

NEED TOP LINE RESULTS? - *Infringe!*

The term “SEO” is rapidly rising to the top of the ranks of the most popular technology acronyms these days. This is quite ironic, of course, because SEO is short for “Search Engine Optimization” – the art of causing a website to rise towards the top of Google and other Internet search engine search results. Companies have become somewhat obsessed these days – for sound business and marketing reasons – with getting their websites to the top of the Google search result heap where everyone can see them first.

Online marketing gurus typically use a variety of methods to help a domain climb the results ladder, but one very tried and true method is to develop a series of “keywords” – words and/or phrases that describe the domain owner’s business and may be frequently used in Google searches for Internet content. These keywords are creatively sprinkled throughout a site’s content in order to maximize “hits” on Google.

Marketers also use keywords in another way that can get them and their companies into trouble. This is by using keywords as new domain names, which not only point to web pages that themselves contain keywords, but also contain reciprocal “back links” connecting the keyword search sites to the companies’ own site and causing users to be redirected to that site. This does work to improve Google search ranks, but companies run into problems when keywords incorporate third-party trademarks.

But use of a competitor’s trademark either as a keyword or a domain name poses risks. Though still an unsettled area of the law, some uses of a competitor’s trademark may constitute trademark infringement. And use as a domain name may subject you to claims of “cyber-squatting.” Such claims can result in litigation or a UDRP – Uniform Domain Name Dispute Resolution Policy – proceeding, both of which can be expensive and disruptive.



When thinking about **SEO**, keep these simple guidelines in mind:

- Hire an experienced marketing professional or firm with an established record of success and referrals from past or current clientele
- Be sure to have a written agreement that requires the marketer to grant you the right to approve of the keywords to be used
- Require the agreement to describe the SEO practices that are to be employed by the marketer
- Make sure the marketing company agrees to indemnify you from any trademark or other liability you may incur by reason of the various keywords and other methods the marketer sets in motion
- Structure the agreement so that you are able to get out after a fairly short period of time if the SEO tactics are not working, but permits you to continue if it is working as retaining good results requires constant work

Dear Lackebach Siegel Clients:

We strongly advise all clients with an Internet presence to consider having us provide you with a complete evaluation of the legal issues related to your website(s). Aside from potential SEO pitfalls and related contract issues, the Internet presents an almost endless list of potential legal issues and problems that may not be apparent. Written content, photos, designs, and underlying software programs may each be subject to copyright. If any of these are copied from other sites to yours, your site may infringe. If someone produces any of these elements for you, that person may own rights to them and be able to prevent you from using them should there be a future dispute. And to complicate matters further, web designers frequently transfer rights to the content posted on a site to the site’s owner, but expect to retain the copyright to the design elements – such as the look and layout – of the site. As a result, the designer can prevent you from hiring someone else to create a new site for you that looks like the original.

This is just a very, very short list of possible Internet legal issues. Websites also frequently raise issues of trademark infringement, trade libel, and publicity rights. If you think you may need legal help with your online presence, or want to review your particular site and its creation, give us a call. Several of our professionals specialize in these Internet matters.

To discuss SEO and other Internet Asset matters, please contact Jeffrey Rollings, JRollings@LSLLP.com, Renée Duff, RDuff@LSLLP.com, or Robert Golden, RGolden@LSLLP.com.

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