

*209KM Research Methods*

***Project Proposal***

A study of Estate Planning for Digital  
Assets

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## ABSTRACT

In this research, a study of estate planning for digital assets will be carried out. The more inclusive but not formal definition of digital assets is that 'a digital asset is digitally stored content or an online account owned by an individual.' (Romano 2011). Digital assets are included but are not limited to accounts on social networks, email services, online banking services, online games, online bill systems and others services which contains any personal information. The purpose of this research is going to indicate the current issues of that planning and find out business services on current markets. And the expected achievement is to conclude better planning for digital assets. The research methods using in this exploratory research, are to conducting questionnaire and interview. Secondary data will also be used for carrying out qualitative analysis, t-test. The duration of the research will be around 9 months, started on October, 2012.

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## **1. TITLE**

The title of the research project is 'A study of estate planning for digital assets'.

## **2. AIM**

The aims of the research project are to determine the current issues of estate planning of digital assets, and investigate good services which can enhance estate planning for digital life after death.

A legal fight (BBC 2005) for accessing email account of deceased, L/Cpl Justin Ellsworth, between Yahoo! and his father, John Ellsworth, began on January 2005. A US marine serving in Falluja, L/Cpl Justin Ellsworth, was killed by roadside bomb on November 2004. After he died, his father, Mr Ellsworth wanted to obtain his son's emails during the serving in Iraq. Without knowing the password of his son's emails, he requested Yahoo! to offer right for him to open the emails with purpose of memorial. However, Yahoo! rejected and stated that survivors have no rights to login the email accounts of deceased while the terms of service was agreed by all Yahoo! account holders. Yahoo! would deactivate email accounts if they have not been used for 90 days. Therefore, Mr Ellsworth (CNET News 2005) found lawyers to fight his rights and finally obtained full contents of his son's email account in form of CD and paper after the court finished on April 2005.

The issues of digital assets were illustrated from this case. What happens of digital assets when people die? The ownerships and rights are still under account holders' property or not. Some people may want to delete their data forever, while some people may want to live online. People should be aware of estate planning for their digital assets.

## **3. OBJECTIVES**

1. Investigate the benefits to estate planning for digital assets in order to show the importance of proper planning.
2. Discover the current planning methods that focus on digital assets. Analyse the obstacles to planning for digital life after death.
3. Find out facts of people on understandings and wishes of estate planning for digital assets by collecting sampling from different online users

4. Analyse the results of sampling, and then compare data with secondary data to determine what services people are willing to include in the planning.
5. Identify potential possible services that can enhance the contents of estate planning for digital assets.  
Suggest and Conclude will be given based on the above investigation.

#### **4. BACKGROUND**

Living around the electronic devices, computers and networking, most people in the world are familiar with digital information and accounts, but, only few of them pay attentions on their digital assets, especially for data in internet. According to online video of LifeInsurance Finder (2012), 70% of the online population are using social networks currently, while the number is still increasing. Each of them has 11% chance that owns a Facebook account and then shares 450 pieces of personal contents each year. Each of them will share totally 15,795 tweets, check in for 563 times on Foursquare and upload 196 hours of video on YouTube in the lifetime. Unfortunately, 3 Facebook users pass away every minute. As a result, 1.78 million Facebook users passed away totally in 2011. The data deceased stored may belong to individual platform provider or nobody.

Although estate planners can plan perfectly with current techniques, they always excluded digital assets in property lists. It is still an uncommon idea. But, People should start thinking how much they know, what they can do, what they should prepare and why they need to plan, with digital assets.

#### **5. CRITICAL REVIEW OF RELEVANT LITERATURE**

##### **5.1. Benefits to Planning for Digital Assets**

Hartley (2010) believed many people usually have wills for their property without digital assets. However, they do not realise that having preparation for digital life after death can prevent online theft, conflicts and keep memories. The advantages are discussed below.

##### **5.1.1. Preventing Identify and Content Theft**

Online criminals (Todorova 2009) may obtain the identity, credit cards or other digital property of deceased illegally to do anything until the databases of death are updated while those actions cost time. Also, the databases may not perform any actions when dead is not discovered. If family or friends of deceased can

access their online accounts immediately, the probability of crackers who use identity of deceased will be decrease. However, it requires the access method (password) which is granted by account holders in planning.

