



James Creekmore: "You need to make sure you don't have the same name as somebody in Utah."

E-business legal issues add a wrinkle >

Executive Summary:

The Internet provides substantial possibility for many businesses. It also opens a can of legal worms that will require some help.

By Gene Marrano

Many concerns are the same as those confronting a brick and mortar business based solely on terra firma, but when building a Web-based company or establishing online commerce as a core component, there are specific legal issues to think about. That's according to attorneys in this region who deal in such matters.

Protecting creative content on Web sites, trade-marking domain names, hosting advertisements, how consumer information is stored or protected and the fact that the site can be accessed worldwide factor into legal issues surrounding e-commerce. LeClair Ryan attorney Tara Branscom, based in Roanoke, says many in her profession are



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—James Creekmore

trying to wrap their arms around everything they need to know—before consulting with clients on e-commerce.

"You're going to have privacy [and] security issues," says Branscom, who focuses on intellectual property assets. European Union laws regarding the customer information collected is strictly regulated, she notes. The lack of face-to-face transactions and written contracts must be overcome with agreements placed online. A check-off box asking the reader to agree with the terms is suggested and may act as proof that they were actually read in case of a dispute.

Branscom notes that, in many cases, signatures are not required. What jurisdiction governs a transaction and how to follow through on warranty claims are just several of the "problems associated with invisible purchasers and buyers," says Branscom. Credit card processors like PayPal allow companies to outsource many of the legal issues and hassles.

Leslie Spasser of LeClair Ryan (offices in Roanoke and Blacksburg) says, "The first thing you need to do is have your domain name registered [and] certified." Registering variances of a name is suggested in some cases, depending on the brand strength of that name.

Federal "cybersquatting" laws enacted in 1999 allow companies to protect their names from nefarious types that might use it for their own gain. Determining what exactly a site is to be used for primarily—information gathering, image building, marketing or e-commerce—helps Spasser determine how she can help a client with legal advice.

"Once you have a sense of that, then you can draft a 'terms of use and privacy' policy ... in a way that protects you."



Tara Branscom: "You're going to have privacy [and] security issues."

Dan Smith

James Creekmore says business in Blacksburg is so brisk at many high-tech firms, especially when it comes to e-commerce issues, that he moved his small law practice's primary office there from the Roanoke Valley. The Creekmore Law Firm specializes in intellectual property rights. "We have a substantial number of startups that we work with on just these types of issues," says Creekmore, a William and Mary law school alum.

Creekmore has this advice for those seeking

to go online: "Once you have a Web presence you are no longer a local business, you are now an international business." That can affect trademarks, advertising, the products sold, the company name and all copyrights.

Expect to spend several thousand dollars with a law firm to deal with Web business issues, says Creekmore. "You need to make sure you don't have the same name as somebody in Utah." Or London, he might have added. 📄



Published in
May 2009 Edition
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Valley Business
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