

Hart, King & Coldren, 200 E. Sandpointe, 4<sup>th</sup> Floor, Santa Ana, California 92707  
714-432-8700, [www.hkclaw.com](http://www.hkclaw.com)

## Web Sites & Intellectual Property

Web sites are ubiquitous. We use them to download music and movies, to check up on the news, to follow sports teams, to connect with old friends, and, of course, to find and buy goods and services. Unfortunately, when it comes to intellectual property, Web sites attract legal issues like the kitchen sponge attracts bacteria.

**Domain Names.** At its most fundamental level, the strength of a Web site depends on the strength of the domain name and cybersquatting has garnered most of the attention. US and international laws provide significant leverage for lawful owners to protect their rights.

**Copyrights.** Probably the most prevalent problem related to Web sites is the question of ownership of the graphic components of a commercial site, including photographs, videos, images, and text. Most litigation on the subject has revolved around misconceptions about “fair use.”

**Trademarks.** A business’ brand is its most valuable IP asset and the most common manifestation of that brand is its trademark. The Internet is rife with rip-offs, misuse and infringement of competitor’s trademarks and such conduct oftentimes raises criminal issues as well.

**Trade Dress.** In an area of the law normally reserved for tangible products with a unique and recognizable “look and feel,” a California case recently went to trial over the issue of trade dress on a Web site and the plaintiff actually won. The implications may be significant.

**Privacy Rights.** The right of publicity, the right of privacy, and the rights of minors are all impacted by Web sites which gather information about visitors and there is a minefield of potential problems.

It is impossible to list or fully discuss all the IP issues related to Web sites in such a short space, but it is critical to be prepared to address them.

### KEY CONCEPTS

- 1 Web sites cannot exist without IP, but the issues related to them are myriad and often complicated.
- 2 An experienced IP attorney should perform regular audits of a Web site as a good first step towards identifying potential problems.
- 3 The awareness of IP issues and the decision to address them can be the biggest factor in the success or failure of a commercial site, and thereby, a business.

---

*“Arguably, the Internet and the development of e-commerce has been the single biggest change in the way we do business since the Industrial Revolution..”*

---



Partner David Baker

IP Law Fundamentals is one in a series of white papers provided by the law firm of Hart, King & Coldren on intellectual property law topics of interest to clients, prospective clients, and the general public. These materials are provided for educational purposes only and are not intended to be nor should they be interpreted as specific legal advice. No attorney-client relationship is created by the presentation of these materials and any specific legal questions should be directed to a competent attorney after having entered into an appropriate retainer agreement.