

Technology Law for <http://www> Start Ups

Website Policies

Every commercial web site should consider having language advising consumers of terms of use, conditions and policies. For example, websites that sell to customers in the United States and accept credit cards as payment may have to provide specific information about a location of any storefront and terms of the seller's refund or warranty policy. And, websites targeted at certain consumer (e.g., children, medical patients, banking investors, etc.) may need to have very specific procedures in place for conformity with various laws.

The Privacy Policy

One policy that you will see on nearly every commercial website is the "Privacy Policy". Customers often want to know whether a business intends to sell personal information, such as a customer's name, e-mail address, other contract information, web surfing or viewing and activity preferences, and/or purchasing history (e.g., sometimes referred to as "consumer profile" or "ClickStream" data). Businesses who assure their customers that such information will be held secret often see increased sales. Each business needs to make sure that the privacy policy it creates best suits the needs of its customers and that it complies with the law (e.g., medical data and compliance with HIPAA, uploading potential content owned by others, etc.).

The Refund Policy & Warranty Provisions

Many U.S. states and territories require that merchants establish a refund policy as well, as a way of letting consumers know what that policy provides. For example, if your business provides a refund within thirty (30) days, then include this language on your website. At the very least, if a consumer inquires as to what your refund policy consists of, you must timely inform that consumer via e-mail or another communication method, typically within five to seven (5-7) days of such a query.

Terms of Use

The more difficult policy to communicate to your website visitors is your "Terms of Use" or "Terms of Service". Some websites label this as "disclaimer". Since every website is different, each website needs to have its own, unique, Terms of Use. And each business is different and should have Terms of Use that are created to compliment the distinctive features, procedures, and policies of its structure. So, don't knock off the Terms of Use of your competitors without understanding that you might be doing your business a disservice.

That is not to say that a business cannot learn something from reading the Terms of Use on another website that is similar. And, a business may discover, that there are certain standard elements in a Terms of Use.

The Copyright Notice

While not required under U.S. copyright law, posting a copyright notice on a website may reduce the likelihood of another plagiarizing your website content, may increase the amount of damages a copyright owner is entitled to if someone infringed, and may protect the business' interests in jurisdictions that are not signatories to the Berne Convention.

To the extent that any copyright notice is required, notification should include:

Copyright [date] by [name]

You can substitute the “c” in a circle © instead of the word “copyright”.

The DMCA Safe Harbor

If your website receives uploaded content by others, has message boards, a guestbook, a chat area, or any other place that a visitor could, without the consent of the business, post potential copyrighted material, the business may get protection under the Digital Millennium Copyright Act (DMCA) by registering with the U.S. Copyright Office and designating a registered agent for DMCA notification. Each business should consult with an attorney or with the U.S. Copyright Office to understand what this involves before registering an agent.

Copyright Search & Information Links

Search registered US Copyrights <http://www.copyright.gov/records/>

US Copyright Office <http://www.copyright.gov>

World Intellectual Property Organization Copyright Site

<http://www.wipo.int/copyright/en/index.html>

Digital Millennium Copyright Act <http://www.copyright.gov/legislation/dmca.pdf>