enhanced R&D will lead to exciting breakthroughs, new products and inventions that will keep production

see **KEEP FIGHTING** page 8



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BUSINESS TRANSITION PLANNING

Profitable ideas for business owners

Your business is your livelihood — something you've been building for years. It's hard to imagine the day you'll hand it over to someone else, but the fact remains, that day will come. The only difference is whether you plan for the inevitable or are pried, kicking and screaming from your office by some form of retirement. The success of that transition depends on you.

Preparing a business transition plan while you're still actively involved with the business allows you to:

- Control the future disposition and management of the business
- Ensure the business will provide for the future financial needs of you and your family
- Secure your legacy — guarantee the productive life of your business for generations to come.

These are significant concerns for all business owners, but they often fail to get the attention they deserve. It's easy — even human nature — to get caught up in day-to-day concerns of your business and leave transition planning until the eleventh hour. We have found that, too often, business owners spend their time working in the business rather than on the business, and when the time comes to transition, they're shocked at the amount of work involved.

A successful transition plan encompasses several different components, from financial and estate planning to ownership transition planning and family dynamics. It takes years, even decades, to do correctly. Simply put, there's no such thing as "too early" to plan for transition. It's always the right time to ensure the survival — and prosperity — of a business you spent the better part of your life building.

What Is business transition?

The process of determining the future ownership and management of a closely held business has historically been referred to as an "exit strategy" or a "succession plan." It's ironic, then, that neither term appropriately reflects the process inherent in transferring ownership/selling a business.

The term "exit" is too abrupt — there's nothing immediate about this process — and the term "succession" implies death, when in reality most business owners survive well past the transfer of their business.

A better term is "transition," which is defined by *Webster's Dictionary* as, "passage from one form, state, style, or place to another." Transition embodies what the others were missing — the concept of a journey or process that takes years of planning to achieve.

The process

The transition process is not linear but extremely fluid. Some areas will seem more important than others depending upon the age at which you begin to plan the transition. However, before your transition is complete, you will have touched on seven components:

- Financial planning
- Estate planning
- Ownership transition planning
- Leadership and management training
- Strategic planning
- Family dynamics
- Personal growth and fulfillment

Financial planning

There's no such thing as "too young" to begin financial planning. The scope is enormous. In the near

see **TRANSITION** page 8



KEEP FIGHTING

Cont. from page 6

moving forward in the future.

According to the National Science Foundation and Bureau of Economic Analysis, manufacturing companies account for nearly one-half of the total R&D spending across the nation despite providing only 13 percent of the overall GDP. This high level of knowledge intensity, particularly in the Midwest, demonstrates that manufacturing companies in our state and region are equally

as “high tech” as counterparts across the country. Manufacturers remain willing and able to play a strong role in the economy.

Reporting on the Midwest economy, Bill Testa of the Federal Reserve Bank in Chicago argues that policy makers should pursue all avenues toward reinvention and redevelopment while noting that “manufacturing’s continued strength has much to do with the fact that manufacturing companies need to be knowledge-intensive and highly creative to develop new products.” Illinois lawmakers need to encour-

age innovation and entrepreneurship by fostering an economy that helps, not harms, employers.

The IMA was the only group to successfully pass an economic tax incentive package this year. This victory provides a glimmer of hope that elected officials are beginning to recognize our plight. There is no silver bullet or magic potion that will solve all of our problems. However, as we move forward, the IMA will continue its efforts to revamp Illinois’ laws to make this a good place to do business so that we can continue making things in Illinois. ■

TRANSITION

Cont. from page 7

term, it’s ensuring you can pay your mortgage and your kids’ education. In the longer term, it’s ensuring you can retire comfortably. How much money will you need at retirement? At what age do you plan to retire? If you want to retire at 55, and think you need \$3 million, but you’re 45 and only have \$500,000, you’ve got a ways to go. What do you need to do to meet that goal?

Once you do retire, however, the work is not over. You have to make sure what you’ve put aside will last the rest of your life — it’s important to go into retirement knowing you’re “bulletproof.” Review your strategy for existing outside investments. What are your options? Do you understand diversification? Are you educated enough to realize if your financial advisory firm is making incorrect choices on your behalf?

Developing a transition plan will help you set clear retirement goals

and educate you on how to meet them up to and after your retirement.

Estate planning

Estate planning may be viewed as synonymous with “crisis planning” — it considers the ramifications for your business if you get “hit by a bus.” Too often, business owners are cavalier when it comes to estate planning, suffering from “it can’t happen to me” syndrome. And although odds are they’re right, it’s important to ask yourself, “What if?” In the event of a crisis, you don’t want your business to be caught off guard, and you certainly don’t want decisions made by parties that don’t have your family’s best interests in mind.

Who’s the trustee of your business? If it’s your spouse or family member, is that person sophisticated enough to step in and take your place if it becomes necessary? Is there enough insurance to pay the estate tax on your business? Are there family issues that need to be addressed? What about key employees? Will they stay at the business, or will they be tempted to leave in your

absence? All of these issues merit consideration in addition to the traditional tax and legal issues normally associated with estate planning.

Ownership transition planning

We recommend that business owners begin transition planning long before retirement. Who will run the business? Will it be a family member? A trusted member of internal management? A third party? Depending upon your age, you may not be ready to make a definitive decision, but it’s a good idea to narrow it down as much as possible. The sooner you make this decision (or have a good idea what that decision will be), the better off you’ll be from a planning perspective.

The second component of ownership transition planning is valuation — how much is your business worth? Most times, owners tend to believe their business is much more valuable than the valuation reveals. It presents an interesting dichotomy that often catches owners off guard: If you sell your business to a family member or a member of internal management, the value will be significantly less than if you sell to a third party. This comes back to financial planning; if you’ve done a good job preparing for retirement, you can often afford to take a chance and transition the business to your kids/a member of management.

If you haven’t prepared for retirement, you’re going to need to sell your business for more and are often left with no alternative than to sell to a third party.

In addition, don’t forget that whomever you select as the transitionee, you don’t just turn over your

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see **TRANSITION** page 23

Electric competition leads to innovative energy management tools

This October we are celebrating the 10-year anniversary of the introduction of customer choice and competition in the Illinois retail electric market.

In just 10 years, a host of new companies have entered the Illinois market to compete with one another in order to provide service to you. This robust competition means that thousands of Illinois businesses — large and small — now purchase their electric service from someone other than their local utility. Those numbers have been steadily increasing over time. In fact, according to publicly available data, close to 80 percent of Commonwealth Edison's non-residential electric load is being served by competitive suppliers.

The evolution of energy markets

As the restructuring of electricity markets continues throughout North America, millions of consumers now have the power to choose an energy supplier that best meets their needs. Customer choice is more than just price, it is also as important for customers that products provide convenience, quality, environmental attributes and the ability to control usage. This has forced suppliers to continuously innovate and provide enhanced value to customers. Innovation in retail electric markets can take many forms from pricing innovations to technological solutions. The most successful suppliers have been the quickest to adapt to meet consumers' needs, and in today's world this means up-to-date, relevant information available at the click of the mouse. Online capabilities have created revolutionary developments in all industries and within the energy sector, these features are making measurable differences in the way customers buy and consume electricity.

For example, NewEnergy Online is Constellation NewEnergy's Web-based energy management solution. Through it, customers can track their energy consumption, view current and past invoices, monitor energy market prices and industry news, adjust consumption, and forecast energy usage and costs with greater accuracy. This service is available free of charge for all customers who purchase energy from Constellation NewEnergy.

Impact on the manufacturing sector

Let's take a look at how NewEnergy Online is helping manufacturing customers and members of the Illinois Manufacturers' Association. With energy as a critical component of manufacturing costs, it is no coincidence that some of the most sophisticated energy con-

sumers are manufacturers. Consumption patterns and market prices have to be closely followed and our online management tool makes proactive monitoring of these factors possible. Manufacturers can easily navigate a facility's energy usage hour-by-hour over the course of a day, week, month or year through a private online account.

What we've found is that when comprehensive energy consumption and billing history is available on demand, manufacturers are able to detect patterns, price spikes and monitor their overall energy usage. These features can be taken a step further by personalizing reports and organizing information to track and highlight specific areas of concern. All of this

see **COMPETITION** page 28



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How to reduce business interruptions and maximize manufacturing efficiencies

By Tim Calahan, RSM McGladrey

In the spring of 2009, RSM McGladrey conducted its fourth annual Manufacturing and Wholesale Distribution (MWD) National Survey. The survey asked industry executives to provide their perspectives on the current state of their companies and industry and the strategies they are employing to sustain — and in some instances, grow — profitability in the coming year. To improve their business, keep up with evolving customer demands and stay ahead of competition, companies must find more efficient and effective ways to achieve their business objectives. Most organizations turn to information technology (IT) systems.

A number of questions regarding IT were posed to the companies that participated in the survey. One area of focus was disaster recovery planning. In today's challenging economic times, many manufacturers are deferring IT expenditures to conserve cash. As a result, the bene-

fits IT projects could provide to improve efficiency and reduce costs are not realized.

One item often sacrificed is business continuity/disaster recovery planning. Manufacturers are so reliant upon IT that even seemingly small disruptions to an IT system can disturb the efficiency of their operations. Larger disruptions can seriously impede the flow of product or even bring operations to a halt.

According to the survey, 70 percent of respondents indicate they have an effective technology disaster recovery plan in place, but only 46 percent indicate they test the system on an annual basis. This is a clear indication companies are vulnerable to potential disruptions to their manufacturing and other business operations.

Forward thinking IT professionals are deploying a number of cost-saving technologies that meet budgetary requirements without sacrific-

ing the ability to recover data when required. These technologies enable manufacturers to reduce operating expenses and provide a solid foundation for robust business continuity/disaster recovery (BC/DR) implementation.

Manufacturers have been developing or creating BC/DR plans for years — the technologies that allow an organization to implement BC/DR in a cost-effective manner exist. Three technologies — server virtualization, disk deduplication and adaptive private networks — allow an organization to reduce the server footprint they have to support, reduce the complexity and space needed to back up this footprint and create a robust network that provides for higher network reliability to access this footprint. These technologies are solid standalone solutions, but add in the likelihood of savings for the entire organization. The decision to deploy these technologies then becomes that much easier.