Moreover, people are given copyright of every pieces of blog they published automatically if their countries are in the list under Circular 38a – International Copyright Relations of the United States (U.S. Copyright Office 2010). The list of countries involves almost all countries including Japan, U.K. and Hong Kong. This copyright lasts for 70 years after the owner's death. Nevertheless, the content in blog of deceased may be copied by others without any warnings if family members of deceased cannot take any actions without any privilege.

### **5.1.2. Keeping Rights and Memories**

People have their own privacy and share area. They can choose what they want to share or not for everything. In real life, the assets of death can be allocated according to their wills. For example, love letters are given to wife without any notices to parents. In digital life, there are many private emails, photos, videos, messages and the likes for each people. Something that people want to hide deeply could be protected well or deleted on request with appropriate planning.

However, some deceased may lost their stories forever because of wrong orders. The influence of wrong deposition may not only be faced by family members, but may also affect future historians. Walker (2011) believed that the historians will miss important and useful information for them to do research if the digital assets of famous deceased disappear in the internet. At the same time, Walker (2011) also stated that records of all digital assets can capture person's entire life which then lives forever by using example of Gordon Bell who is a famous computer engineer. In addition to planning for after death, the digital life can also use for charity purpose if people alive. The idea is similar to donate organs in real life. Keep a Child Alive (2010), a digital death campaign, raises donation to HIV/AIDS patients in Africa and India by buying sacrificed digital life of donators. Therefore, good planning is useful before and after death.

### **5.1.3. Preventing Conflicts**

In additional to no proper law about digital assets in traditional countries such as China and Japan, Beyer and Griffin (2011) stated that only two states in U.S. have initialled to statute address digital assets directly in a probate Context. However, it is still in the administrative phase. The situation of handling

digital assets is very hard to estate planners and family since no wills or laws can be referred to. Also, Beyer and Chan (2012: 3) said there are still many online companies have no certain policies of digital property. Moreover, people may not be satisfied or happy with digital assets policies of online sites. As a result, many conflicts are produced between next of kin and companies, which are similar to the case of L/Cpl Justin Ellsworth (BBC 2005). In order to deal with these issues before release of perfect laws, people who have well estate planning for their valuable data, can enjoy their wills without less conflict in the future.

## **5.2. Current Planning Methods for Digital Assets**

Beyer and Griffin (2011: 4) stated that there is no right or wrong definition currently for how to choose planning methods. They also suggested the first step should be writing down the all information of their digital assets which includes usernames, passwords, security questions as well as answers before they select planning methods among preparing a will, separate document, trust and online afterlife company.

### **5.2.1. Preparing Wills/ Trusts of Digital Assets**

People can write down their wishes of how to handling digital assets in a will. Then, the lawyers and family can allow their wills to have appropriate arrangements easily. However, a court order (Maimes 2009) may be required if the statements of wills about digital assets are not clear enough. If it becomes a court case, the wills will be treated as public record. As a result, the sensitive information such as passwords can be viewed by public. (Beyer and Chan 2012: 4, and Maimes 2009) also discouraged that writing account information and password in a will because the accounts of deceased will be accessed by others. A will still have own value in assets management. Therefore, Beyer and Chan (2012: 4) further suggested that a separate document with sensitive information should be prepared together with a will containing general wishes only.

Preparing a trust agreement (Maimes 2009) may be better than a will because trust would not be able to be viewed by public, even on court. Therefore, it is possible to store any sensitive information in the trust. And the trust agreement can become owner of digital assets after that person died. It is convenient (Connor 2011: 20) for next of kin to access the digital assets and update easier than a will. As it is simple step by adding the word 'trustee' only behinds last name of owner in trust. Nevertheless, Beyer and Griffin (2011: 5) stated that a revocable trust for digital property may be ignoring most policies of individuals and may only be practical for substantial value of digital property.

