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**Do You Own Your Web Site Design?**

By **Richard A. Chapo**

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Your web site has been up for a few months and you are making money hand over foot. While surfing sites one evening, you are shocked to find a competitor using your design. You find out your designer sold them the same design. They must be breaking the law, right? It all depends on whether you own the copyright to your web site design. Many site owners are shocked to find out they do not.

**What is Copyright?**

Copyright is a method of protection for authors of original works such as literature, computer programs, music, artistic pieces and photographic images. The protection provided by copyright arises under Title 17 of the United States Code. A copyright gives the owner the exclusive right to do or authorize others to: reproduce, prepare derivative works, distribute copies, publicly display and generally use the material that carries the copyright in exchange for something, typically a royalty or fee. The copyright owner often grants this use through a license agreement, but can sell it outright.

**Who Can Claim Copyright?**

Copyright protection is created IMMEDIATELY upon the creation of a fixed form of the material in question and granted to the person that created the material. For instance, I automatically own the copyright to this article upon completing it. I am not required to file for an official copyright with the US Copyright Office to prove that I am the owner of the content. However, if I want to sue a person for using my article without permission, I must first register it.

**What If I Hire Someone To Create A Web Site For Me?**

If you hire a person or company to handle the design of your site, the complexities of copyright become a major issue for you. Specifically, the issue of "work for hire" is critical in determining whether you own the design.

## Do You Own Your Web Site Design?

"Work for hire" refers to the relationship between your business and the person creating your web site. If this person is an employee of your business and creates the material within their scope of employment, then your business owns the copyright. However, what happens when the designer is not an employee? In such a situation, the following must occur for the copyright to automatically transfer to you. The work must be specially ordered or commissioned for use as: A contribution to a collective work, A part of a motion picture or other audiovisual work, A translation, A supplementary work, A compilation, An instructional text, A test, Answer material for a test, or An atlas.

It is my opinion that the design of a web site does not fall into any of the above categories. As a result, you do not own the copyright to the design and can do nothing about the fact that one of your competitors is using the design. Obviously, this is not the answer that most site owners want to hear. So, what can you do to protect your business?

When you hire an outside party to design, alter, amend or improve your site, you must have them sign a written contract. The contract must include a clause clearly establishing that the copyright to the material produced is vested with you, not the designer. You should then file the contract with your important documents as some designers "forget" that assigned the copyright to you. Presenting a copy of the contract and noting that it allows for the recovery of attorney's fees usually solves the problem.

The issue of copyright ownership of a web site or aspect of a site pops up often. Finding your design being used on another domain is bad enough, but it can get worse. If you sell your business, the attorney for the party purchasing your business will always ask about the copyright of the site as part of the due diligence process. More than a few business deals have fallen apart when the lack of copyright ownership is discovered. Obtaining copyright at the outset of your business effort will avoid serious problems in the future.

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This article is for general education purposes and does not address every facet of the subject matter. Nothing in this article creates an attorney–client relationship.

### **Web Site Design By Using A Template.**

**By Colin Visser**

If you are like many others on the internet, then you would like to have a web site of your own. The problem is, you don't know how to design a web site, and you can't afford to pay a web site designer to design a new site for you. So how do you get around this problem? Actually it is very easy – and as always there are options! There are many talented web designers on the internet, and they will allow

## Do You Own Your Web Site Design?

you to purchase a web site design from them for a very reasonable price. The designs available to you are as varied as the people that made them. There is literally something for everyone – a design for all tastes and all purposes – just waiting for you to come along and use it.

These pre written web sites are called web site templates, and some of them are extremely well done. Web site templates are usually created one of three ways – they are : Html, Adobe Photoshop and Macromedia Flash. If you know how to edit html, a template can be a quick and easy way to turn your ideas into a new web site. I can already hear some of you saying "That's no good to me, I can't write html!". That's ok! There is the photoshop style of web site template that you can try. Do you have a digital camera? Have you ever put a title on your photos? Have you edited your pictures or made a collage out of them? (multiple pictures joined into one..) If you have, then you can probably make your own web site using Adobe Photoshop – or a similar photo editing application. The photoshop templates do all the initial design work for you, you just have to fill in the text areas with whatever you want to say. It really isn't that hard to do. The software will do most of the work, you just need the 'content' to fill in the provided spaces. Have a go at home using your own digital photos, and when you have made a couple of pages download a photoshop template and make a complete web site. Of course you will need someone to host your new site, but as most ISP's include a small 'home page' area with every account, you can probably put your new site there to begin with. The next type of web site template uses Macromedia Flash to create it. Web site templates designed using Flash are usually animated and can have some quite advanced visual effects. The downside to using Flash templates is they are not really intended for novice web designers – the Flash software is quite complicated – but the results can be well worth the effort.

As a side note, search engines have a very poor understanding of Flash web sites, and if you want to create a commercial or business web site, then you would be better off using html or photoshop for your design.

The final option for designing a web site by template is to find a template that you like the look of, and have someone else turn it into your web site. By purchasing a web site template you will greatly reduce the cost of the design of you new web site – and as a bonus, you will know from the start what it will look like when it is finished :-)

When you use a template to design a new web site please be aware that you are not the only person on the web that is using that template. There could be other web sites using the same design – but with the enormous number of web sites on the internet it is unlikely that you will ever find one of those sites. If you want to guarantee that your web site is completely unique, then you need to design it yourself, of you will have to get it designed just for you. Good luck with your new web site!

Colin Visser is the owner of

and also

Services : web

site design & english proof reading. Proof reading for web sites, software, help files, email and

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