



---

Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | [www.law360.com](http://www.law360.com)  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

---

## Whose Followers Are They, And How Much Are They Worth?

Law360, New York (January 11, 2012, 12:47 PM ET) -- A judge recently ruled that PhoneDog.com, a Web-based community of cellphone information, has properly pled a trade secret and conversion claim arising out of Phonedog LLC's allegations that it is entitled to certain Twitter followers that a former employee had built up during his four years at the company, where he worked as a blogger.

The case raises at least two questions. First, who owns a company Twitter account? Second, how much is a Twitter follower worth?

### Background: @PhoneDog\_Noah

Noah Kravitz worked as a mobile phone reviewer for a tech website called Phonedog for more than four years. In 2007, Kravitz set up the company's Twitter account — @PhoneDog\_Noah — and accumulated about 17,000 followers. He had been part of a "virtual office," so when he left the company in October 2010, the only thing he took with him was this Twitter account. Later, PhoneDog asked for the account back, but Kravitz refused, instead changing the account handle from @PhoneDog\_Noah to "@noahkravitz."

Phonedog sued in federal court, asserting claims for misappropriation of trade secrets, interference with economic advantage and conversion. Phonedog's lawsuit claims that the account's followers were a customer list, and that it had invested "substantial" resources in building it; the company asked for \$2.50 per month per user over the eight months since Kravitz left the company, or \$340,000.

In late December, the court ruled on Kravitz's motion to dismiss. Two claims remain: misappropriation of trade secrets and conversion. It remains to be seen whether Phonedog will be able to prevail on these remaining claims.

### Who Owns The Twitter Account?

Sometimes it is clear that a social networking account belongs to a company. But in this instance, according to Kravitz, Phonedog's role was remote, almost indifferent. Indeed, he said, the company never knew the password for the account.

However, that may not be relevant. In a written statement, Phonedog said: "The costs and resources invested by Phonedog Media into growing its followers, fans and general brand awareness through social media are substantial and are considered property of Phonedog Media. We intend to aggressively protect our customer lists and confidential information, intellectual property, trademark and brands."

Social media account information, however, does not fit nicely within the trade secret box. "Customer lists" historically have been considered a classic trade secret. But the names of

Twitter followers are openly available on the Twitter site; anyone can see who is following whom. When customer lists are published on the public Internet, can they really be considered a secret? As a corollary, could Kravitz have contacted the people on the list in any other way than through the account that he is being asked to relinquish? What if Kravitz had posted a "good-bye" tweet saying "follow me at [new account name]"?

## How Much Is A Twitter Follower Worth?

An interesting aspect of the dispute arises over the financial value being placed on the Twitter account and its followers. The issue is relevant to determining whether PhoneDog's claim for damages met the \$75,000 jurisdictional threshold for diversity jurisdiction. However, this question also has the potential to lay the groundwork for a broad array of claims about the monetary value of a Twitter account.

PhoneDog said it suffered \$340,000 in damages. The account had 17,000 followers, "which according to industry standards, are each valued at \$2.50." PhoneDog said this translated into a monthly damage amount of \$42,500 "for each month that [Kravitz] used the account."

Kravitz disputes this, arguing that Twitter followers, unlike those listed on traditional customer lists, have discretion to subscribe or unsubscribe, and therefore PhoneDog's valuation is suspect. Kravitz also argues that the value in any Twitter account "comes from ... efforts in posting tweets and [an] individual's interest in following ... not from the account itself." According to him, there is no evidence that an account with even a significant number of followers has any ongoing monetary value.

## A Sign Of Battles To Come?

Corporate control of Twitter accounts has been a highly debated subject. Even if this case does not set a legal precedent, it may well be a harbinger of numerous future ownership tussles over Twitter feeds.

Whatever the outcome of this case, at the very least, it illustrates the importance of having a clear policy governing the ownership and use of companies' social media accounts.

--By Joshua Briones and Patrick S. Park, DLA Piper

*Joshua Briones is a partner and Patrick Park is an associate in DLA Piper's Los Angeles office.*

*The opinions expressed are those of the authors and do not necessarily reflect the views of the firm, its clients, or Portfolio Media, publisher of Law360. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

All Content © 2003-2012, Portfolio Media, Inc.