Server virtualization

Step back and consider the IT professional responsible for managing ten servers. Every three years, he or she needs to buy another ten servers to provide the uptime and reliability the manufacturing environment demands. Now, add the need for BC/DR and the number of servers required by the IT professional increases exponentially. This is really just simple math, if you have ten servers and you need to “mirror” that environment for a disaster, you likely need ten more. Ten plus ten equals 20.

Server virtualization, however, allows us to reduce the server footprint (ten servers) to one or two servers. This is achieved with a software program that “wraps” around a server's operating system and all applications hosted by that operating system. The result is a single virtual server. This can be a bit confusing given the fact that a “server” traditionally has been hardware — something physical that we can point at and touch. With virtualization software that physical or hardware server still exists, though now it is hosting a virtual or software server.

To understand the importance of server consolidation, you must first

see **EFFICIENCIES** page 12

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H1N1 flu pandemic employment issues

Given the plethora of articles predicting a swine flu epidemic, the tendency might be to expect the inevitable and assume that there is not much a business can do to prepare for and minimize the impact of such an event. Take a look at your workforce after normal business hours or on the weekend. Now imagine that this is your available workforce at 9:00 on a Wednesday morning. Could your company cope without a significant portion of its workforce? Doing nothing could prove very costly as the Department of Health and Human Services recently renewed its determination that a public health emergency exists nationwide involving swine flu. Health officials estimate that a significant percent of the workforce could be absent over various periods. This includes those infected, those caring for the sick, and those who are well, but refuse to come to work over fear of becoming infected. While there is no "one size fits all game plan", there are a number of steps all businesses should take.

Business continuity issues

Recognizing a potential threat to businesses, the U.S. Government has developed a one-stop information page managed by the Department of Health and Human Services. It is available at www.pandemicflu.gov. This link includes a planning checklist for businesses, which addresses issues such as the impact on your business, employees and customers, policies that should be established, allocation of resources, communication with and education of employees, and coordination with other organizations. The CDC website (www.cdc.gov) also contains valuable information for employers.

Some strategies for business continuity include:

- Identify a pandemic coordinator and/or team with defined roles and responsibilities for preparedness and response planning.
- Identify your company's essential functions and cross-train employees to ensure continuity.
- Identify, train and prepare ancillary workforce (e.g., contractors, retirees).
- Establish policies for flexible worksite (e.g., telecommuting) and flexible work hours (e.g., staggered shifts) so that there is less direct contact between employees.
- Develop and plan for scenarios likely to result in an increase or decrease in demand for your products and or services.
- Determine which outside activities (e.g., transportation systems, printing, etc.) are critical to maintaining operations and develop alternatives in case they cannot function normally.
- Identify employees and key customers with special needs, and incorporate the requirements of such persons into your preparedness plan.
- Collaborate with insurers, health plans, and major healthcare facilities to share your pandemic contingency plans and to learn about their capabilities and plans.
- Maintain a healthy work environment and post tips on how to stop the spread of germs at work.
- Establish policies for employee compensation and sick-leave absences unique to a pandemic (e.g., non-punitive, liberal leave), including policies on when a previously ill person is no longer infectious and should return to work after illness.
- Establish policies for employees who have been exposed to pandemic influenza, are suspected to be ill, or become ill at the worksite (e.g., infection control response, immediate mandatory sick leave).
- Educate employees about the signs and symptoms of influenza, the threat of pandemic flu and the steps the company is taking to prepare for it.

see **FLU PANDEMIC** page 28



CDC-developed PCR diagnostic test to detect novel H1N1 virus.
Photo Credit: Greg Sykes, ATCC

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EFFICIENCIES

Cont. from page 10

understand some of the reasons for why the opposite movement — physical server sprawl — is a problem.

As part of a vendor support agreement, more and more software vendors require a dedicated physical server for the application to avoid conflicts. Keep in mind that in non-virtual environments, servers can, and most do, run multiple applications. Also realize that most servers, especially ones dedicated to a single application, sit idle much more often than not. Conservatively speaking, the typical server in a non-virtual environment is only five to 25 percent utilized (10-15 percent, according to Gartner's *Server Virtualization Evolves Rapidly*, by Thomas Bittman).

By deploying this technology, an organization can reduce the number of servers they are required to support to a fraction of what they support today and tomorrow — so in three years we only have to replace one or two servers, rather than the original ten. The byproduct of this technology is a less complex environment that costs less to support and positions the organization to take their initial steps toward business continuity/disaster recovery.

Disk deduplication

Manufacturers are saving massive amounts of digital data, from excel spreadsheets to emails, to ever-expanding databases — an explosion of data. IT departments struggle with this explosion for two reasons: they need to provide increased capacity to “house” or “contain” the data and they need to back up the data. Disk deduplication provides relief on both accounts.

Disk deduplication basically allows the organization to save the

initial copy and reference subsequent copies without requiring additional space beyond the initial copy. This is analogous to placing a one ton elephant in a room then placing a second one ton elephant in the same room, but the second elephant doesn't take up any additional space or add weight. In defiance of math and the laws of physics disk deduplication allows the two elephants (your data) to occupy the same space without adding mass or costs. The result, you get double the elephants for the price of one. Cost savings are realized because the organization is not required to purchase as much storage. Moreover, the technology provides relief to the backup window that IT departments struggle with. Thus are two vital demands quelled with disk deduplication.

Standing alone, disk deduplication brings substantial benefits to an IT organization. More benefits are realized when disk deduplication is applied to the context of BC/DR. Continuing with the analogy of the elephant, if the elephant represents the data of an organization — just think of the challenges the organization faces in creating a duplicate of that data in another location — now the second elephant. By reducing the required capacity an organization is required to provide, replicating or creating a mirror in another location becomes that much easier and cost effective.

Adaptive private networks

Many organizations are placing ever-increasing demands on their wide area networks (WANs) — increasing dependency on the network and driving costs through the roof. New services such as Voice Over Internet Protocol (VOIP), video conferencing and data center replication further increase pressure on network reliability and resiliency. Increased demand and pressure

requires that organizations deploy bandwidth optimization appliances and/or adaptive private networks — both of which can achieve significant cost savings for the organization.

This technology also helps meet business continuity objectives. Although a natural disaster, as a single incident, may have a more devastating impact on the business, technical failures result in substantially more unplanned downtime. The cumulative effect over time — hours, days and sometimes even weeks in the course of a year — results in a material loss of revenue, employee productivity and customer satisfaction.

Summary

The U.S. Department of Labor has estimated that over 40 percent of businesses will never reopen after a disaster. As businesses throughout the Midwest have experienced, a natural disaster as a single incident can have a devastating impact on businesses. However what many overlook is that the combined effects of human error and technical failure result in more unplanned downtime. Nearly 97 percent of business interruptions are due to human and technical issues — just three percent are due to natural disasters.

Business continuity/disaster recovery planning is challenging. And because today's manufacturers do not operate with unlimited resources or in uncomplicated IT situations, it is imperative that up front planning takes into consideration IT best practices and your business goals — in addition to BC/DR objectives.

Focusing on these needs will help to reduce business interruptions, maximize your manufacturing efficiencies and yield the greatest possible return on investment for your operations. When implemented properly, advanced technologies can result in a less complex and more realistically achievable disaster recovery plan.

The three solutions outlined here accomplish this by complementing disaster recovery efforts, typically resulting in less time and effort required to recover technology in the event of a disaster or technical failures. ■

For more information you can reach Tim Calaban, RSM McGladrey managing director at tim.calaban@rsmi.com. To get your copy of the 2009 Manufacturing & Wholesale Distribution IT Report visit www.rsmmcgladrey.com.

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Perils of layoffs, reduced workweeks and other payroll reductions measures

Today's difficult economic and financial climate has many companies considering various cost-cutting measures, including layoffs, reduced workweeks, pay reductions and voluntary furloughs. These actions raise wage and hour questions that often are overlooked. The unwary employer may reduce payroll costs but wind up with a wage and hour lawsuit as a result. The good news is that a well-informed employer can avoid such risks.

What payroll reduction measures are available?

Reducing payroll costs can take many forms including:

- Involuntary layoffs, job eliminations and workforce reductions
- Temporary shutdowns during summer, holidays or other seasonal slow periods
- Voluntary furloughs
- Reduced workweeks
- Temporary or permanent reductions in salaries or hourly pay rates
- Elimination of bonus programs or other incentive compensation

What are the legal considerations and risks?

Employers contemplating any of these measures must carefully consider EEO implications to ensure that no protected class is singled out or disparately impacted. The WARN Act and similar state laws must also be considered. Employers should ensure compliance with any individual employment agreements and applicable company policies. Unionized employers must consider applicable collective bargaining agreements and bargaining obligations. Of course, employee relations issues must also be evaluated.

What often gets overlooked, however, are wage and hour considerations. As the storm of wage and hour litigation continues, it is extremely

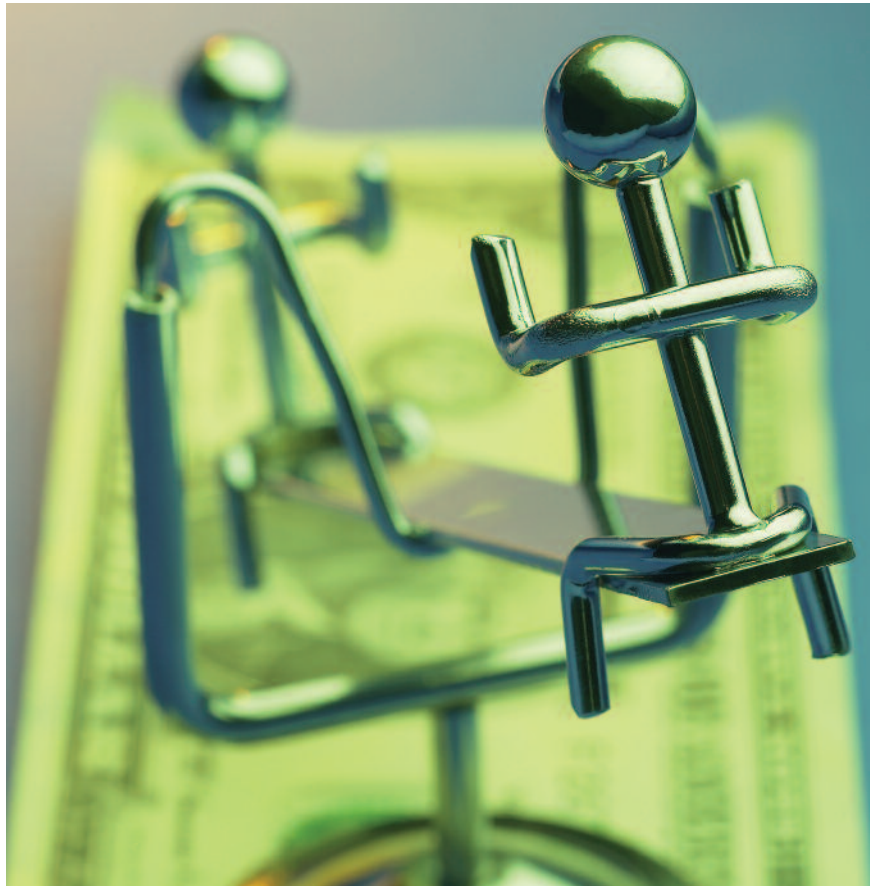
important to ensure that any payroll reduction measures comply with the Fair Labor Standards Act, as well as state wage and hour laws.