### **5.2.2. Having Separate Documents of Digital Assets**

The format of separate documents are paper form but not limited to store on a CD, flash drives or cloud storage provided by third-party (Jacobs 2009). People may choose to give record containing all information of their payment system, banking account and other personal accounts to their relatives before death directly rather than to give that record to lawyers with proper planning at first. However, it may cause drawback. For instance, an illness elderly gave his passwords to his daughter in order to pay bills for him. She would face legal fight with her siblings who accused her of misusing property. Therefore, Jacobs (2009) suggested that the separate documents should be given to estate planners first and then passed to someone trusted through legal process. Still, there is a risk of stealing property by people involved in the process.

### **5.2.3. Using Online Afterlife Companies**

Due to the demand of estate planning for digital life after death are growing, business opportunities are discovered. Therefore, Companies are created to provide wide range of services related to digital assets. Beyer and Griffin (2011: 6) have summarised the brief introduction of each online afterlife companies in current market. The table of companies is given in alphabetical order as Figure 1 in Appendix A. According to Figure 1, every companies offer different plans of services, including photos, videos, audio recordings and last notes, with or without fee, but many companies would provide services for building memorial websites of users.

All companies listed in the table are based on western countries, and most likely in U.S. There is no online afterlife companies based on Asia until Perpetu (RTHK 2012) is founded in Hong Kong in November 2011. Perpetu (2012) also allows their clients to create memorials for loved ones. But, in McAfee (2011) global study, refers to Figure 2, Appendix A, indicated that 60% of 3,000 survey populations own at least 2 devices per household, while average value of digital assets of online users is US 37,438. It showed the digital assets are very valuable but the concepts of digital assets to people are not clear enough. No doubt those services are required locally if it is a trend on planning for digital assets.

### **5.3. Obstacles to Planning for Digital Life after Death**

It is a very new phenomenon of estate planning for digital assets. Many people are not familiar with this issue. Also, there are some problems, faced during the planning for digital property, are discussed below.



### **5.3.1. Security Concerns**

Two ideas of planning for digital information, provided by Coombes (2009) in the Wall Street Journal were that giving different account details to different people or placing the information in a safety box which can be accessed by someone with authority. People are always recommended to write down all information of their accounts online or electronic devices on a piece of document. They (Jacobs 2009) feel unsecured that it is hard to ensure this document will not be viewed by others. Someone suggested a solution that one document with usernames and one with passwords are used together and then stored in different locations. At the same time, there is potential risk that hackers change their target from online banking to afterlife companies. Thus, people are also worried about whether security systems of online afterlife services are powerful enough to protect their usernames and passwords. The security standard of those systems should strengthen.

### **5.3.2. Uncertain Issues of Online Afterlife Companies**

There is potential business opportunity on helping to handle digital assets. However, some people (Walker 2011) thought that the business future of afterlife companies may not be straight then they imagined. The resources and supports of afterlife companies are very little, so their reliability is being challenged. As a result, many people are doubt that spending their money and placing their valuable digital property in their servers.

Moreover, the margins (Shulman 2009) between some real assets and some digital assets are overlapped. The statement of some afterlife companies stated that the digital assets are assigned to beneficiaries directly after their users die. Shulman (2009) argued that many digital assets have actual financial value which should be arranged by properly estate planning documents, while that above statement is overstated. For example, a person who owns an online business on eBay, he assigns his friend an ownership of eBay business through the afterlife company without laws document. His friend can be sued by his spouse.

### **5.3.3. Lack of knowledge for Digital Assets**

After they die, their family and friends have no ideas how to handling their online information. Connor (2011: 9) stated the biggest problem of estate planning may be the lack of knowledge towards planning for digital assets of people. Refer to Figure 3 in Appendix A, LifeInsurance Finder Blogazine (2012) illustrated

a clear concept guide for digital life which compared to real life.

## 6. RESEARCH METHODS

The research objectives are exploratory in nature for discovering possible approaches which are useful in estate planning for digital assets. An inductive approach will be followed in order to understand different after collecting and analysing data.

