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## “Tip of the Month”

### Website Pitfalls: Copyright

Everybody’s getting a website these days. Website designers are popping up like mushrooms. Their design services are often user-friendly and moderately priced. Depending on the nature of the site, however, there could be a problem. Who owns the content of the website?

Copyright does not protect raw ideas. It protects the form of expression of the ideas in a fixed medium. Website design code and the screens shown on the computer monitor are forms of expression. Copyright applies automatically to these creations.

Copyright is inherent in the author. No registration or other formality is needed. If a website designer makes creative contributions to the site, the designer could be deemed at least a co-author.

Any given website can be highly imaginative, interactive and valuable. It could become a valuable business asset for sale. The buyer of the website wants only assets that are free and clear. Who owns the copyright?

Ownership of website copyright should be sorted out up front. Many website designers have form contracts that do not mention copyright. The person hiring the designer must tack on an addendum. The addendum would say that all copyright in the website is assigned to the hiring person. The designer agrees to take any steps necessary to assign all copyright to the hiring person. Better yet, have the designer sign an Assignment of Copyright.

Trouble is, it’s usually not that simple. Instead, the designer is concerned about giving away copyright to code or designs already existing in his or her arsenal. The designer wants to remain unhindered in preparing websites for many other customers.

Copyright is usually a bundle of rights, shafts of wheat in the eagle’s claw. Each of the shafts can be dealt with individually. An assignment of the whole bundle of rights or of a single shaft effectively transfer title. Short of an assignment, however, one can grant a license. The license is a permission to use, to make a copy. Licenses can be narrow or broad, exclusive or non-exclusive, of brief duration or eternal. A copyright agreement can combine a license with an assignment or partial assignment of copyrights.

When sorting out the copyright issues for website design, there are standard principles and individual tailoring applied to each case. The important thing is to have the copyright question in mind at the beginning. Get it settled. Otherwise, copyright can lead to some seriously sticky problems down the road, especially if the website gets very valuable. Prevention is better than cure.

For more information, give us a call at 668-1971 or contact us using e-mail through the Internet at *Meslaw @ aol.com*. Keep an eye out for our new website, *biz-patlaw.com*, coming soon.