The main wage and hour risk associated with these cost-saving measures relates to exempt employees. Employees who are classified as exempt under the executive, administrative, and professional exemptions generally must be paid on a "salary basis" to remain eligible for the overtime exemption. This means that the employee must receive the same amount of pay each pay period (at least \$455 per week under the FLSA) regardless of the quality

or quantity of work performed. Making certain deductions or reductions to the employee's salary can result in the exemption being lost, not only for the affected employee, but also for other employees in the same job classification.

There are seven exceptions where salary deductions may be taken without jeopardizing the salary basis of pay and, hence, the exemption. These exceptions were explained in the July 2006 edition of *FLSA Focus*. They include full-day absences for personal reasons, sickness or disability.

see **REDUCTIONS** page 14



REDUCTIONS

Cont. from page 13

As a general rule, an exempt employee's salary cannot be docked for an absence caused by the employer or the operating requirements of the business. The Department of Labor's ("DOL") regulations interpreting the FLSA put it this way: "If the employee is ready, willing and able to work, deductions may not be made for time when work is not available." So, if the operation is slow due to a struggling economy, the employer cannot tell exempt employees to stay home on Friday and then deduct a day's worth of pay from the exempt employee's salary.

Nonexempt employees do not pose the same problem. They have to be paid only for hours worked. So the employer may direct them to take Friday off, and the nonexempt employees need not be paid for the time off.

The prohibition on salary deductions presents an obstacle to employers wishing to curtail payroll expenses via reduced workweeks, temporary layoffs, shutdowns and furloughs that impact partial workweeks. Fortunately, there are ways to implement these payroll reduction measures without violating the wage and hour laws.

What are the solutions?

There are a number of steps employers may take to achieve payroll expense reduction without causing improper salary deductions.

Full week shutdowns. One way to avoid the salary deduction problem is to implement shutdowns, layoffs and furloughs in full workweek increments. Exempt employees do not have to be paid their salary for any workweek in which they do not perform any work. So closing for a full workweek at the holidays or during a slow seasonal period eliminates the risk of improper salary deductions. In this scenario, it is important to ensure that exempt employees do not perform any work, even from home, during the shutdown.

Reduce pay in connection with adopting formal reduced workweek schedule. Another option is to formally adopt a reduced workweek schedule and

adjust exempt employees' salaries commensurately. While the salary basis rule requires payment of the exempt employee's full salary in workweeks where work is performed, it is permissible for employers to implement a reduced workweek schedule and lower salaries accordingly. For example, an employer may announce to employees in November that it will be implementing four-day workweeks for the months of December and January due to slow operations, and at the same time inform exempt employees that their salaries will be lowered commensurately.

On the surface, this may seem akin to an impermissible salary deduction due to operating requirements of the business. After all, the employee is ready, willing and able to work — the employer simply is not making work available one day per workweek. Nevertheless, the DOL has approved this practice in a series of opinion letters, and courts have also upheld the practice. The idea is that a deduction is not being taken from the employee's salary. Rather, his salary has been set to match the shortened workweek.

The DOL has stated that a "fixed reduction in salary effective during a period when a company operates a shortened workweek due to economic conditions would be a bona fide reduction not designed to circumvent the salary basis payment." The key is to ensure that the reduced workweek/reduced salary plan is clearly announced to employees before implementation. If an employer makes workweek and salary adjustments so frequently and haphazardly as to make the employee's salary a sham, and more akin to an hourly wage, the employer will risk losing the exemption for failure to pay a bona fide salary.

Reduce pay without any reduction in the workweek.

Absent contractual requirements that set salaries or wage rates, employers generally are free to set pay at whatever level they wish. Of course, nonexempt employees must be paid at least the minimum wage and time and one-half their regular rate for hours worked over 40 in a workweek (or over eight hours in a day in some states), and exempt

employees generally must be paid a salary of at least \$455 per week. Beyond those minimum thresholds, employers have wide latitude in setting (or reducing) pay.

Thus, an employer faced with difficult economic conditions may implement pay reductions affecting both exempt and nonexempt employees. For example, an employer may announce to employees that pay is being reduced by five percent across the board, due to difficult economic conditions. Obviously, this won't help to win any "employer of the year" awards, and there are significant employee relations and employee retention issues to consider. But it is lawful.

Require employees to use vacation time and paid time off.

A common question employers ask is whether they can force employees to use their earned vacation and paid time off ("PTO"). The answer under the FLSA is yes.

For example, if the employer decides to impose a one-week shutdown because business is slow, it can require employees to use their earned vacation and PTO during the shutdown. This can also be done in single-day or even partial-day increments. The rationale is that the employee is receiving his or her full salary for the workweek, albeit portions are composed of vacation or PTO. In a 2005 opinion letter, the DOL explained:

Since employers are not required under the FLSA to provide any vacation time to employees, there is no prohibition on an employer giving vacation time and later requiring that such vacation be taken on a specific day(s). Therefore, a private employer may direct exempt staff to take vacation or debit their leave bank . . . provided the employees receive in payment an amount equal to their guaranteed salary.

Likewise, in a prior opinion letter, the DOL stated that an employer may "make deductions from an exempt employee's leave bank for days when the employee is instructed by the employer not to report to work because of budgetary constraints."

Once the employee has used all of his or her vacation or PTO, then the employer must pay the full

see **REDUCTIONS** page 22

Employees do use social networking sites at work: Dealing with the reality

By David B. Ritter and Sonya Rosenberg

The remarkable explosion in the use of social networking sites has raised many questions and concerns for employers. Among the most frequently asked questions: Are employees really using social networking sites? Are they doing it at work? How do we wrap our arms around this unending stream of new technologies, and deal with them at the workplace? In thinking about these kinds of questions and social networking sites in general, employers should know these three key points: (1) your employees are using social networking sites at work; (2) smart, preventative measures go a long way; and (3) effective response mechanisms give life to your policies and help you stay in control.

Reality check: Technology is here to stay

There is no getting around it, so you might as well face it: social networking sites are hugely popular right now and, yes, your employees are using them. Among others, Facebook, Twitter and LinkedIn have grown tremendously in terms of membership. According to recent studies, Facebook users have been doubling every six months (IStrategy Labs); Twitter usage jumped a staggering 1,382 percent between 2008 and 2009 (Nielsen Online); and LinkedIn has become the go-to site for professional networking and job candidate research (LinkedIn Stats). The demographics of these growing users and members are particularly remarkable. According to IStrategy Labs, the 35-54 year old population

has been the fastest-growing segment of new Facebook users, accelerating to a 276.4 percent growth rate in late 2008 and early 2009.

With hundreds of millions of users and that number growing the most among the adult working population, chances are high that not only are your employees logging on to these sites on a regular basis, they are doing it from work. And when your employees log in, they may very well be talking about things going on at work. Among the more infamous recent examples, a would-be Cisco employee tweeted, "Cisco just offered me a job! Now I have to weigh the utility of a fatty paycheck against the daily commute to San Jose and hating the work." Another employee who apparently forgot that she had "friended" her boss on Facebook made a post with derogatory comments about him and stated that she hated her job. The boss was not amused; he terminated this employee via a response post. Aside from these kinds of public relations/reputational issues, the wide reach of social networking sites raises serious concerns about confidential or sensitive information. A good

example in this respect is a recent, accidental tweet by a mayor from Michigan who inadvertently linked a confidential report to his post on Twitter, revealing employees' personal information and social security numbers.

Despite these and similar stories, most employers have not yet caught on to the social networking phenomenon. Although a 2009 survey by Deloitte estimates that 74 percent of managers believe that social networking sites put their companies at risk, only 17 percent of these companies have actually adopted policies or taken proactive steps to mitigate that risk. At the same time, 53 percent of employees believe that the content they put up on social networking sites is none of their employers' business.

The reality is that employers simply cannot afford to ignore social networking sites and their workplace implications any longer. By all indications, these sites and newer technologies will only continue to evolve and gain new users, including your employees. The first step is to recognize the reality of social net-

see **SOCIAL NETWORKING** page 26



Training the industrial



Preparing the production workforce for technological innovation

Advanced manufacturing technologies provide companies with new opportunities to extend their competitive advantage in the global marketplace. Examples of these technologies are provided here with a description of their transformational potential, environmental impact and implications for production workforce skills.

Advanced process technologies

There are several categories of advanced process technologies that have reached or may soon reach sufficient critical mass to cause a significant proportion of manufacturers to fundamentally alter their planning, operations, structure or processes. While each technology is profoundly important in its own right, most are interrelated and some need to be pursued concurrently to assure their greatest strategic impact.*

Micro-fabrication and nano-fabrication: These processes, involving work with materials at the micron and nano-scales, respectively, can create whole new materials and parts. They also have the potential to introduce a much higher level of agility over the longer term. For example, micro- and nano-manufacturing have the capability to make large objects into precision products through tools such as molecular machine design, molecular manipulation and construction, and molecular modeling design tools. Micro- and nano-fabrication will be common for switches, filters, and motors. Designer chemical compounds developed with micro- and nano-technologies will revolutionize the consumer-goods industries. For example, it may be possible in the future to use these techniques to “grow” furniture rather than use wood. As these technologies are more widely implemented, they will lead to scrap reduction and lower energy use.

Implications for production workforce skills: New skills will be needed to operate micro- and nano-machines as they mature and are used more widely. Carbon nan-

athlete of the future

By Leo Reddy, Chairman and CEO, Manufacturing Skill Standards Council

otubes and nanomotors are already being produced and nanocomputers are becoming a reality. Desktop assembler systems will be the norm as molecular manufacturing becomes more localized.

