

The real price of reputation

What do you do when your carefully built corporate reputation is ruined by a false story planted by a competitor or an unscrupulous journalist?



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*Who steals my purse steals trash; 'tis something, nothing;
'Twas mine, 'tis his, and has been slave to thousands:
But he that filches from me my good name
Robs me of that which not enriches him
And makes me poor indeed.*

William Shakespeare, *Othello*, Act 3, Scene 3

When Shakespeare wrote about lost reputation in the early years of the 17th century, few people travelled far from their home village. A merchant's 'good name' would rarely be known more than a day's walk from his market square. His reputation would be most at risk in the whispered words of neighbours and customers.

Four hundred years later, an attack on commercial reputation often begins half a world away, with keystrokes on a computer pad by someone whom the target of the attack has never met. The attacker may be an agent employed by a business rival, an unscrupulous freelance journalist seeking to establish her reputation, or even a political group working to 'define' an opponent.

WHETHER A FALSE STORY IS A PLANNED ATTACK

by a competitor or the work of a sloppy journalist, the damage from a reputational attack can be devastating.

Whether the allegations are true is often of little consequence in the complex world of international financial regulation and cross-border law enforcement. If left unchecked, even a poorly executed attack on reputation can spread like a virus – often with grave commercial consequences.

Like many problems, the first symptoms may be subtle. A banker may call unexpectedly and ask for a meeting. A routine business trip may be interrupted by unusual questions from airport customs officers. An account manager may report that there is a problem with a wire transfer. A telephone message may be waiting from a journalist whom you have never met, with a notation demanding a return call before he files his story that same afternoon. At first, these symptoms may be dismissed as a clerical error or a case of mistaken identity. Your company

has committed no crime and you have worked hard to build a reputation for integrity and honest conduct. You have nothing to be concerned about.

But like a virus, the symptoms of the problem multiply and become more serious. Without warning, an important transaction is jeopardised when a bank withdraws its financing. No explanation is given. A product shipment is seized by government agents in a foreign port. The proceeds of a letter of credit are frozen by an advising bank. Like a fast-moving disease, the minor symptoms that you dismissed just a short time ago have now developed into a full-scale threat to your entire business.

How does this happen to people and businesses that have done nothing illegal but are suddenly faced with the wholesale destruction of their commercial reputation? The answer lies in a remarkable confluence of factors – the worldwide expansion of the regulatory compliance function in financial institutions, the growth of aggressive cross-border law enforcement since 2001, and the rise of the Internet as a primary news medium and research tool.

The impact of the Internet cannot be overstated. As of July 2008, *Internet World Stats* reported that 1.46 billion people worldwide use the Internet. These factors have created an environment in which something as simple as a common surname, or as devious as a planned attack by a competitor, can place even the most prominent commercial names at risk. A recent case illustrates how. An international energy transmission company, to which we will give the fictitious name 'Felix Energy', was successful in a bid to obtain a contract that would potentially be worth hundreds of millions of dollars. Among the disappointed bidders was a privately owned firm that had held the contract for the preceding six years.

The losing bidder, working through an agent, contacted an obscure Internet newsletter based in a basement office in Amsterdam – to which we will give the fictitious name Planet Intelligence – that claimed to specialise in international business and security intelligence. The agent paid the publishers and turned over a collection of forged 'surveillance reports' that suggested that Interpol believed Felix Energy to be funded by an organised crime group.

Within a week, Planet Intelligence, citing 'highly reliable government sources', posted an exclusive report

about organised crime in the energy transmission industry. Felix Energy was identified by name in the report as an example of a front company for criminals. Although Planet Intelligence enjoyed a small readership, within a few days, the story had been repeated by two energy industry news services.

The directors of Felix Energy were unhappy about these reports, but thought that they were so ridiculous that no one would believe them. Before a month had passed, however, a major daily newspaper in the city in which Felix Energy maintained its headquarters published a lead article about how the company was controlled by organised crime. International financial wire services republished the story the next day.

Within a week, the effect of this attack on Felix Energy was being felt throughout the company. The accounting firm that had been hired to do the company's audit abruptly resigned. The company's two principal banks called, within a few hours of each other, to tell the chief financial officer that Felix Energy must close all of its accounts within a week. The company's branch office in the US was visited by FBI agents, who questioned employees for more than an hour.

When the Felix Energy corporate jet landed at an airport outside London, carrying the CEO and two directors to a bankers' meeting about a planned share offering, the plane was searched by police for hours before the passengers were allowed to disembark. The next morning, the CEO was told that the share offering had been shelved indefinitely. While Felix Energy may be an extreme example, attacks on reputation have become a common competitive phenomenon.

Businesses and individuals, particularly in emerging markets, are regularly victims of false published stories alleging ties to terrorism, criminal organisations, illegal arms trade, narcotics traffickers and money laundering. Whether a false story is a planned attack by a competitor, a misguided government inquiry, or the work of a sloppy or unscrupulous journalist, the damage from a reputational attack can be devastating. There are, however, a few critical steps that can be taken to defend against a concerted attack on reputation.

Be Vigilant. Everything that is published about you or your company will last forever on the Internet. Pay close attention to what is being written and do not dismiss a report because it appears in a questionable place like an Internet blog. Inexpensive software can be used to continuously scan the electronic media for anything that includes your business name and can provide an important early warning of an attack.

Get the Facts. The only truly effective tool in combating false media reports is independent and convincing evidence. The key word is 'independent.' The best way to develop convincing evidence is to engage an independent investigative firm – with its own reputation for integrity – and authorise a

full investigation of the false allegations. A formal investigative report, refuting the false claim, is a critical tool in defeating an attack on reputation.

Respond Aggressively. Fighting an attack on corporate reputation is not a subtle matter, and lawyers are the professional masters of the aggressive response. A law firm working to defend a client that has been damaged by false stories will use the investigative report as a key tool in responding to the attack. The law firm's job includes persuading editors that a retraction of the false story must be published, negotiating with banks and professional service providers, and convincing law enforcement agencies that the claims are false. When legal persuasion fails – and that is rarely the case – the lawyers' job is to sue the publishers of the false report in an appropriate court.

Establish the Record. A campaign to restore reputation is only successful when the retraction of the false story by the offending publications, rather than the story itself, becomes the permanent record of the case. This is accomplished by the permanent removal of the false story – where possible – from all Internet sites. Where permanent deletion of the story is not possible, such as in some commercial electronic news libraries and printed newspapers and magazines, a published statement that the story was false is needed to accomplish the goal. The same is true when a libel judgment is obtained either through trial or settlement of a lawsuit. In the end, the record is what matters.

As for the real Felix Energy, the company commissioned a full independent investigation of the false story of ties to organised crime. Armed with the investigative report, the lawyers for Felix Energy were able to obtain full retractions and apologies from the mainstream publications that had reported the false



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story. With the retractions in hand, Felix Energy and its lawyers – in a series of meetings – were able to persuade the banks to reinstate the company's accounts and credit facilities.

Although Felix Energy decided not to rehire the accounting firm that had resigned, a new firm was engaged and completed the audit in time for the share offering to proceed. Planet Intelligence – the Internet newsletter that first published the false stories – remains in operation in its basement offices in Amsterdam. The latest edition of the newsletter reported that a prominent Dubai construction company is financed by an unnamed money laundering cartel.

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