

Copyright Resolutions and Solutions for 2017

Almost every business has a website where it posts both original and licensed content. What many business owners fail to consider, however, is the importance of protecting their own copyrighted content and not infringing upon the copyrighted content of others. While it can often be confusing to determine what content can and cannot be copyrighted, it may well be prudent to make understanding online copyright protection a top New Year's Resolution this year to protect your IP assets and avoid costly legal claims for your business in 2017.

As businesses expand further into the digital realm, it is becoming more important for business owners to understand the Digital Millennium Copyright Act (DMCA). The DMCA imposes strict content takedown and anti-piracy measures meant to protect copyright holders from copyright infringement on the Internet. Business owners should strongly consider asking copyright counsel to review their website's terms of use or terms of service to determine whether those terms include appropriate DMCA-related provisions. Such provisions include proper takedown/put back notices, a policy providing for the termination of repeat infringers, and electronic registration of a designated agent for DMCA notices, among others. Inclusion of such provisions will help the website owner qualify for service provider immunities under the DMCA Safe Harbor and benefit from statutory Safe Harbor protections.

Below are some additional tips for protecting your copyrights actively in the New Year:

- ➔ **Create and Distribute Guidelines.** Not only should your organization have written copyright guidelines for all employees to follow, it should also ensure that those guidelines are readily available to all employees – whether via the company's intranet or hard copy. The guidelines should include a list of frequently asked questions and detailed answers so your business can remain in compliance with copyright laws.
- ➔ **Register Your Original Content.** If your business creates and distributes original content online or otherwise, registering your works with the U.S. Copyright Office is crucial to sustain protection from infringement. Remember, copyright registration is required before you can enforce your rights in any court through legal action.
- ➔ **Review and Document.** Conduct a compliance review of your license agreements, quality

control and accounting. Create a working manifest of protected works that is updated on a regular basis.

- ➔ **Intellectual Property Audit.** IP Audits might be expensive, but they are also often very effective for many companies as they can help identify either risks or missed opportunities to exploit your intellectual property. Identification of missed opportunities can help you utilize, license and profit from your own IP in the future.
- ➔ **Monitor.** If you aren't watching the use of your online content, you won't know if there is any illegal usage. Google Alerts can be an effective monitoring tool, but you can also use a professional to patrol for piracy, and even more egregious activity such as phishing, spoofing or even "fake news" involving your brand, product graphics, contact information or content.

It is important for every business proactively to protect its intellectual property, and comply with rules to take advantage of safe harbors against online liability. Take the time now to establish systems and teams to register, review, audit and monitor your online content, so you can better protect your content copyrights and avoid the infringement of others' copyrights throughout the New Year.