Next generation sensors: A new generation of sensors is emerging that are cheaper, faster, longer range, more robust, smaller and more embedded. Over time, sensors will be a huge enabler to many paradigm-shifting manufacturing processes, leading to far greater flexibility, adaptability and real-time control. For example, Sensors will give detailed real-time feedback during the manufacturing process, continuously monitoring the “health” of manufacturing platforms and products throughout their “life,” from their initial production, to testing, to performance in the field. Caterpillar has incorporated sensors into the steel frames of their equipment. Over time, sensors will make a significant contribution to increasing the efficiency of factory automation processes, which would reduce both waste and energy consumption.

Implications for production work-force skills: Production workers will need to increase their knowledge of sensors, because they will affect ever-widening aspects of the production process, e.g., helping to detect problems in the production system, monitoring product quality, reducing scrap, and improving reliability. Workers in vehicle production plants will need to better understand the use of sensors in safety systems, automatic suspension systems, and heating-climate controls.

Modeling and simulation: With virtual factory simulation, industry will have the capacity to evaluate other manufacturers’ skills, machine capabilities, etc. This will have a huge impact on supply chain management. Companies can create an “auction market place” for machines and talent. Modeling will be used pervasively within supply chains to prevent mistakes and to reduce labor and overhead costs. With advanced computing power and

software, modeling will dramatically reduce the number of unnecessary changes and enable very rapid response times. Companies will have interactive, predictive capabilities for advanced modeling and simulation of highly complex production systems. Since modeling and simulation can increasingly replace physical testing, and “build/bust” development, researchers should be able to identify environmental impacts before actual production. Better control of manufacturing process through simulations will lead to reduced energy and material consumption and better asset utilization.

Implications for production work-force skills: The advanced computation and software skills needed to use M&S technologies would be primarily the domain of engineers and designers, not the production work-force. Yet M&S will have the potential to dramatically reduce the number of unnecessary changes and enable rapid response on the production line.

Reconfigurable tools and systems: This technology involves software, tools or machines that can perform multiple functions including functions not anticipated in the original design and without requiring new tool production. When fully developed, reconfigurable tools and systems will enable much shorter product life cycles, reduced lot sizes, and cheaper, more flexible manufacturing processes with less risk. These capabilities will help make mass customization a reality for many manufacturers. Reconfigurable tools and systems will also change the layout and number of machine tools needed to manufacture, requiring less floor space and fewer facilities. In terms of environmental impact, rebuilding parts without fixtures (e.g. laser additive manufacturing) will reduce the need for new parts, hence reducing energy and material consumption.

Implications for production work-force skills: Reconfigurable tools and systems have the potential to transform machining operations as pro-

foundly as CNC technologies did decades ago. Within the last ten years or so, this technology has been used in machine tools to allow for more flexibility and agility. Further refinements in reconfigurable tools will allow machines to work directly from product designs, correct problems “on the fly,” detect and perform maintenance adjustments, and adapt themselves to changing conditions.

Smart systems: These are computer-integrated, electro-mechanical systems and processes that have the capacity to learn. When fully implemented, smart systems will: (1) reduce cost and time in the development of new systems; (2) enhance “first-part correct manufacturing” of components by using the same system in multiple products, automatically documenting how each part is made, and (3) self adapt to automatically reduce scrap, rework, and setup costs.

Smart systems will enable energy savings through reducing production time and waste.

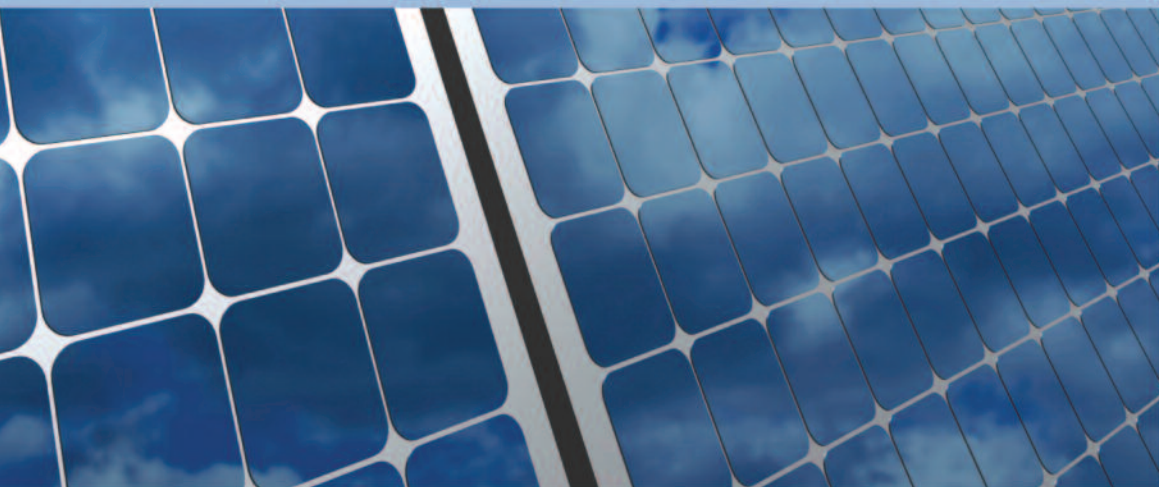
Implications for production work-force skills: Machinists will need to build skills to understand how machines gain a better understanding of manufacturing processes and are better able to optimize production, working directly from product designs, sensing and correcting problems in process through embedded sensors. Technicians will need “smart” systems to control micro and nano machines.

Solid free form fabrication (SFFF): SFFF can be called layered manufacturing, additive manufacturing or growing parts. It is the ability to create a product (solid) directly from powder, liquids without the use of molds or tooling. SFFF could lead to industry changes that would alter the industrial base with a large payoff for limited (less than 100 units) production. SFFF will allow industry to make more complex shapes with fewer material defects than conventional machining or molding due to purity of material

see **INNOVATION** page 21

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Protecting your products and packaging with trade dress, design patent and copyright

You've invested in research and development and spent a lot of money creating a distinctive image for your product. Now you're faced with the challenge of how to protect this investment from competitors who may seek to copy or knock-off your product designs or packaging. Summarized here is how you can use trade dress, design patent and copyright to protect your investment.

By Jeffrey Brown

Trade dress is the total image of a product and may include features such as size, shape, color or color combinations, texture and graphics. Trade dress is comprised of the aspects of overall appearance that distinguish a firm's goods and identify their source, without serving any other significant function.

The United States Patent and Trademark Office ("PTO") permits the registration of trade dress if it is non-functional, distinctive and serves to identify and distinguish the goods of a particular provider from those of others. Registration is for an initial term of ten years and can be extended indefinitely so long as the required maintenance fees are paid and the trade dress continues to function as an identifier of source. In determining whether trade dress may be registered on the PTO's Principal Register, the first step is to determine whether the trade dress sought to be registered is a "product design," or, instead, "product packaging." This distinction determines the manner in which the trade dress is evaluated by the PTO. Product packaging trade dress includes the total image created by the packaging in which a product is marketed and is conceptually separable from the product itself. Product configuration trade dress encompasses the design or particular features of the product and is inseparable from the product itself.

The PTO maintains two registers, the "Principal Register" and the "Supplemental Register." The Principal Register provides certain rights and presumptions that are not afforded to the owner of a Supplemental Register registration. Marks that are not arbitrary, fanciful or sug-

gestive and capable of registration on the Principal Register may be registered on the Supplemental Register until such time as they have acquired distinctiveness.

Product design

Registration of "product design" trade dress on the PTO's Principal Register requires a showing of "acquired distinctiveness." Trade dress has "acquired distinctiveness" when in the minds of the purchasing public it serves to identify the source of the product. Volkswagen's "Beetle" automobile is an example of well established product design trade dress. Typically, acquired distinctiveness is shown by consumer surveys, affidavits from consumers or those involved in the relevant industry, sales figures, the nature and extent of advertising and promotion (particularly advertising and promotion that emphasizes the trade dress elements of the product). Acquired distinctiveness may also be established by substantially exclusive use of such trade dress in commerce for a period of five years. Absent acquired distinctiveness, product design trade dress may be registered on the PTO's Supplemental Register.

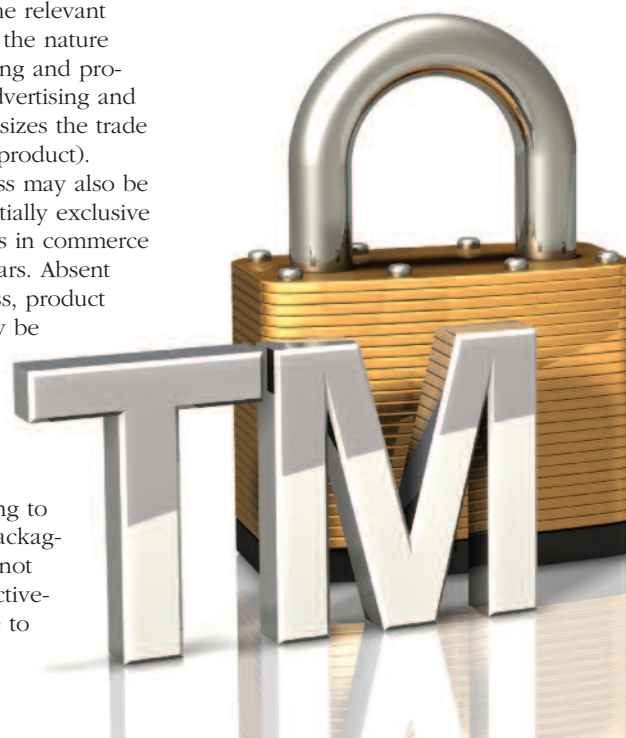
Product packaging

An applicant seeking to register its "product packaging" trade dress need not show "acquired distinctiveness" but may be able to obtain registration upon a showing that its packaging is "inherently distinc-

tive." Packaging is "inherently distinctive" when by its intrinsic nature it identifies a particular source. An example of inherently distinctive product packaging trade dress is the squat, bright orange Tide laundry detergent container. If the PTO is in doubt as to whether the claimed trade dress is product configuration or product packaging, the PTO will err on the side of classifying the trade dress as product configuration and therefore require evidence of acquired distinctiveness as a prerequisite to permitting registration on the Principal Register.

