

Compliance Checklist for Company Websites

I. Website Design and Development and Set-up

- A. Agreement with Web Developer
 - 1. Work for Hire – Company retains all rights, especially rights in intellectual property
 - 2. Control and indemnification obligations
 - 3. Ownership of the domain name
- B. Other Agreements -- Agreement with web hosting company/ASP agreements
- C. Website Use
 - 1. Terms and conditions of website use
 - 2. Interrelation with privacy statement
- D. Other
 - 1. Process for checking links, databases and E-mails systems for functionality
 - 2. Website instruction (i.e., instructions to refresh images)
 - 3. Legal infrastructure

II. Company Set-Up/Structure

- A. Situs Issues
 - 1. Nature of business entity
 - a. Corporation/partnership/limited liability company/other
 - b. Single entity/multiple company structure
 - 2. Location of Equipment
 - a. Implications for Taxation and other issues
 - (i) Personal property tax issues
 - (ii) Compliance with state “sales tax” requirements
 - 3. Physical Presence of Company/Company unit
 - a. Does location of equipment vs. location of physical offices constitute “doing business” in a particular state or taxing jurisdiction for purposes of real property/state franchise/sales taxes
 - b. Does existence of website constitute “doing business” under state law?
 - (i) “Qualification to transact business” under state corporate or similar “doing business” laws
 - (ii) Licensing laws
 - (iii) Compliance with federal/state “sales tax” requirements
 - c. Personnel -- Implications of the presence of personnel in a state on the above issues
 - (i) Employees
 - (ii) Implications with affiliates
- B. Interaction with Third Parties
 - 1. Affiliates and Non-Affiliates
 - a. Who gets credit for the “hit,” the “inquiry” and the “sale”
 - b. Payments to others without sales
 - c. Commission arrangements for sales
 - 2. Contracts with vendors/suppliers -- Can Company get the product/service to the consumer
 - 3. Fulfillment/outourcing requirements
- C. Obtain (and disclose if required) Federal/State Licenses Required to Operate

1. Regulated industries -- Contractors, professional engineering firms, common carriers, pest control companies
2. Regulated persons -- Accountants, lawyers, doctors, engineers

III. Intellectual Property

A. Company Property

1. Use of registered marks
 - a. Company's names, logos, taglines
 - b. Use of other party's registered trademarks
2. Use domain names
3. Information provided on the Website
 - a. Is Company inadvertently disclosing "confidential" or "proprietary" information
 - b. Use of information obtained from third-parties
4. Blogging policies
 - a. Compliance with the Company's confidentiality policy
 - b. Use of Company's time, computers, and/or network
 - c. Defamation and other liability issues
 - d. First Amendment rights
 - e. At-will employment
5. Copyright of Website materials
6. Policy for infringement and dilution/knock-off sites
7. Linking/framing issues

B. Third-Party Intellectual Property

1. Does the Company have adequate rights to use that property?
 - a. Web development agreement
 - b. Third-party license
 - c. Proper use and Attribution of third-party marks and copyrighted information
2. Joint marketing agreements
3. Linking/framing issues
4. Publicity issues

C. Web Technology

1. Technology, software, internet methods and processes
 - a. Owned/developed by the Company
 - (i) Patent and copyright rights
 - (ii) Licensed from third parties
 - b. Does use of website require use by customer of special processes/software? (e.g., required use of Adobe Acrobat to Company files)
 - a. Method for download/use
 - b. Required licenses and terms of use

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