



OUT OF SITE ...OUT OF MINE?!

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THE DARK SIDE OF BEING ONLINE: WEB SITE THEFT

Virtually every business owner in the 21st century knows the importance of a Web site. The best sites are informative in content, attractive in design, and interesting in presentation. They also require a lot of effort. That said, what do you do when the Web site you've worked so hard on is stolen by your competitors?

That's a question I faced recently, when I stumbled upon literally dozens of instances of my Web site's copy, images and design having been duplicated by other companies. Most of us periodically "google" ourselves to see what information is floating around about our businesses. A routine search like this initially revealed that another DJ company across the country had copied, word-for-word, the text from nearly all of the pages on my Web site: my index page, my company history, my frequently asked questions, even my client testimonials. Interestingly, the company that did this failed to change several instances in the text where my company, MyDeejay.com, was mentioned by name. So, the Web site visitors of "XYZ Entertainment" (name changed, obviously) were treated to an in-depth explanation of MyDeejay.

com's insurance, equipment and performance style.

After discovering this, I then started searching for key phrases from my Web site, phrases I had carefully crafted to represent my business. Within a few minutes of searching, I'd found about 12 companies who'd also stolen my text, and in some cases, the protected images that my photographer associates had provided me, and the layout of my site. These same companies had not only used my text on their own Web sites, but had also reposted it on various Internet directories and classified sites. One had even reformatting it into a published article, complete with the other DJ's byline. All in all, there were nearly a hundred instances of my content, word-for-word, plagiarized online.

Reading Your Rights

A lot of people, particularly those who don't place a high priority on their own Web sites, don't see the big deal with someone "borrowing" from your site. Others believe that copying others is fine as long as you "give credit" to the person that wrote the text. However, it is a much bigger issue than many realize, both in terms of legality and in the effect on your business.

Because copyright law is often misunderstood, I'll try to cover the basics here (however, you should obviously consult a lawyer for more in-depth information). When a creative work—poem, essay, story, audio recording, musical composition, painting, etc.—is copyrighted, its originator claims the right to control how it is used. A work is not an idea or concept; it is the actual words, notes or strokes that comprise the work. One good example is the character Mickey Mouse: the design of the character is protected by copyright. That means it cannot be reproduced or used without permission, and derivative works (close copies or very similar designs) may not be created. However, that does not mean that no other cartoon mouse may exist; the copyright only applies to the work known as Mickey Mouse. Anyone is free to create a cartoon mouse as long as it differs from Mickey Mouse sufficiently enough that it would not be deemed to be an imitation of the original.

So, how does the creator of a work copyright it? Many people believe, falsely, that a copyright must be registered with the United States Copyright Office in order to be legal. This is not true. A work is copyrighted the moment that it is recorded in tangible form—meaning that it is documented in some physical medium. The owner of the work does not even need to announce the copyright for it to be in effect. Also, since 1989, it is not necessary to include the symbol for the copyright (the letter C in a circle, ©) on a document in order for it to be legally protected. There are, however, many reasons that you should include the symbol and the year (or years) the text was created on your Web site, the most important being that you may only be entitled to reduced damages in an infringement suit if they are not included. Registering the work with the copyright office gives the owner the added ability to sue for statutory damages as well as "real" damages (such as loss of income). Those damages can be very substantial; willful infringement penalties can be up to \$150,000 per work.

The Damage Done

Simply put, the unauthorized reproduction of your Web site text is illegal. It's intellectual property theft, and companies or individuals who steal from you in this way may suffer very real repercussions. They may face sanctions from their Internet service providers, including the shut-down of their Web site, but more significantly, they may be liable to you for compensatory damages. The reason for this is that intellectual property theft truly does harm your business.

The potential damage to your company is twofold. First, it undermines your efforts at Internet marketing, something every business needs to be focusing on these days. Search en-

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gines penalize sites that contain content that is duplicated elsewhere on the Web, and they don't always give bonus credit to the site who originated the material. By receiving lower scores from search engines, you then receive lower rankings among your prospective clients' search results. We all know that if a potential client can't find you, they can't hire you.

Second, your company's image could very well be tarnished when your content and images appear on other sites. We're all trying to grow our business and to attract marketing and media opportunities. When your site is mirrored by another DJ, a media source or other entity won't necessarily know who wrote that impressive text and could assume it's the other company. Or, they could perceive both companies as shady, and therefore pass you up for a great opportunity.

Action Steps

That said, there are steps you can take to address the problem of being plagiarized by other companies. Step one, as I described earlier, is to determine if it's affecting you. You can enter phrases from your Web site into any search engine (surrounded by quotation marks), or use a free site like Copyscape (www.copyscape.com) to track instances of duplicated content. If you find that your site has been copied, the next step is to

determine the identity of the offending company. Most sites post the business owner's name and contact information. You'll want to document this, as well as everything else you can. Save screen captures of each page that contains stolen material, with the URL. You may want to check for Google cached versions of the site, or check <http://web.archive.org>, whose Internet "Wayback Machine" includes a cache of most Web sites' pages dating back to their earliest publication. This information will give you clues as to when your material was stolen, and you can compare this against your own records as evidence of whose site originated the material in question.

Once you've documented all that you can, the next step is to contact the companies directly. I suggest starting with an email that is civilly worded, but firm. You'll want to provide the URLs of their pages that contain your material, advise them that your material is copyrighted and their reproduction is a violation of that copyright, and provide a date by which the material should be removed from their site. (Be prepared to hear every excuse in the book, but companies who steal Web site content most often blame a "phantom" web designer whose contact information they no longer have.)

If the company owner does not respond to you, or fails to remove your material by the specified date, the next step is to send a cease-and-desist letter. This should be sent via certified mail with signature required. The purpose of the cease-and-desist letter is to notify the offending company or individual that you claim the copyright to your work, to demand that the infringement of your copyright be ceased immediately, and to outline the consequences of failing to comply with the terms of the letter. These consequences would likely include legal action. As with the email you sent previously, you should indicate a deadline for compliance.

Your final step, if your efforts toward resolution have been unsuccessful, is to exercise your rights under the law. You can file a complaint with all the major search engines and the business' web hosting company under the Digital Millennium Copyright Act of 1998 (DMCA), which can effectively shut down their Web site or make it inaccessible via search engines. You can also, of course, file a lawsuit and seek monetary compensation. I strongly suggest that you consult with an attorney—specifically, one who specializes in copyright law—to maximize the effectiveness of your case.

Remember, everything you create for your business belongs to you, and your Web site is no exception. Until every business owner in this industry markets themselves with integrity, it's your responsibility and your right to protect yourself from plagiarism and theft. **MB**

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