To prevail on a claim of trade dress infringement, you must show (i) that your trade dress is either

see **TRADE DRESS** page 20



TRADE DRESS

Cont. from page 19

inherently distinctive or has acquired secondary meaning, as the case may be, and (ii) that the accused party's trade dress causes a likelihood of consumer confusion as to the source of the respective products. Courts use various factors to determine whether there is a likelihood of confusion between the trade dress of two products. Typically, those factors include the similarity of trade dresses, the strength of the plaintiff's trade dress, the area and manner of concurrent use of the respective trade dresses, the degree of care likely to be used by consumers in making their purchases, actual confusion, and the intent of the accused party to pass off its product as that of the trade dress owner. No single factor is dispositive, and the weight given to each factor varies from case to case based upon the relevant facts.

Recommendations to protect trade dress:

1. When promoting products, tout the uniqueness of the non-functional features by using verbal descriptions and printed materials (sell sheets, labels, web pages, etc.) that emphasize the "uniqueness," "distinctiveness," "originality," and "exclusivity" of the design or packaging. Tell the trade and consumers to "look for" certain specific distinguishing ornamental characteristics of your products.
2. Put the public and competitors on notice of your trade dress claims. For example, you could include a legend on materials accompanying your product such as the following: "The shape and appearance of this distinctive [product] [and packaging] are trademarks and trade dress of [your company name]."
3. For any trade dress that consists of a product configuration that can be graphically depicted, reproduce such item on the product label, hang tags, packaging and/or on other promotional items. If the product configuration is not yet registered, it can

be depicted in tandem with the symbol "™". If it is federally registered, it should be depicted in tandem with the symbol "®".

4. Do not tout the utilitarian features of your trade dress. Doing so may provide grounds for a competitor to challenge your trade dress as being "functional" and therefore unprotectable.
5. File applications with the PTO to protect your trade dress. When applicable, present affidavits and evidence that support a claim for "acquired distinctiveness."

Protecting the ornamental features of your products with design patent registration

Design patent protection may also be available for your products. A design patent may be issued for ornamental configuration, surface decoration, or both. A design patent protects products only to the extent that the ornamental features predominate over the functional features.

To qualify for a design patent, the configuration sought to be registered must be "new," meaning that no single, identical design exists in the prior art. It also must be "ornamental," and original to the inventor seeking protection. Additionally, it must be "non-obvious" when viewed through the eyes of a hypothetical designer skilled in the relevant art and in the context of any previously existing design or combination of designs.

Design patent protection should be considered for product designs that meet the requirements for obtaining protection. Design patents can be powerful weapons to combat "knock offs" or copies because, in contrast to trade dress protection for product configuration, a finding of design patent infringement does not require the owner to establish "acquired distinctiveness." Thus affidavits and marketing surveys (which can be time consuming and expensive to obtain) to establish that the claimed trade dress serves to identify the source of the product are not needed.

A design patent is obtained by filing an application for registration with the PTO accompanied by a drawing that depicts the design that

is to be protected. A design patent has a single, non-renewable term of 14 years from the date it is granted.

A design patent provides the owner with the right to prevent others from making, using, selling, importing or offering for sale a product that so resembles the patented product that an "ordinary observer" might purchase the infringing article, thinking it was the patented product.

Determining whether there is infringement involves two steps. The first step is to determine what ornamental features of the patented design are not shown in the prior art and whether one or more of those features were appropriated by the allegedly infringing product. If one or more of the unique features is found to have been appropriated, then, in a second step, the court looks at both the similarities and differences between the two products to determine if there is sufficient overall similarity to deceive the ordinary observer. If so, the accused product infringes the patent.

Recommendations for design patent protection

1. Pursue design patent registration promptly. You cannot obtain a design patent if you do not file a patent application within one year of first publishing, publicizing, selling, offering for sale, or foreign patenting of the design you seek to patent in the United States.
2. Consider including a "Patent Pending" notice on designs for which a design patent is pending. Although there is no legal requirement that a pending design be marked with such notice, the notice makes the marketplace aware that you have applied for patent protection and may deter competitors from knocking off your designs.
3. Once a patent issues, the patented product should be marked with the word "Patent" or the abbreviation "Pat." and the patent number. Doing so can increase the amount of damages available in the event of infringement.

see **TRADE DRESS** page 22

and more efficient heating. Graded metal interfaces may make “joint areas” stronger and not the inherent weak point. Environmental impact example: a titanium jet rotor blade made from powder produces only five percent chips, while direct machining from a block of titanium produces 96 percent chips.

Implications for production

workforce skills: Technicians involved in “rapid prototyping” may already be using SFFF in metal rapid prototyping and digital requirements for composites, especially for one-off manufacturing (i.e. prototype, specialty products). As the cost of SFFF comes down, technicians could increase their skills in layer-by-layer manufacturing (deposit, heat, treat, and machine) as opposed to just “additive.”

Friction stir welding: Unlike traditional welding processes, this technique does not heat the metal to its melting point. It welds the material in its softened semi-solid state. It also allows the welding of aluminum alloys known to be difficult to weld and makes possible the welding of very thick plates in a single pass. It is thus especially suitable for the following domains: aerospace, automotive, heavy transportation, rail transport, construction, and naval transport. This “semi-solid” welding technology is highly positive in environmental terms: it is a “clean” process that uses no gas and generates no fumes.

Implications for production

workforce skills: As its cost declines and it gains more widespread use, “Friction Stir” has the potential to transform the welding occupation by reducing the need for hand welding.

Re-processing: This is a category of technology that encompasses the use of environmentally supportive processes throughout the entire life cycle of a product after it is made: re-use, re-manufacturing, recycle, deconstruction, final disposition. Environmental protection is the main driver behind re-processing technologies. Due to the rapidly growing emphasis on “green” manufacturing, regulations related to waste disposal, packaging, handling of hazardous materials, re-cycling,

etc. will increase the importance of re-processing technologies for compliance and cost-savings.

Implications for production

workforce skills: Front line workers will need to increase their knowledge of regulatory compliance and their skills in material handling, waste disposal, re-processing, re-use, and regulatory documentation.

MSSC approach to workforce preparation

The current work force cannot cope effectively with these technology advances. To keep up with demanding and ever-changing advanced process technologies, labor skill needs will have to be greatly enhanced.

The MSSC’s role is to train and certify production workers in all manufacturing sectors with the core learning and technical skills needed to keep pace with technological change. A worker with these strong foundation skills will have the agility to more quickly learn the new specialized skills and occupational shifts that accelerating technology adoption will require.

To build this kind of “Industrial Athlete of the Future,” MSSC begins with the assumption that individuals can not adapt to accelerating technological change without sufficient numeracy, literacy and technology skills. MSSC thus requires individuals to be at the 9th grade math and 10th grade English levels and have basic computer skills before entering into formal MSSC training courses.

To enhance the trainee’s problem solving, analytical and “systems” thinking abilities, the MSSC begins these courses with an introduction to the organization and functions of manufacturing and its impact on the national and global economy. MSSC then offers training in the core employability skills in advanced manufacturing: learning techniques, analysis, idea generation, decision-making, internal and external communications, team work, and high standards of conduct.

With this background in core learning and employability skills in manufacturing, MSSC offers training and certification in the core technical skills and knowledge for production in all SIC codes:

- Safety
- Quality Practices and

Measurement

- Manufacturing Processes and Production
 - Maintenance Awareness
- Officially recognized by the federal National Skill Standards Board in 1998 as the “Voluntary Partnership” for all manufacturing sectors, MSSC believes that workers with industry-recognized nationally portable certifications in the core competencies will have a sound foundation for keeping up with technological change and innovation. The improvement in their skills in these areas will make an increasing contribution to company performance. MSSC has been conducting an “impact survey” of companies with certified MSSC workers, asking them to compare the performance of these workers against non-certified workers. Survey findings report:
- Seventy-seven percent of MSSC-certified workers were rated as “somewhat” to “much higher” than non-certified workers in the MSSC key production activities of Safety, Quality Practices and Measurement, Manufacturing Processes and Production, and Maintenance Awareness.
 - Seventy percent of MSSC-certified workers were rated as “somewhat” to “much higher” than non-certified workers in Productivity, Quality, Cycle Time Reduction, Motivation, Problem Solving, Trainability, Communications with Customers, Teamwork, Overall Attitude.
 - Eighty percent of MSSC-certified workers were rated as “somewhat” to “much higher” than non-certified workers in employment activities: Granting an interview, Hiring the Applicant, Granting a Pay Increase, and Assigning Supervisory Responsibilities.
- MSSC is confident in its ability to train, test and credential workforce skills in these core learning and technical areas and that its certifications produce a flexible knowledge worker better equipped to deal with advanced process technologies. It also recognizes that workforce preparation requires a system that encompasses certification at levels both below and above the MSSC level.

REDUCTIONS

Cont. from page 14

salary. This may mean that, in a total shutdown for a partial work-week, where the employer requires use of earned vacation, employees who have already used their vacation will receive their full salary

while those with vacation time remaining will be required to use vacation time for the days off.

Caution advised. The practices discussed above are permissible under the federal Fair Labor Standards Act. However, state wage and hour laws sometimes impose different and more restrictive requirements. For example, California wage and hour law does not permit any

employer to force the use of paid vacation to compensate exempt employees for a partial week layoff unless the employer has provided at least three months' notice. Prior to implementing any payroll reduction measures, employers should consult legal counsel to ensure compliance with federal and state law. ■

TRADE DRESS

Cont. from page 20

Protecting the aesthetic features of your products and packaging with copyright registration

Copyright protection is provided to the authors of "original works of authorship," including artistic works. At its essence, copyright protects against the "copying" of the subject work. Copyright protection exists automatically for copyrightable works upon their creation in a tangible form. Registration is not a condition of copyright protection, but the copyright law provides several inducements or advantages to encourage copyright owners to register their works. Chief among them are the facts that (i) registration is required before an infringement suit may be filed in court, (ii) registration made before or within five years of publication establishes presumptive evidence in court of the validity of the copyright and of the facts stated in the registration certificate, (iii) registration made within three months after publication of the work or prior to an infringement of the work makes available the recovery of statutory damages and attorney's fees in court actions (otherwise, only an award of actual damages and profits is available to the copyright owner), and (iv) registration allows the owner of the copyright to record the registration with the United States Customs Service for protection against the importation of infringing copies. Registration may be made at any time within the life of the copyright. Copyright registration lasts for the life of the "author" plus 70 years. For works where the "author" is the employer (because the work was pre-

pared in the context of employment), the term of copyright protection is 95 years from publication or 120 years from creation, whichever is shorter.

