

Evaluating Websites for Legal Compliance: Basics for Website Legal Auditing by Leopoldo Brandt Graterol and John Ng'ang'a Gathegi, Lanham, Maryland:

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Professor John Ng'ang'a Gathegi is an associate professor at Florida State University and a member of the California Bar. He teaches Information Technology and Law, with a special focus in Intellectual Property Rights on the Internet.¹ He has also taught courses at various higher education facilities have been information policy, legal resources, and Internet research strategies courses. A former editor articles editor on the *Berkeley Technology Law Journal*, the Kenyan-born scholar has obtained several graduate degrees, including his law degree.

In this book the two authors attempt to outline a basic structure to be used by any person designing a website anywhere in the world to ensure the website complies with the applicable laws of the area. The target audience of the book is “webmasters, directors

¹ www.lis.fsu.edu/current/grads Appendix A: Faculty Specializations. Last visited November 17, 2003.

of a company that owns a website, or even middle management.”² The book specifically states that it does not intend or offer the book as the sole legal advice necessary to operate a website without any legal complications. Instead the book attempts to outline a procedure through which a person or company starting a website can use the outline given to check for the obvious legal complications, such as copyright infringement, ensure that proper licensing steps are taken, and also to help the web designer make the decision whether or not to use security measures and, if so, which type.

The authors immediately attempt to identify the necessity of due diligence in starting and operating a website. The book does not attempt to show the legal necessities that must be adhered to, mainly because the scope of the jurisdictions included in the book is just too large. Rather the book suggests the proper questions a website operator must answer before creating a website. In their attempt to break the subject matter into easy to understand sections the authors develop their modular structure theory to creating a website that complies with the laws of your area. The authors continually state that the laws regarding the internet and e-commerce vary from jurisdiction to jurisdiction so drastically that it would be foolish to create a website intended to engage in e-commerce without first consulting a local attorney in the jurisdiction where the business intends to peddle its wares.

The modular system offered by the authors allows for fewer or greater modules as are necessary per project, but the basic structure includes seven basic modules. The modules include: “domain names module, intellectual property module, hypertext links agreements and related contracts module, conditions of use and commercial terms

² LEOPOLDO BRANDT GRATEROL AND JOHN NG’ANG’A GATHEGI, *Evaluating Websites For Legal Compliance: Basics For Website Legal Auditing*. Preface pp. v.

module, privacy policy module, spam policy module, and security module.”³ The goal of these modules is for the website operator will answer the questions posed in each module before creating the website. Once the questions are answered, the website designer can then analyze the legal issues with local counsel on the nuances of the law, but the obvious legal problems will come to light by reviewing the questions.

The real expertise of the authors in intellectual property and the Internet comes out as they discuss the nuances of numerous technical and legal issues. The real quality of the book from a legal perspective is that it points out where the issues lie and also explains the technology it is discussing prior to delving into the legal complications caused by such issues. For instance, the authors discuss the issues of licensing and the legal ramifications of not obtaining a proper license. The authors educate the reader of the nuances of a license and the importance behind a license before they delve into how the licensing affects their topic and what a web master must be aware of when creating a website.

The authors point out that the law is undecided on several topics. For instance, the authors discuss domain names and domain squatting, second-generation IP (including deep linking, framing and meta-tagging), and spam. The authors discuss the technical definitions of each of these issues in plain, understandable language then delve into the legal ramifications of each and how courts have tended to lean. They also offer some advice on how to research domain names. They further caution the reader as to the level of discretion one should have when researching the domain name. While this book offers some legal aspects of these issues, it also offers practical information, which would be useful to any person setting up or operating a website for e-commerce.

³ Id. at 2.

Furthermore, the authors dispel some common notions about risk on the Internet. One such discussion revolves around the issue of what is commonly called “cookies.” “Cookies” are tiny pieces of data that a website plants on your computer so that the website can recognize you easier next time you visit it. They are most useful in online shopping websites where the web operator attempts to personalize the site to its visitors. The “cookies” tag what your interests are from previous times you have been on the site and can even allow the site to bring your attention to things that have been added to the site since your last visit. The common fear regarding “cookies” is that the web operator who plants them on your computer now has access to all your personal files and can search through them at his leisure. In fact, “cookies” do not even identify you by name or disclose any other personal information about you or your life outside of which portions of the website you visited last time you visited the site, as well as what you purchased from the site last time you shopped. The authors go to great pains to emphasize that a web operator designing a website ought to decide what information it needs from its customers and decide how they want to get it. One way of obtaining information is to use a questionnaire, which many consumers find to be an annoyance. Another method employed by many web masters is to use “cookies,” which many consumers are frightful of because of the common misconceptions about what “cookies” are.

Overall, this book does accomplish its objective in informing a web operator of where the common pitfalls for legal complications arise when creating or operating a website designed to operate in the e-commerce world. The authors explain the legal and technical jargon well, in easy-to-understand terms, and the basic structure of exactly what

questions need to be answered by a company prior to starting a website. The authors then go through the process of re-hashing their modular system in a checklist format, in an attempt to make the process easier for a person who found himself getting hung up in the detailed outlines of each section. Furthermore, the authors provide copies of the leading legal cases on the various subjects in the appendices, so anyone with a legal background who was interested in learning more could just flip to the back of the book. Also, the leading cases are cited in the text of the book, so that a person without a legal background would be able to figure out which case specifically regards his problem and then read the case for himself. The authors make this book very user friendly for web masters or non-legal personnel. This book is too simplistic for a person versed in the fields of law and intellectual property or the Internet; however, the book is well suited for its target audience. The authors do a fine job of dumbing down the intellectual overtones of the book to a point where non-experts can understand them. I would recommend this book to any person who does not have a background in the field of intellectual property law and e-commerce, and who is intending to create or operate a website designed for e-commerce.