### 6.1. Questionnaire

In order to explore the attitudes of people towards estate planning for digital assets, a questionnaire, which had been modified from survey conducted by Anderson (2011), will be carried out. The first draft copy of a set of questions which have been added or updated is in Appendix B. The questionnaire will be posted online using online survey platform which can be accessed by online population around the world. With limit time interval, non-probability sampling will be taken to determine the results. The target is going to carry out 200 sets of quantitative data, while no limitation of affecting factors such as their gender, age group and nationality.

### 6.2. Interview

To help with detailed investigation to current online services for digital assets, an in-depth interview of founder of Perpetu, an online afterlife company in Hong Kong, are trying to arrange in the first quarter of next year. The invitation will be sent when document of this research is reviewed. Due to the nature of in-depth interviews, no structured list of questions will be prepared.

### 6.3. Analysing Data with Secondary Data

Secondary data can be used for having qualitative analysis when they are combined with the suitable sample size of primary data. The suitable sample size of data collected can be determined by the below formula:

$$\text{Total Response rate} = \frac{\text{Total number of responses}}{\text{Total number in sample} - \text{ineligible}}$$

T-test Analysis would be then conducted when existence of two groups of data (Primary and Secondary data) to determine the statistically difference between them. More data will require to be gathered if the data is not satisfied.

#### **6.4. Ethical Issues**

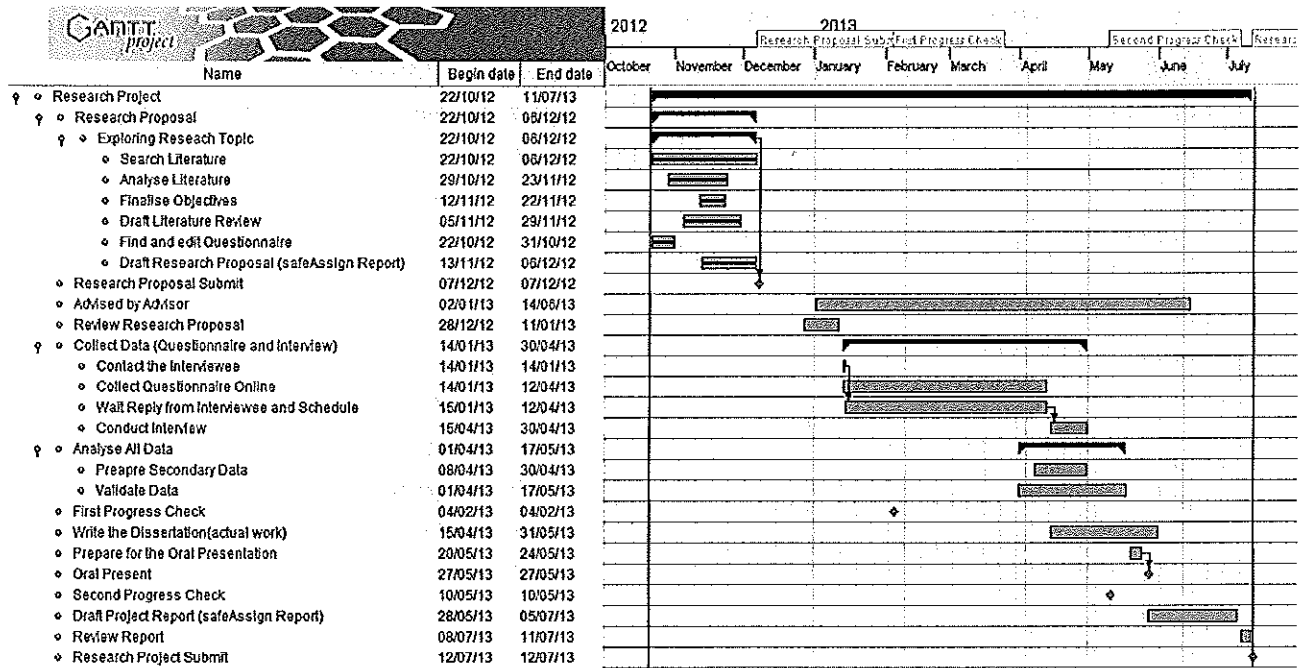
Due to privacy, anonymity and confidentiality of participants who will finish the questionnaire need to be protected, the questionnaire will not require any identity of them such as name, identity card number. But their gender, age range and other characterises will be recorded as they are useful for analysis. Also, the IP address of their computers may be recorded when they access the online survey platform. That information will not be obtained in the research project. Moreover, the questions of questionnaire will not be designed or understood with any discrimination.