Designs that are separately identifiable from "useful articles" (such as products) may be registered with the Copyright Office. Copyright does not protect the mechanical or utilitarian aspects of works. A product may have both copyrightable and uncopyrightable features. On this basis, a floral relief design embodied in a bottle could be protected by copyright, even if the bottle itself could not.

Even where product designs themselves are not capable of copyright registration, other aspects of the product may still be registrable. For example, a label, packaging or a hang tag could manifest the requisite original authorship to permit copyright registration.

Recommendations for copyright protection:

1. A copyright notice can be stamped into the base of products and/or provided on labels, packaging or hang tags. A copyright notice should include the following: the symbol © (the letter C in a circle), or the word "Copyright," or the abbreviation "Copr."; and the name of the entity that owns the copyright. The year of first publication is usually included as part of the copyright notice. However, the year may be omitted where a pictorial, graphic, or sculptural work, with accompanying textual matter, if any, is reproduced in a useful article.
2. Where products have aesthetic non-functional features that are viewed separably from the product itself, registration may be sought for those elements.

Conclusion

Trade dress, patent and copyright protection are tools that you can use to protect the investment and goodwill in your products and their packaging. These forms of protection are not mutually exclusive and one or more may be available with respect to a particular product or design. Considering these forms of protection early in the product lifecycle can provide you an opportunity to pursue protection and best position your company to challenge those who may seek to copy or knock-off your products. ■

Jeffrey Brown is an intellectual property partner at Michael Best & Friedrich LLP who assists clients in developing business strategies related to intellectual property. He can be reached at 312-222-5794 or jbbrown@michaelbest.com.

Advertiser Index

Constellation NewEnergy	18 & bc
Heritage-Crystal Clean, LLC	24
IMA Annual Luncheon.....	8
IMA Compensation Report.....	12
InsureLinx	ifc
RSM McGladrey.....	5
VedderPrice	29

TRANSITION

Cont. from page 8

business on Thursday and walk out the door on Friday. Even if you sell to a third party, there's a period of acclimation involved that minimally takes around five years. It's important to ensure a smooth transition for all involved; this not only helps to retain the talent who contributed to the success of your business over the years but also ensures that your business will remain profitable long after you're gone.

Leadership and management training

Whether you plan to transition your business to a family member, member of internal management, or a third party, leadership and management training is a crucial component of the transition process. It's always traumatic when a business owner retires from a company; the absence of his or her vision and leadership creates a void. Developing the leadership team that will take your business into the next generation is an important process that, when done correctly, will assure your staff will remain happy and productive after you're gone.

There are several components to consider within leadership and management training. For example, if you've chosen your successor, how will you ensure they have the right skills to lead the company? Will they undergo testing to determine if they have the requisite skills? Will your successor(s) need training in specific areas? Who will do it — will it be you, or will you solicit outside help? How will you structure the organization? Do you visualize a partnership, where you act as a mentor to the successor, or do you see it as more of a leveraged buyout?

This kind of training need not be limited to the successor; it's valuable for other members of the management team as well.

Consider giving management greater responsibility, and allow them to contribute to the decision-making process. If, when you're ready to retire, your successor has proven competent, great. If not, you can still sell the company to a third party but keep the transition smooth, as your staff has the expertise to (a) solicit a higher price because of your staff's

expertise, and (b) ensure the company continues to run smoothly.

This stage is also valuable if you plan to sell your business to a third party, as third parties rarely buy a product — rather, they're buying a business composed of people. The more talented and knowledgeable those people are, the better investment your company becomes.

Strategic planning

Every business owner has a strategic plan — a vision for where he or she wants the business to go. It's the essence of the entrepreneurial spirit. The problem is that this vision and plan often exist in the heads of business owners rather than on paper. Communicating the strategic plan and facilitating its implementation becomes much more difficult if it can't be presented in some tangible manner. It's crucial that you and your successor share a vision for the future of your business and are not operating out of fear that it might crumble five years down the road. Whether selling your business to a family member, internal management, or a third party, it's important to develop a strategic plan to assure profitability. Once the plan is developed, the successor will be able to say, "Yes — there's value there," or "We'd better rethink our strategic plan." It is a fluid, ongoing process, but without a vision for the future, it goes nowhere.

Family dynamics

The transition process is inherently emotional; however, when family dynamics are introduced, those emotions magnify exponentially — particularly when there's more than one family member involved. Sibling rivalry can take on an entirely new dimension. Business owners often worry more about hurt feelings than the best decision for the business, which can be damaging to everyone in the end.

The road less traveled

There are a number of questions that arise with family dynamics: Are the family member(s) in question capable of running the business? How will the business be structured? Will there be one president, or co-presidents? Will they be paid equally? How do you ensure they'll treat each other fairly? What does "fair" even mean?

Although family loyalty and emotion sometimes supersede good

business practices, one very important concept often helps put things into perspective: stewardship. Helping family members obtain that sense of stewardship often helps settle conflicts, because family members will ultimately put the company, rather than themselves, first.

Personal growth and fulfillment

This component encourages business owners to ask, "What's next?" What do you want to do with the second half of your life? Who are you beyond your business? What are your passions and callings? It's important to find alternate ways to achieve the fulfillment your business once brought you. If you don't know what's next, the tendency is to dig your heels in and resist the process, implicitly and explicitly sabotaging it along the way.

The transition process becomes much less positive and much more painful without a solid idea of what comes next. This doesn't even take into consideration the unpleasant statistics that show those who leave one passion without another to pursue often don't last long in this world.

Plan ahead

Only one-third of family-owned businesses in the United States survive into the second generation; of those, only one in five make it to the third.

The most common reason for the premature demise of a family business is the failure to plan for the transfer of ownership. The combination of last-minute planning and a lack of foresight can leave you unprepared to turn over control and leave your successors unprepared to take over.

But you're not required to go down the same road as those business owners who have failed before you. By considering all components of business transition — financial planning, estate planning, ownership transition planning, leadership and management training, strategic planning, family dynamics, and personal growth and fulfillment — you can take the road less traveled. And that, like Robert Frost once said, makes all the difference.

Make it happen!

It takes work, but businesses can thrive and survive to the next generation. For a more detailed discussion of how your company can implement the best practices described in this article, please contact Sal Veltri. ■

Holewinski appointed to Illinois WC Advisory Board

IMA Secretary-Treasurer Michael Holewinski was appointed to the Illinois Workers' Compensation Advisory Board by Governor Pat Quinn. Holewinski, president of Ace Industries in Chicago, is a former member of the Illinois House and knows the importance of controlling workers' compensation insurance costs and protecting the state's business climate.

"It is in the best interest of employer and employee to have an efficient, fair and ethical system for compensating employees for job related injuries," says Holewinski. "I look forward to working with the Board in furtherance of these goals."

IMA President & CEO Greg Baise said Quinn's appointment of Holewinski was a good decision.

"Mike Holewinski's unique background of both business and politics will bode well for manufacturers on this critically important advisory board," said Baise. "The business

community can be assured that Mike's voice will be heard by policy makers in Springfield."

Holewinski's appointment was effective on October 21, 2009 and is subject to confirmation proceedings in the Illinois Senate. The appointment will expire on January 17, 2011.



Quality Float Works, Inc. one of top 5,000 privately held businesses in America

Inc. Magazine has named Quality Float Works, Inc., a Schaumburg area manufacturer, one of the top 5,000 fastest growing private companies in the nation. This is the third consecutive year Quality Float Works, Inc. has been named to the exclusive list. The 2009 *Inc.* 5,000 list measures revenue growth from 2005 through 2008. Since 2005, Quality Float Works, Inc. has seen a 55.8 percent increase in revenue due to developing a technological innovation that has allowed them to compete in the global marketplace.

Their products are used to help purify water in developing nations.

"We are extremely honored to earn consecutive awards and be included among some of the nation's most successful companies who are dedicated to fostering the entrepreneurial spirit," said Sandra Westlund-Deenihan, President, Quality Float Works, Inc.

"This award recognizes our continued success in providing innovative solutions for our customers both here and abroad," said Jason Speer, Vice President, Quality Float Works, Inc.



Mark Denzler promoted to IMA Chief Operating Officer

Mark Denzler was named Chief Operating Officer (COO) for the Illinois Manufacturers' Association at the Association's September Board meeting. Denzler also serves as Vice President of Government Affairs and Membership for the IMA.

"Mark Denzler has distinguished himself in both the state legislature

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and the Illinois industrial community since he returned to the IMA just three short years ago," said Gregory W. Baise, IMA President and CEO. "The IMA is a stronger organization with Mark in this position. Please join me in congratulating Mark on this promotion."



Caterpillar, Navistar to build new truck line

IMA members Caterpillar, Inc. and Navistar International Corporation will manufacture vocational trucks under the Caterpillar brand but co-developed by both companies and made in Navistar's Garland, Texas, plant. The trucks will feature proprietary Caterpillar components and technology for activities like earth moving, quarrying, waste handling, mining, general and heavy construction, logging and road construction. The trucks will be sold and serviced through the Caterpillar North American dealer network. The companies will also form a 50/50 joint

venture to pursue global commercial truck opportunities elsewhere in the world. The new trucks will be unveiled in late 2010 and will go into production in early 2011.



Midwest Control Product Corporation's unique approach to surviving tough economic times

IMA member Midwest Control Product Corp. employs 65 people in Bushnell, Illinois and has facilities in Mexico and China. The company supplies the off-highway vehicle industry with cables, linkages, wire forms and tube fabrications.

In December of 2008, the forecast for business in 2009 was grim. A plan was developed to cut certain expenses by 50 percent in order to avoid layoffs. The results were immediate. January, February and March were profitable — even with the 35-40 percent sales drop.

With July and August being the

company's slowest months, they needed something to keep employees busy. A four-day work week was instituted and the company decided to put their 11 acres of space surrounding one of the factories to good use: planting trees and gardening. The tree planting was not nearly as successful as the garden. In August, the garden produce was sold at a roadside stand. Details were all managed by the employees the company didn't have any work for.

"When the machine operators clocked in each day, they didn't know if they would be stamping and welding or hoeing and weeding," according to company president Mark Rauschert. "Amazingly enough, we're making it through this recession with a 38 percent drop in sales, no layoffs and (so far) a profit every month."

For more information about Midwest Control Product Corp., visit their website at www.midwestcontrol.com.



