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## LEGAL BRIEFS

### Linking & Framing: What it is and Why You Should Care!

So, you have finally decided to bring your company in synch with the times and you now have a web presence. You and your colleagues have spent countless hours compiling information about your company and the services it offers, you have consulted with numerous professionals, including designers, ISP (internet service providers), and programmers, and finally, your company's web site is up and running.

If you are anything like most companies, you have not only provided information about your company and the services it offers, but you have probably created links from your site to others so that web surfers can use your site as a spring board to others of interest. You may have also "borrowed" information from other sites and brought it back to yours because you believe that people viewing your site may find it useful and beneficial.

While including your attorney in the list of professionals I previously mentioned probably never crossed your mind, unfortunately, I am here to tell you that there are potential legal implications associated with your web site of which you should be aware. Let me qualify much of what I address in this article with the fact that internet law is only in its infancy, there are few attorneys or judges that really understand it, and it is extremely difficult to give advice because there are very few laws or precedent-setting cases on the topic. Having said that, please understand that trends are beginning to develop and it is important that you and your business take whatever precautions you can to keep yourself out of court. After all, do you really want to be the guinea pig that makes law?

As I previously suggested, *linking* is the process by which a user is directed to another document or site. Most companies that have links on their site have created them without the express permission of the company or organization to whose site they are linked. It appears, at this juncture, that such linking without express permission will continue to be legal and permissible, so long as the link is to the introductory page or home page of the

destination site. So, if this is all that your company is doing, chances are that you will succeed in staying out of court.

*Deep Linking*, however, may be far more problematic. Deep linking is the process by which you direct a user not to the introductory or home page of the destination site, but you direct them to a page deeper within the site. For example, rather than sending one of your viewers to the Washington Post's home page, you direct them to a specific article, thereby bypassing information that the Post would like all viewers to see. In effect, you may have created an impression that the article was written by you or, at a minimum, you have precluded the viewer from knowing on whose site that article appeared. This form of linking is far more questionable from a legal perspective and there are several pending cases where the Plaintiffs have alleged everything from trademark counterfeiting, infringement and dilution, to misrepresentation, unfair competition and unfair business practices. While it is questionable whether any of these causes of action will in fact result in the imposition of liability, many industry experts do believe that some legislation will result from these cases and that limitations and restrictions on deep linking will be imposed on internet users.

The final concept I would like to address is *framing*. Framing is the process by which material is copied from someone else's site and "framed" within your site. Imagine, again using the example of the Washington Post article, that instead of merely directing a viewer to that article, your site was programmed to copy that article from the Post's web site and place it directly onto yours. Often, when this is accomplished, the frame around the article remains that of the original site, giving the appearance that the article is in fact a part of it. Much like deep linking, numerous legal arguments have been made in several pending cases, and the belief is that limitations and restrictions will be placed on framing in much the same way as they will be placed on deep linking.



While there are no laws or restrictions on the issues of linking and framing of which I am aware at this time, they are surely looming around the corner. So, be smart and plan ahead! Don't run off and disconnect all of your links, but consider acquiring the permission of the company or organization to whose site you propose to link, particularly if it is not a site that is widely recognized and visited by thousands of people every day.

The law is an ever-changing phenomenon and it is critical that you stay abreast of changes that may affect you or your business. If you have any questions regarding this emerging developments, be sure to discuss them with your attorney or contact our office for more information.