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## **Sharp Increase in Reporting on Legal Disputes - "No Comment" Remains Widespread as a Response to Filing of Lawsuits - Social Media Increasingly Significant: Foreign Court Uses Facebook to Issue Summons**

Litigation communications continues to be a field of growing importance in Germany, thanks to increased legal reporting in leading German media, according to a small-scale, non-representative study by crisis and litigation communications specialists Holzinger Associates. The study—focused on reporting on lawsuits, legal proceedings and legal disputes in the archives of *Der Spiegel*, *Handelsblatt/Wirtschaftswoche* and *Financial Times Deutschland* from 2008 to 2010—reveals that among a total volume of over 10,000 media reports (in the selected media alone), legal reporting of this kind increased by 30% during the aforementioned period. "The increase might partly be attributable to the particular manner in which the financial crisis was approached in legal terms," comments Holzinger Associates managing partner Stephan Holzinger.

### **Disproportionate increase in defendants' "no comment" responses**

According to the study, there was a disproportionate increase in the number of "no comment" responses. Holzinger remarks: "In very special circumstances, i.e. exceptional cases, it might still be justifiable to counter an accusation without directly addressing the public. But generally the days of "no comment" ought to be long gone. If you don't defend yourself before the public, you've thrown away the chance to present your viewpoint in the market of public opinion and quickly remove the substance from a vigorous accusation before it spreads like wildfire". A variety of studies have shown that in the public sphere, "no comment" responses are in a majority of cases equated with guilt or an intent to cover something up. Such responses lack aplomb and often result in loss of trust—a key element of an individual's or company's reputation.

However, even worse than "no comment" are responses that could potentially cause major damage to a company's credibility. For example, in its interest swap proceedings before Germany's Federal Court of Justice, Deutsche Bank mooted the scenario of "another financial crisis" in the event the plaintiffs' claims were upheld, only to play down the impact of the final ruling after losing the case.

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## **Social media of growing significance in litigation PR (as elsewhere)**

US fast-food chain Taco Bell recently came up with a creative response to a lawsuit alleging its products were of inferior quality: it ran a series of eye-catching high-quality newspaper ads ("Thanks for suing us!"), in conjunction with a highly effective complementary social media communications strategy that successfully mobilized its satisfied customers into becoming active in the publicity arena. "Although social media complement traditional communications channels rather than replacing them, they're of growing significance in litigation PR", says Holzinger. They open up an additional communications channel, not only for own litigation PR but also as a barometer of opinion.

Experts in a number of European countries are currently debating the impact of the use of Twitter during ongoing legal proceedings, since this could for example influence hearing of witnesses. At any rate, when it comes to social media, the courts are clearly moving with the times, as evidenced in mid-March of this year by Hastings County Court (East Sussex, UK), which allowed a plaintiff to issue a summons via Facebook. Courts in Australia, New Zealand and Canada took a similar approach on earlier occasions.

The small-scale study in its entirety is available from Holzinger Associates on request.

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