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The Illinois Manufacturer is underwritten by Constellation NewEnergy

SOCIAL NETWORKING

Cont. from page 15

working sites and understanding the need to meaningfully address it in your workplace.

What you need to know about the law and your policies

Because the social networking sites phenomenon (at least, in its current reincarnation) is relatively new, the law in the area is still evolving. Nevertheless, recent cases reveal some emerging “hot-button” issues and trends. Probably the most litigated issue in the recent months has centered on the question of employee privacy, and specifically the limits of what employers can and cannot do in terms of monitoring their employees’ use of social networking sites and taking action when they do not like what they see. Recent cases including *Pure Power Boot Camp v. Warrior Fitness Boot Camp* decided by a federal court in New York, *Stengart v. Loving Care Agency* decided by a New Jersey state court, *Van Alstyne v. Electronic Scriptorium* decided by the Fourth Circuit Court of Appeals, and *Quon v. Arch Wireless Operating Co.* out of the Ninth Circuit Court of Appeals, penalized employers for accessing their employees’ password-protected, private emails and messages. Another New Jersey case from 2009, *Pietrylo v. Hillstone Rest. Group*, recently held that an employer violated the Stored Communications Act for terminating an employee who made an admittedly inappropriate MySpace post, where the jury found that the post was restricted and that the employer impermissibly pressured an employee to give up the password to access it.

These and similar recent cases signal the beginnings of a chipping away at the relatively free reign employers have enjoyed with regard to monitoring and responding to employees’ use of the computer systems, including to access posts on social networking sites. These cases indicate that courts are starting to take note that employees do have a certain expectation of privacy at the

Popular social networking sites . . .

Facebook, at one time a spin-off of “hotmot.com” only open available to Harvard students and other Ivy League schools, now serves as an important, but recreational social tool for bridging communications among various networks defined by cities, regions, schools and now workplaces. Even high school students have access to this tool. Users may create profiles with personal pictures offering as little or as much information as desired. Privacy settings allow users to control who may view this information. For professionals using Facebook, it is important to maintain an appropriate amount of discretion as many employers may use Facebook as an unsolicited reference check.

Unlike Facebook, **LinkedIn’s** networking purposes are limited to uses of a professional nature. Individual persons and companies create profiles increasing their visibility to one another. This is done by increasing the number of connections you make with fellow LinkedIn users. Connections can be made based on past companies, affiliations, activities or education. It is an underutilized tool for companies in search of qualified professionals and vice versa.

Twitter is much newer and less complex than both Facebook and LinkedIn, but has potential to be a great networking tool. It has great company or personal-marketing potential as well. Once again, both an individual and a company can use the tool. Twitter is as simple as “updating your status.” Each user gains a group of followers and chooses to follow other fellow “tweeters.” Only as many as one-hundred and forty characters are allowed per post or “mini-blog.” Other users may comment on these posts, creating threads of exchanged information. Using this for professional purposes, like LinkedIn, can create increased visibility among other professionals in the same or desired fields.

workplace and that blanket enforcing of “no expectation of privacy” policies to access personal, password-protected communications without a legitimate business-related reason to do so may no longer hold up in court. Accordingly, employers should carefully tailor their policies and practices to strike the right balance for their workplace, and think twice before accessing and taking adverse employment action based on private, or password-protected communications, including those posted on security-restricted Facebook or LinkedIn accounts. That said, if an employer legitimately learns of an inappropriate post in another manner, e.g., because it was disclosed to a wide audience, disciplinary action may be both appropriate and necessary.

In general, employers should apply the same good logic in dealing with social networking sites as they do with regard to email and internet etiquette. For example, if an employer is considering terminating an employee for performance issues, it is not a good idea for a manager to go on LinkedIn and post glowing comments regarding that employee’s work. If that employee later files a discrimination claim, one can easily see how

such inconsistency can raise a doubt about the legitimacy of the employer’s decision. Similarly, if an employer learns about a tweet or a Facebook post that could damage its reputation or be construed as harassing or discriminatory, it should conduct a prompt investigation and take appropriate corrective action. To be able to respond to issues involving social networking sites properly, employers must first: (1) come up with a consistent, working philosophy on social networking sites; and (2) incorporate that philosophy into a good electronic communications policy.

In developing a philosophy on social networking sites, employers should keep in mind that these sites are not all bad, and try to stay away from blanket prohibitions that are neither likely to be followed, nor lend themselves to consistent, effective enforcement. Numerous companies’ experiences show that if utilized properly, social networking sites can serve as excellent, low-cost communications and marketing tools. Comcast, Sun Microsystems and Whole Foods are among many companies that currently utilize Twitter and other social networking sites to communicate news and

see **SOCIAL NETWORKING** page 27

SOCIAL NETWORKING

Cont. from page 26

upcoming special events to employees and customers. Importantly, these companies caught on to the idea that employees and customers actually use social networking sites, and creatively utilized that to their business advantage. They were able to do so through careful planning and smart, effective policies.

Once you come up with a philosophy on social networking sites that fits your business structure and needs, you should incorporate it in a well-written policy. Generally, such a policy should: (1) be up to date to reflect current technologies, including the use of social networking sites; (2) establish the company's ownership of electronic systems and the general expectation that these systems are intended for business not personal use, to be ensured through appropriate monitoring

practices; (3) address the company's expectation that in their electronic communications, including in using social networking sites, employees must comply with the policies in the employee handbook, including policies prohibiting discrimination and harassment and those covering confidential information and trade secrets; (4) delineate standards for how employees identify themselves vis-à-vis the company in their blogs and posts on social networking sites, and require them to disclaim their views as non-attributable to the company; and, finally (5) include a disciplinary component that expressly states that policy violations are grounds for discipline, up to and including immediate termination of employment.

Taking action: Consistent enforcement is key

A good policy means little if it is not properly enforced. To help prevent and minimize confusion, loss of morale and legal exposure, employ-

ers should invest time and effort to train their supervisors and hourly employees in the company's approach and expectations relative to social networking sites and electronic communications policies in general. Employees should know how to recognize problematic situations as soon as they arise and bring them to the attention of the right individuals. In facing the reality of social networking sites and then taking effective measures to plan and enforce a working policy and practice, employers retain control over their systems, and help ensure a positive, efficient workplace. ■

David B. Ritter is partner and Chair of, and Sonya Rosenberg is a member of the Labor and Employment Practice Group of Chicago-based law firm and IMA member Neal, Gerber & Eisenberg LLP. David can be reached at 312-269-8444 or dritter@ngelaw.com. Sonya can be reached at 312-827-1076 or srosenberg@ngelaw.com.

INNOVATION

Cont. from page 21

The National Association of Manufacturers has taken important steps to aggregate and clarify the broader range of needed certifications. Last March, NAM President John Engler announced a new "NAM-endorsed Skills Certification System" developed by NAM's Manufacturing Institute. The five "founding partners" of this system, endorsed by NAM, cover a spectrum of certifications.

To assure workers have the basic academic and general workplace skills, the NAM system is grounded in the National Career Readiness Certificate (NCRC). The certificate will assure manufacturers that individuals who choose to enter the workforce immediately after high school or postsecondary education have the core academic and workplace competencies for employment. The NAM System then includes: for entry- to-mid-level production worker core competencies, the MSSC's Certified Production Technician (CPT); for precision machining and metalworking, the National Institute for Metalworking Skills (NIMS); and for welding, the American Welding

Society's Certified Welder credentials.

To meet the national need for the next generation of practitioners at higher technical and engineering levels, the NAM system also incorporates the certification programs of the Society of Manufacturing Engineers. This helps to clarify the relationship between engineer vs. craftsman in connection with new technologies. It is especially important to focus engineers on the innovative uses of disruptive technologies and leave more detailed implementation increasingly in the hands of technicians and higher skilled front-line production workers. We are expending engineering talent on functions that can be handed over to the workforce as workforce skills improve. Stronger career pathways need to be modeled for factory technicians to move up the ladder into advanced technicians and engineering ranks.

This NAM-endorsed Skills Certification System initiative is an encouraging example of the kind of greater vision and top-level leadership needed to build the workforce skills required to secure the U.S. lead in technological innovation. Industry needs to follow NAM's lead in placing high priority on industry-recognized, nationally portable certifications as a critical tool in prepar-

ing the workforce of the future.

The Manufacturing Skill Standards Council (MSSC) Certified Production Technician (CPT) training and certification system prepares production workers with the core learning and technical skills needed to keep pace with technological change. The federal National Skill Standards Board, the NAM, and the Illinois Manufacturers' Association have endorsed MSSC certification, which ANSI has also found eligible for audit under ISO Standard 17024.

A well prepared, agile workforce will enable the U.S. to make the development and use of advanced manufacturing technologies a core competency of this nation. The aggressive development and use of these technologies will be critical to differentiate U.S.-based manufacturers from other manufacturers and keep work in the U.S. The more the U.S. accelerates the implementation of these technologies to reconfigure its manufacturing resources to respond to competitors' new products and approaches, the stronger we will be, economically and militarily. ■

For more information on MSSC certification, contact Leo Reddy at 202-686-9008, email LeoReddy@aol.com.

COMPETITION

Cont. from page 9

information is a good indicator of the efficiency of a facility and can be used to identify problems in the manufacturing process — quickly exposing equipment malfunctions or assembly line interruptions. For instance, manufacturing customers have found they can dramatically lower their electricity costs just by starting up their machines and equipment at different times. This helps mitigate a facility's peak demand — the highest amount of electricity consumed in a billing interval — which can change the billing structure of an account. This is critical as some capacity charges are determined by a customer's peak demand. Unnecessarily high charges can be avoided by examining billing patterns to check for peak demand spikes caused by simultaneous equipment start ups.

Also, NewEnergy Online makes it possible for manufacturers to aggregate costs by grouping meter accounts to take a more holistic view of their total energy consumption. The ability to group meter locations in unlimited combinations allows for sub-account and/or cross-account analysis, thereby helping to identify the most efficient and inefficient operations.

