

SNARED ON THE WEB: THE LEGAL RAMIFICATIONS OF INTERNET MARKETING TACTICS

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ABSTRACT

Many marketers who have shifted to the online business world have done so with enormous enthusiasm, an appreciation for the power of technology, and a good feel for how this medium is offering advantages over traditional business practices. Unfortunately, many are also entering with little understanding of potential legal implications of their actions.

This special session examines five important legal issues threatening to spoil even the most successful Internet marketing venture. The session will take a two-prong approach in its coverage. First, an Internet marketing tactic will be presented with an explanation and examples of how the tactic is designed to help the marketer achieve their objectives. Next, the legal perspective of the tactic is examined and examples presented suggesting both positive and negative consequences of each tactic.

Issues covered in the special session will include:

Marketing Methods

Smart marketers are continually devising what they believe are new ways to carryout business activity on the Internet. Other marketers see value in replicating what competitors or other websites have done and often implement many of the same techniques originated by others. Yet many marketers have been surprised to learn that methods they use to operate activities on their website are potentially infringing on patents held by someone else. A patent on how a business activity is done is a relatively new legal hurdle facing many Internet marketers. Business method patents are discussed in terms of the legal capital they offer the patent holder while posing potentially significant costs for those found to be infringing.

Website Content and Design

Provides an overview of techniques, methods and resulting benefits marketers receive from crafting strong content-oriented websites. These content and design issues are then evaluated against

applicable copyright and trademark laws as well as examining recent regulatory trends.

Domain Name Acquisition

Starting an Internet marketing venture often begins with the registration of a site domain name. The right name can prove beneficial in creating a brand and also building site traffic. Yet registering a domain name without careful investigation can lead to legal disputes. For this topic the legal ramifications of domain names are examined including various alternatives for resolving such disputes.

Keyword Advertising

Internet marketers have embraced keyword advertising as an effective means of reaching a highly targeted audience. In particular, search engines provide excellent tools for creating and delivering such advertisements. Yet using text ad tools may create legal problems especially in terms of trademark infringement.

Market Locations and Legal Jurisdiction

The Internet is a communication and distribution channel that offers local marketers the ability to quickly become a global marketers and, by doing so, expand their potential target market to many times its current size. Yet few Internet marketers understand how local laws may impact their business. In this part of the special session, coverage is given to the Zippo test that is used to determine whether a website owner is subject to the jurisdiction of a particular out-of-state or federal court.