#### **7. POTENTIAL LIMITATIONS OF THE RESEARCH**

1. Insufficiency knowledge about digital assets of people may give unsatisfied responses of the questionnaires.
2. Lack of experience of researcher may cause the research becomes more difficult.
3. Due to the research are respect to information technology and business two fields, other issues outsides these fields will be excluded.

## 8. PROJECT PLAN

The project plan of this research has been represented by the below Gantt chart. The schedule will be adjusted if needed during the project.



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## APPENDIX A: Tables and Figures

Name	Services Offered	Fee?
AssetLock (2006)	Enables users to upload documents, final letters, final wishes, instructions, important locations, and secret information to an online safe deposit box. Once the user dies and a minimum number of recipients confirm the user's death, AssetLock will release pre-designated information to the pre-designated recipients.	Yes
DataInherit (2006)	Provides users with online storage for passwords and digital documents.	No/yes
Dead Man's Switch (2008)	Enables users to write emails and designate recipients. Once user fails to respond to three emails, Dead Man's Switch releases the emails to the recipients.	No
Deathswitch (2006)	Enables users to write emails and designate recipients.	No/yes
Entrustet (2009)	Enables users to create a secure list of online accounts, designate which accounts get passed to heirs or deleted, and designate a Digital Executor.	No/yes
Estate++ (2008)	Enables users to upload important legal documents, photographs, notes, and instructions to a virtual safe deposit box.	Yes
EstateLogic (2008)	Enables users to store important documents, personal instructions, pictures, and family stories.	No/yes
GreatGoodbye (2009)	Enables users to prepare emails with attachments to be sent to recipients after death.	No/yes
If I Die	Enables users to write notes that will be sent to pre-designated recipients at death.	No
Last Post (2006)	Enables users to write emails and letters to designated recipients.	No/yes
Legacy Locker (2009)	Enables users to save all online account information in a digital safety deposit box and assign beneficiaries for each account.	No/yes
MentoMori (2010)	Enables users to store passwords, videos, and instructions and send emails to pre-designated recipients at death.	Yes
My Wonderful Life (2010)	Enables users to leave letters, instructions, information, and photographs for pre-designated recipients.	No
Parting Wishes (2000)	Enables users to draft online estate planning documents, design online memorials, create web pages about their lives, prepare final messages, document funeral wishes, and designate Keyholders to distribute this information.	Yes
SlightlyMorbid (2009)	Enables users to leave behind emails, instructions, and personal online contacts.	Yes
Vital Lock (2009)	Posthumously delivers text, videos, images, audio recordings, and links to pre-designated recipients.	No/yes