Benefits to the bottom line

Constellation NewEnergy's online tools are not just limited to tracking your electricity usage and spending history. Take for example Constellation NewEnergy's VirtuaWatt™ product. VirtuaWatt™ is an online application that makes it easy to schedule load curtailments in demand response programs. VirtuaWatt™ connects directly with your energy meter and also links directly to the applicable regional grid operator (e.g., PJM). This makes bidding load in the synchronized, day-ahead, and real-time markets a quick and easy process. VirtuaWatt™ provides pricing information and monitors energy consumption levels, while allowing you to reduce costs by effectively managing your energy usage. VirtuaWatt™ allows you to maximize the benefits of Automated Load Control (ALC) and helps identify demand reduction strategies at critical times. ALC systems use existing building control infrastructure and web services to provide companies with the ability to change load schedules and usage based on automated notification signals. With VirtuaWatt™, you get the information you need to pre-program effective strategies and notification signals in your building automation systems, integrate real-time metering and other smart grid technologies, and maximize the benefits of ALC.

As we've experienced in Illinois for the past decade, restructured electric markets provide an incentive for suppliers to provide creative and unique solutions to meet consumers' energy needs. As firms compete against one another, customers gain access to better pricing and services that simply are not available in markets dominated by the outmoded single utility model. Today's retail electric markets facilitate product variation, service innovations and application of new technologies — evolutions that were envisioned nearly a decade ago when policy-makers began to promote competition. In Illinois and other forward-thinking states, retail markets are producing new technologies and varied services from suppliers like Constellation NewEnergy. Retail market evolution will require continuing regulatory support to improve markets and avoid moving away from utilizing market mechanisms to allocate resources.

Progressive customers are taking advantage of all the tools available to them to better understand their own energy consumption and make informed choices about their company's energy costs. Online energy management tools are not simply an important value added service, they represent a way for manufacturers to better manage energy usage and reduce costs. ■

FLU PANDEMIC

Cont. from page 11

- Establish an emergency communications plan and revise as needed. The plan should include key contacts (with back-ups), a chain of communications (including suppliers and customers), and the processes for communicating pandemic status and actions to employees, vendors, suppliers and customers.

OSHA guidance

Another issue that should be addressed is workplace safety. The law requires that employers provide a workplace free from "recognized hazards." To prepare businesses and

workers for the possibility of a swine flu pandemic, OSHA has issued guidance that relates to various industries (www.osha.gov). You should be aware of the guidelines that relate to your industry, and train all employees.

Leave policies and benefit plans

Your paid and unpaid leave policies may have the greatest influence over employee behavior and on an employee's decision to remain at work even though the employee has become infected. If your leave policies do not allow for adequate paid leave, you may find that infected employees refuse to take time away due to financial pressures. Review your benefit and leave policies so you can best enforce mandatory leave in the event of a pandemic.

FMLA issues

An infection such as the swine flu is likely to be covered under the FMLA as a serious health condition. Employers subject to the FMLA must prepare for extensive use of such leave, both for self-care and for the care of family members.

ADA considerations

The EEOC has recently issued guidelines about swine flu workplace preparation strategies that are compliant with the American with Disabilities Act (ADA).

- An employer may survey its workforce to gather personal information needed for pandemic preparation if the employer asks broad questions that are not limited to disability-related inquiries.

see **FLU PANDEMIC** page 29

FLU PANDEMIC

Cont. from page 28

- An employer may require entering employees to have a medical test post-offer to determine their exposure to the influenza virus after making a conditional offer of employment but before the individual starts work, if all entering employees in the same job category must undergo such an examination.
- An employer may require its employees to adopt infection control practices such as regular hand washing, coughing and sneezing etiquette, and tissue usage and disposal.
- An employer may require employees to wear personal protective equipment. However, where an employee with a disability needs a reasonable accommodation under the ADA (e.g. non-latex gloves, or gowns designed for individuals who use wheelchairs), the employer should provide these absent undue hardship.
- An employer may encourage or require employees to telework as an infection control strategy, based on timely information from public

Tools for businesses — Preparing for an outbreak of the H1N1 flu virus

Posters/flyers:

English — http://www.idph.state.il.us/pdf/Flu_Education_Poster_small.pdf

http://www.idph.state.il.us/pdf/Flu_Education_Flyer.pdf

Spanish — http://www.idph.state.il.us/pdf/Flu_Education_Poster_small_sp.pdf

http://www.idph.state.il.us/pdf/Flu_Education_Flyer_sp.pdf

Illinois Department of Public Health (IDPH) Strategy Document:

http://www.idph.state.il.us/h1n1_flu/H1N1_Exec_Summary_8-31-09%20_Final.pdf

CDC Toolkits/guidance: <http://www.cdc.gov/h1n1flu/business/toolkit/>

<http://www.cdc.gov/h1n1flu/business/guidance/>

<http://flu.gov/professional/business/smallbiz.pdf>

health authorities about pandemic conditions. Telework also may be a reasonable accommodation.

Conclusion

Without policies in place and without a workforce educated on the process, the workplace could foster the spread of swine flu. Employers should designate a management representative to coordinate the company's efforts. Managers should recognize the dangers, make a plan of action, and implement the plan. Some steps of the implementation should be taken now, while others will apply later. Responsible managers also will recognize the ways that numerous workplace laws will intersect with such an outbreak. Now is the time

to review safety, leave, disability, and privacy laws to be fully prepared for the numerous issues that will arise in the event a pandemic were to affect a large section of your workforce. The better-prepared employers will also be those more likely to minimize the effects of such a pandemic. Even if such a pandemic does not occur, an emergency business continuity plan with a well-thought HR component will be essential for dealing with other potential disasters, whether foreseen or not, and whether health-related or not. ■

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Elgin

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Schaumburg

IMA & MIT 2008 Calendar of events

November 5, 2009

Illinois Sales & Use Tax

Northern Illinois University, Naperville campus, 1120 E. Diehl Rd., Naperville, 8:30 am–12:30 pm

The Manufacturers Purchase Credit, Graphic Arts Machinery & Equipment exemption, and Investment Tax Credit will be available through 2014. Join your peers and find out more about Illinois taxes specific to manufacturing. Joe Bigane, Wolf & Co. will once again lead an informative and up-to-date discussion. Cost: \$125 IMA members; each additional attendee \$100; \$150 Non-members. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

November 6, 2009

IMA's Small Manufacturers Council
Oak Brook

The Small Manufacturers Council provides a forum for key representatives of small manufacturers to meet and discuss industry trends from a governmental standpoint as well as innovations that can effect day to day efforts. Join us for informative meetings that provide substantive information you need in today's competitive manufacturing environment. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

November 13, 2009

IMA-MIT Event: Sales Skills for Non Sales Professionals — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

This one-day workshop has been specifically designed to help non-sales personnel realize, and take advantage of, sales opportunities as they occur. Determine when it is appropriate to "sell" and how to avoid being perceived as "pushy."

November 18, 2009

IMA-MIT Event: Project Management for the Non Project Manager — DePaul University O'Hare Campus, 3166 S River Rd., Des Plaines

Objectives • To provide non-project managers with the project management knowledge, skills, tools and techniques to make the transition to a project leadership role and ensure optimum project execution. • To increase the competence to manage a project through all project stages: initiating, planning, delivering, monitoring and completing. Approach • A basic overview approach to be adopted that will allow first time project managers to practice their project manager role with confidence.

December 3, 2009

IMA-MIT Event: Essential Leadership Skills for Front Line Managers & Supervisors — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

One day program that will prepare your supervisors for a complete change of responsibilities and offer a plan for the challenges ahead. The invaluable set of tools in this program will prepare supervisors for their important new role providing greater confidence and success.

December 4, 2009

IMA's Annual Luncheon
Hotel InterContinental, Chicago, Illinois

Join hundreds of your fellow manufacturers for our Annual Luncheon saluting "Women in Manufacturing." Sponsorships are now available. Individual tickets are \$150 and can be reserved on line. Download a registration form or register online at www.ima-net.org/annual09.cfm. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

December 8, 2009

IMA-MIT Event: Effective Presentation Skills, DePaul University O'Hare Campus,, 3166 S. River Rd., Des Plaines

There are many critical challenges facing the business presenter today. Calendars are full of deadlines and meetings, and multi-tasking is a common practice. As a result, today's business presenter must know how to create and articulate a clear and concise message, respond to questions in an effective and logical manner, and create and use compelling visual aids. This interactive, energetic workshop will provide the business presenter with all of the necessary skills required to deliver a winning presentation and reinforcing these skills by having the participant deliver three videotaped presentations.

December 15, 2009

IMA-MIT Event: Assertive Communication Skills: Communicating with Authority & Impact, DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

In virtually every survey or study conducted, the ability to communicate effectively is ranked as the most relevant skill for business success. Regardless of company size, job function or business sector, workers today must be able to communicate effectively when dealing with coworkers, clients and management. At the core of effective communication is the ability to communicate "assertively"; using skills that portray us as trust worthy, confident, credible, direct and results oriented. This interactive one day workshop will provide professionals at all levels with easy-to-implement techniques to increase communication and listening skills. Participants will learn to communicate positively, respond productively and improve work relationships.

Visit <http://www.ima-net.org/calendar.cfm> or <http://www.ima-net.org/MIT/open.cfm> for more information, pricing, etc., and a more complete listing of IMA and IMA-MIT offerings. Questions? Contact Janie Stanley at 800-875-4462 ext. 3020, email: jstanley@ima-net.org.

The Illinois Manufacturer is underwritten by Constellation NewEnergy

In: Cutting Coupons

Out: Beverage Taxes

American families are counting pennies to get through this economy, so a new tax really gets our attention. Washington is proposing a new federal tax that would raise the price of juice drinks and soda. They say it won't be much, but anything is too much when you're raising a family these days.

We all support health care reform, but taxes on juice drinks and soda won't make us healthier – diet and exercise do that. So, Washington, if you're listening, we need new jobs, not new taxes. We're struggling enough as it is.

Help stop the tax at NoBeverageandFoodTaxes.com



Follow us on Twitter @NoBevandFoodTax

PAID FOR BY THE AMERICANS AGAINST FOOD TAXES

IMA and Constellation NewEnergy, working together for 10 years to deliver energy management solutions to IMA members.

When the right forces combine, you get solutions as brilliant as the sun, and as powerful as the wind.



Responsible, sustainable energy will power America's future. Forward-thinking organizations understand this, and many are partnering with Constellation Energy to reduce their energy emissions. As a leading supplier of energy products and services, we are meeting the needs of some of the country's most intensive energy users. Our diverse portfolio includes solar, wind, geothermal and biomass projects. In addition to renewable energy capacity owned or under contract, we are in the forefront of the nuclear renaissance, pursuing development of new nuclear plants in the United States. All of which makes Constellation the natural choice for your energy solutions.



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