



Estate Planning for Your Online Identity

By: Peggy Hoyt, J.D., M.B.A. and Sarah AuMiller, J.D.



What happens to your online legacy when you die? This includes your websites, email, usernames, passwords, banking information, LinkedIn, Twitter, Facebook accounts, and even blogs. It is a question most people have not even considered, although you should. Without proper planning and documentation your information may become inaccessible and eventually everything you have invested into the Internet may cease to exist.

Almost everyone has some type of online account. You may communicate online, pay bills online, do banking online, have an online personality, some people even date online. You are careful to make sure that the passwords which allow you to conduct these aspects of your online life are protected and that only you have access to the accounts. This is good in most instances, but accounts with private and protected passwords can create major problems when the account holder dies and no one else knows, or has access to, the passwords.

You might assume it would be fairly easy for a family member or personal representative to gain access to the accounts. Surprisingly, this is usually not the case. It depends on the service as to who owns your account when you die. Yahoo Mail considers an account to be private property and will not hand over passwords or the emails to the decedent's family without serious legal action. Google's Gmail requires a copy of a death certificate, a copy of a power of attorney or birth certificate, and an e-mail sent from the account in question in order for someone other than the owner to gain access to the account - not so easy. MySpace terms of agreement state that when you die, your profile dies.

There are ways to help prevent confusion and alleviate obstacles for your loved ones to access your online accounts when you die. One solution is to keep a portable flash drive with usernames and passwords and pass it on to a family member or friend to access at your death. There

are also companies, such as Legacy Locker, which will serve as a safety deposit box for passwords and account information and provide personalized instructions to survivors as to how the decedent wants their online identity handled. If you want your e-mail to go to the grave with you, it might be best to do nothing and eventually the site will delete your account due to inactivity.

In addition to traditional estate issues like gathering assets and paying bills, the Internet has created new issues for attorneys and their businesses. What will happen to your law firm website when you die? One of the first things to decide is whether or not you want your website to continue when you die. If you choose to shut down your website upon death, there needs to be a plan in place as to how, when, and who carries out your wish. If you maintain a blog, it is likely you may not want the blog continued but your options may be limited depending on the size of your firm. There are some big firm bloggers who personally own their blogs and the firm simply benefits from the business the site generates.

If you would like for your website to continue after your death it is important to let someone know your desire. Your website is Internet real estate which you own and on which you should place value. The law is clear, you can bequeath your copyright to others. The beneficiary of your website should be a person who is willing and able to take on the task of running your site. In order for your website to be transferred to the intended beneficiary most efficiently it could be distributed through your will or trust with your other assets. But, this leads to the question of copyright. In order for you to transfer your website to a beneficiary it must be owned properly, just like any other asset you transfer through your will or your trust. You can copyright your website so it can be transferred to your beneficiary as you intend and so it cannot be used by others, without your permission, including when you die.

What happens to your online identity after you die is up to

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you. But, just like all other facets of your life, it needs to be planned for. Planning your estate should include planning for your online existence.

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