

Ask the Lawyer *Amy Cook*

Web Watch

Mind the sites you're linking to from your home page, and take care to obtain permission before reproducing images from the Net.

What are the legalities regarding linking to other sites on my Web site?

—Linda Everton

Linking to the home page of another site is generally acceptable. Case law and regulators, however, are trending toward requiring Web sites to obtain permission of the owner of the second site before linking is established. If at any time the owner of a site asks you to remove a link to that site's home page, do it promptly as a matter of courtesy.

The areas in which you can get into trouble with linking include libel, trademark or copyright infringement, invasion of privacy and unfair competition. Legal issues are more likely to arise if you link to a specific article or other piece of information on another site, rather than just the home page.

Consider the following when adding links:

- Does the link imply an affiliation that doesn't exist?
- Does the linking take place in a manner that is misleading or disparaging?
- Are other organizations' logos or trademarks (other than the organization's name) used as links? Never use other organizations' logos (trademarks) without written permission, but you may use their names or domain names as a text link.

- Are you linking to copyrighted material? Never knowingly use hyperlinks to infringing material.

- Consider using linking agreements.

- Publish a disclaimer on your site outlining terms and conditions disclaiming all responsibility with respect to third-party Web sites; for added protection, use click-through pop-up screens. Sample language might be: "This hyperlink will take you to a third-party Web site. This hyperlink is provided for your reference and convenience only, and does not imply an endorsement of the material on the third-party site or any association with the owners or operators of that site. This Web site does not control the third-party site and is not responsible for its content. You access and use the third-party site at your own risk. Click OK if you still wish to proceed."

I asked a company for permission to use an illustration on its Web site in my nonfiction book. To my astonishment, I was asked to pay \$500 for use and to cover the research to determine who owned the work. By contrast, another company said it wasn't sure if it owned the rights to an illustration, but if so, I could use the image with proper attribution. Isn't this a better approach?

—William Yarberry

Just because the illustration is on the company's Web site doesn't mean that it owns the rights to the image. The company may be licensing the illustration from the original publisher or artist, and does not have the authority to give you permission to use it. Or, the illustration may have been "borrowed" without regard to ownership, and the company is now violating someone's copyright. Then you come along and also improperly use this copyrighted illustration.

Copyright law considers parties who contribute to another's copyright infringement, or who engage in impermissible copying, fully liable to the copyright owner whether or not they intend or ever know they are infringing—though the punishment for "innocent" infringement is much less severe than "willful."

The best approach would be a combination of the two policies—the company should ensure it owns the rights to anything it permits others to use, but with the only payment being attribution, a writer's many thanks ... and perhaps a copy of the book! **WD**

Amy Cook is an attorney and literary agent. To submit a question, e-mail writersdig@fwpubs.com with Ask the Lawyer as the subject line. We regret we cannot answer all questions submitted. This column provides general legal information. A qualified legal professional should be consulted for application of the law to your specific circumstances.