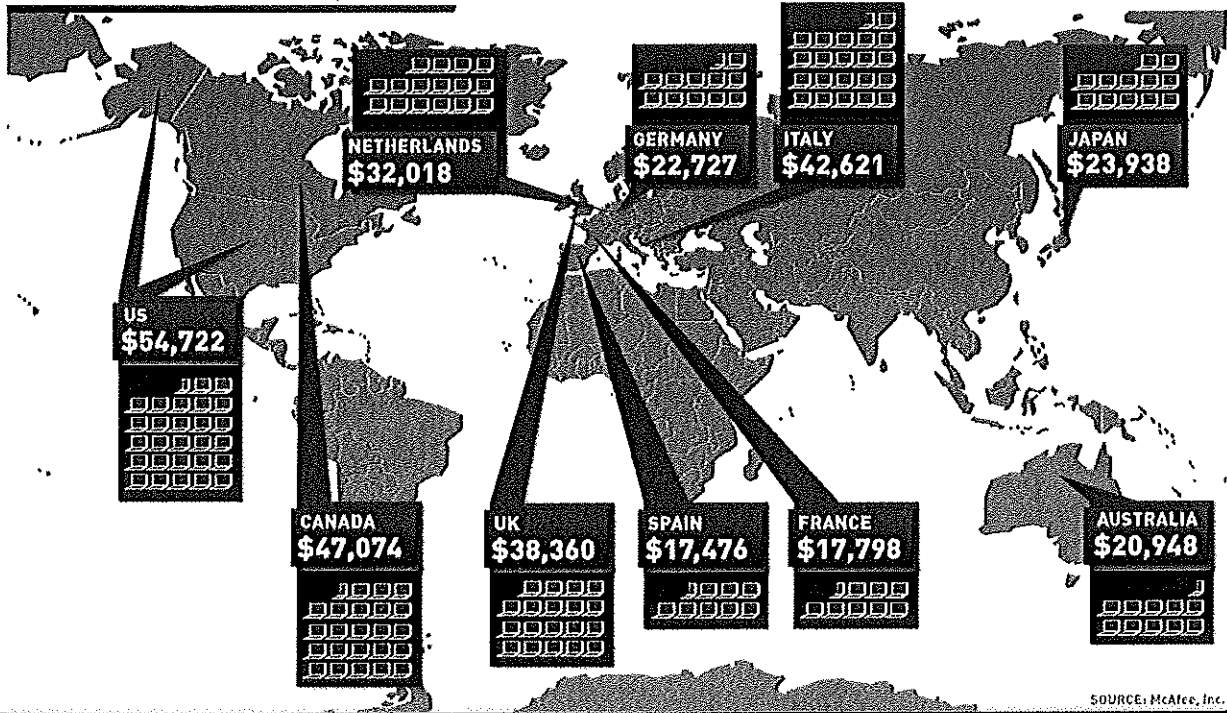
Figure 1. Tables of Online Afterlife Companies Summarized by Beyer and Griffin (2011)

**WHAT ARE YOUR DIGITAL ASSETS REALLY WORTH?**  
 (ALL IN US \$)

- digital assets | dijital | assets |
- Entertainment Downloads
  - Photos
  - Career Info
  - Email
  - Personal Records
  - Hobbies



**GLOBAL AVERAGE: \$37,438**



SOURCE: McAfee, Inc.

digital devices | dijital | devices | Internet-connected devices, i.e. smartphones, laptops, PCs, tablets, netbooks

People predicted that it would take them on average 82 hours to restore their digital assets if lost.

60% of global consumer Internet users have at least 3 digital devices per household.

25% of global consumer Internet users have at least 5 digital devices per household.

Figure 2. A global survey on what your digital assets are really worth by McAfee (2011).



