



WHY YOU SHOULD THINK ABOUT COPYRIGHT PROTECTION FOR YOUR WEBSITE BEFORE YOU EVEN HIRE THE WEB DEVELOPER

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Most companies know that a strong internet presence is crucial to success and invest their marketing dollars to create websites that both reflect the company's unique identity and drive business their way. However, many businesses fail to recognize that their original website content is valuable intellectual property and fail to take steps to adequately protect that content from being stolen or misused by a competitor. With little cost and effort, website owners can protect their investment in their website by obtaining a copyright registration from the United States Copyright Office.

Copyright is a form of protection provided under United States copyright laws that gives ownership rights to the creators of "original works of authorship" including, but not limited to, website content. Generally, no one other than the copyright owner can use the copyrighted work without the owner's permission except under certain limited exceptions. A copyright is generally established once an original work of authorship is created in fixed, tangible form. This means that the copyright in a work of authorship immediately becomes the property of the author who created the work.

Although a copyright in a work is granted automatically and as soon as a work is created, there are a few key reasons why website owners should consider taking the additional step of registering website content with the United States Copyright Office. First, registration creates a public date record of the copyright claim. Second, copyright registration gives the copyright owner the ability to obtain statutory damages and attorneys' fees under United States copyright

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laws. Third, a properly registered copyright gives the copyright owner access to the federal courts in the event their copyright is used improperly or without permission.

Since most companies have their websites created by third-party web design companies, another important issue is who owns the copyright after it has been created. Unless your contract with your web developer specifically includes what is known as a “work made for hire” clause, then your web developer may be considered the “author” and, therefore, may own the copyright to your website. In many cases, web developers may not even intend or be aware of the fact that they may own the copyrights to the content they created. Nevertheless, be sure to have your attorney review this contract on your behalf to be sure that it adequately specifies that your website is being designed as a “work made for hire.” Occasionally our attorneys draft these contracts for clients where the web development company lacks a formal contract for their services because, if nothing is agreed upon, your company will not own its website content. Prior to registering with the United States Copyright Office, you should ensure that you properly own the copyrighted content.

Copyright registration is a relatively simple and inexpensive way to protect original website content. In some cases copyright owners may register their copyright online via the United States Copyright Office website for a fee of \$35.00. The small cost of obtaining the copyright registration could greatly benefit businesses in the future if a competitor website owner copies your copyrighted work from your website. For more information on how these issues might affect your Company’s website, or for other questions about copyright protection, please contact Evan C. Pappas at (717) 763-1121 or pappas@shumakerwilliams.com.

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