



PROTECTING YOUR ONLINE BUSINESS ASSETS IN THE AGE OF COVID-19

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Intellectual Property on the Internet

- Intellectual Property (IP) consists of the protection of intangible assets. These assets are extremely important tools to protect a Company on the Internet. First establish your base toolbox which might include:
 - Trademarks/Trade dress
 - Patents
 - Trade secrets/Ideas
 - Copyrights
 - Domain Addresses

Intellectual Property

- IP Toolbox
- Trademark
- Protects your brand – Name, Logo, Tagline:
 - Includes any word, name, symbol, or device, or any combination
 - Used in commerce
 - Identifies and distinguishes goods of one manufacturer or seller from the goods manufactured or sold by others

Copyrights

Protects Artistic Expression

Photography

Paintings

Drawings

Sculptures

Websites

Graphic Arts

Music

Literary Works

Domain/URL addresses

- Protected by trademarks

 - example- www.rxsmartgear.com or www.rxsmartgear.ca

- Valuable for branding

- Enforcement through ICANN Proceedings

 - Demand Letter/Unless willfulness already established

 - File a Complaint through ICANN

Uniform Domain Name Dispute Resolution Policy adopted by Internet Corporation for Assigned Names and Numbers (ICANN)

- Domain name is identical or confusingly similar to a trademark or service mark
- The Defendant has no rights or legitimate interests in the domain name
- The Domain name has been registered in bad faith
 - 1 administrator – WIPO (\$1,500 cost) or Forum (\$1,300 cost)
 - 3 administrator panel- WIPO (\$4,000 cost) or Forum (\$2,600 cost)
- If Responsive Pleading-Mini Litigation
 - If none, likely award would be assignment of the infringing domain name

Take Down Procedures on the Internet

- Registered IP- Trademarks, Copyrights and Patents Enable Takedown on Many Internet Platforms
 - DMCA Takedown, Trademark takedown, Patent takedown

Examples

- AMAZON
- eBay
- Facebook
- TikTok
- Instagram

Internet Protection

- IP Protection
- DMCA
- Confirmation of Rights
- European Union's General Data Protection Regulation "GDPR"
- California Consumer Privacy Act "CCPA" requirements 1/1/2020
- Privacy Policy
- Terms & Conditions-interactive websites
- Children's Online Privacy Protection Rule

GDRP & CCPA

- GDRP
 - - Adopted April 14, 2016
 - - A regulation in the EU on data protection and privacy for all individuals within the EU and the European Economic Area (EEA)
- CCPA
 - Signed into law June 28, 2018
 - Requirements go into effect on January 1, 2020
 - Affords consumers protections in terms of how their personal information can be used by for-profit entities

Children's Online Privacy Protection Act ("COPPA") 15 U.S.C. 6501-6505

- Websites directed at children under 13 or which collect information on children are required to:
 - Provide parents with notice
 - Obtain consent
 - Provide a means of review
 - Provide opt out
 - Limit collection of the information
 - Establish protection policies

Website Privacy Policy and Terms & Conditions

- Terms & Conditions
 - sets forth the requirements to use or access your website
 - sets forth ownership of the goods and/or services provided
 - addresses IP ownership
- Privacy Policy
 - addresses the business' compliance with privacy laws GDPR, CCPA, COPPA, etc.
 - holds your users to the required privacy regulations

*This is a high level overview which does not contain all the necessary terms. We suggest having your counsel draft the Terms & Conditions and Privacy Policy based on your type of business.

Issues Related to Websites- Are Becoming more prevalent now that Everyone is Doing Business On-Line in Light of COVID-19

- Copyright Infringement
 - Copying content
 - Passing-off/Unfair Business Practices
- Trademark Infringement
 - Domain Name Infringement
 - Passing Off Under the Lanham Act
 - Unfair Competition
- Privacy

Thank you!



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Questions? Please feel free to
contact me any time for guidance.