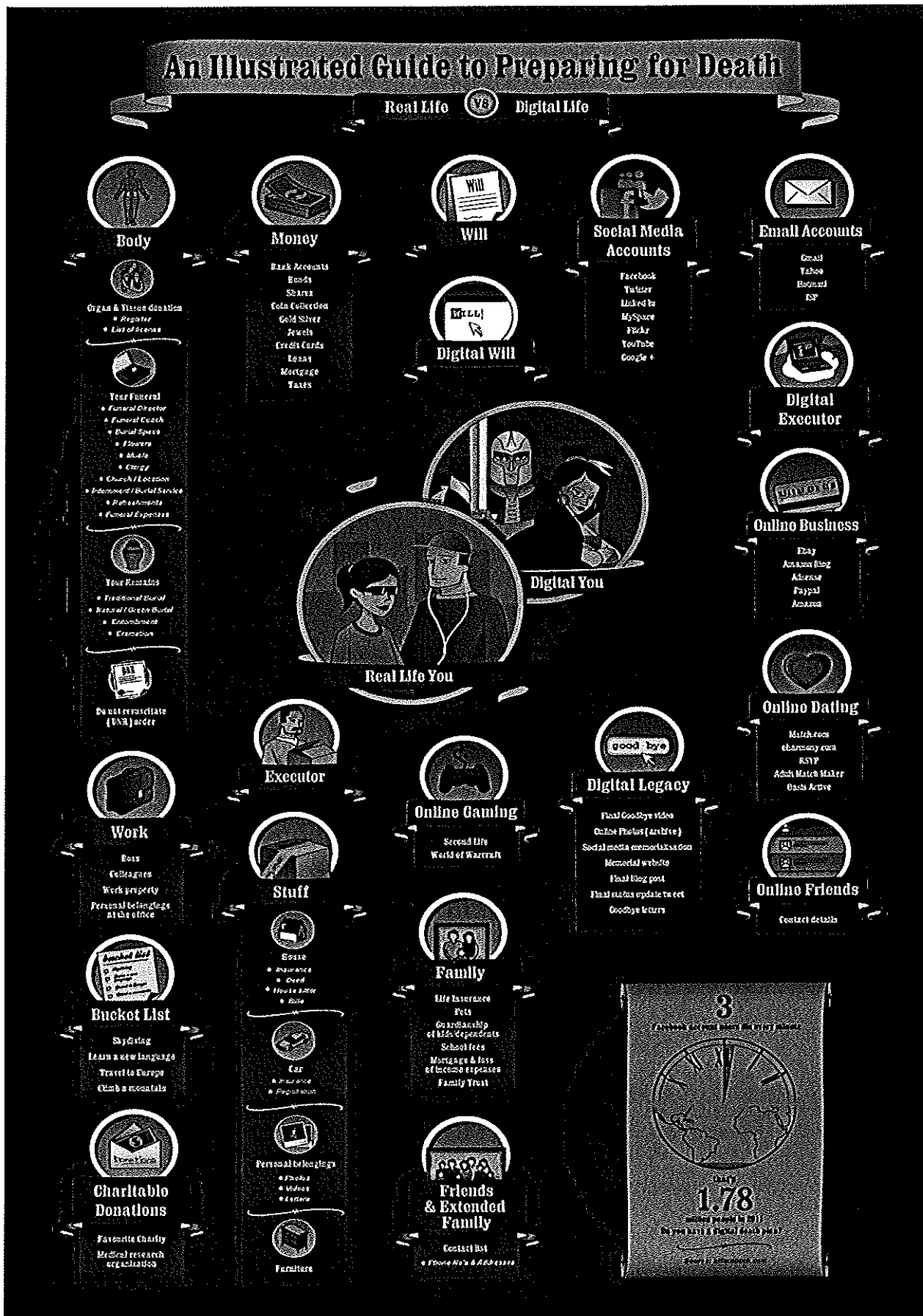


Figure 3. Illustrated Guide to Preparing for Death on LifeInsurance Finder Blogazine (2012)

## APPENDIX B: Questionnaire of Estate Planning for Digital Assets

Note: this below questionnaire Modified from Anderson (2011) is only a first draft of questionnaire. Further questions will be created and reviewed in the research.

1. *What is your age? \* (select one)*

Below 18    18-24    25-29    30-34    45-54    55 or Above

2. *What is your gender? \* (select one)*

Male            Female

3. *Where will you store your Digital Assets? \* (select one or more)*

Desktop    Laptop    USB Flash Drive    Smart Phone

External Hard disk    Tablet    CD/DVD    Cloud    Others: \_\_\_\_\_

4. *Which online account(s) do you have? \* (select one or more)*

Email, etc. Google, Yahoo, Hotmail             Online game

Social networking, etc. Facebook, Twitter     Online Business, etc. eBay

Blog     Web hosting

Online payment system, etc. Paypal

Others: \_\_\_\_\_

4. *Have you heard about estate planning of Digital Assets? \* (select one)*

Yes            No

5. *Do you know what will happen of your Digital Assets after Death? \* (select one)*

Yes            No

6. *Do you know some individuals can control your online accounts? \* (Select one)*

Yes            No

7. *If you can manage your digital life after death, what will you do? \*(select one or more)*

Write a will/trust                            Tell information of your accounts to family

Find online afterlife companies    Keep information secretly

Remove digital assets                    Do nothing

Others: \_\_\_\_\_