

# JAMES SCHRAMKO

## 5 Legal Challenges of Owning An Online Business and How to Address Them

### 1. Someone else using your brand

The very first step of protecting your brand is registering your trademark. It doesn't stop there, however. You need to:

- Renew the trademark periodically
- Show continued use of the trademark
- Defend the trademark from infringement

Should someone infringe on your brand, legal assistance is advisable. Outreach in the form of a cease and desist notice may be needed.

### 2. Litigation trolls

As an entrepreneur, you want to be careful not to trigger landmines. One of the first steps is to educate yourself on the legalities of owning an online business. You don't have to be an expert, but you do need to be able to issue-spot. Be committed enough to your business to get either legal support or legal education for entrepreneurs.

Be aware that in online business, you can't really know who has eyeballs on your online real estate, your site, your business. There's a chance you may cross paths with shady characters wanting to gain some advantage or monetary gain.

People may seek to sue you for excluding them from your product or services. If you feel such a scenario developing, quickly get legal advice specific to your location. And until you're certain whether or not it's a legal issue, trend towards inclusivity. Do not turn somebody away or say something in writing or even verbally that could potentially cause you a problem.

### 3. Chargebacks

One thing you can do in advance to support yourself is to plan for the process to happen, be ready for it, which will change the way that you handle certain processes in your business.

Having the terms of purchase in place is critical. Note, these terms are specific to a sale and separate from general website terms and conditions. You may be familiar with the tick box before checkout: I have read and agree to these terms of purchase.

You need something that documents the fact people were given notice that those terms apply before the sale, before they could actually give you any money. And you need to have that process not only display the terms, but track their consent.

Have screenshots of your whole checkout process when you're setting up the

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sales page, the online sales funnel. Document it once it's complete, and save those screenshots by date, and product or service title, so that you have really clean digital files. This way you can show them to anyone who does an audit - here's what was in place, here's the process somebody goes through to checkout, here's the terms that I had, here's what the sales page looked like, here's the box they have to check before they can even give me any money, it requires their consent...

If you hold in-person events, you may want to have a disclaimer form, a liability disclaimer making sure that people are aware of risks, that one must agree to if they are to attend.

And if you are submitting chargeback disputes from your side, you will want to pull whatever you can from Stripe or PayPal or your shopping cart or your email system - IP addresses, support tickets where the customer has interacted with you or access to your products and downloaded them.

When you're setting up your sales process it's worth talking with your payment processor, or their merchant account that runs all the payments to turn on IP tracking, turn on all of the ways that you obtain different levels of authorization, even including collecting people's mailing addresses, zip codes.

## **4. People giving away your intellectual property**

Be aware that this is likely to happen, especially if you are someone accomplished at your business or expertise.

Starting at the beginning, put your name, your copyright notice, your information on the content that you create. Put it on every page - that will make it harder for thieves to scrape off.

Sign up for a service like Copyscape, at [copyscape.net](http://copyscape.net), a service that will scan the web for you and track certain pieces of your core content.

What to do once you have the results can vary. You can get help from an attorney handling a certain number of those, especially if there are legitimate folks in the online space that are using it.

## **5. International disputes**

Contain your risk by having a formal legal entity. In most countries, regardless of what the entity types are, you don't separate your business liability from your personal assets unless it's contained in its own legal entity. So start there.

Have your contracts in place. Make sure you've got proper documentation.

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If it comes down to dispute resolution, have what's called a governing law and jurisdiction clause that's properly done. A multi-step dispute resolution clause is advisable, where you have the parties consent to mediation first, then arbitration.

**a. Mediation** is a process that is neutral. Parties have to consent to it, but it's basically a dispute of which the resolution is facilitated by a neutral third party. It's non-binding - people don't have to agree, they can. But when you're dealing with responsible parties who are of sound mind, it is effective 95 percent of the time.

**b. Arbitration** is designed to be a less formal, less expensive version of litigation.

Need legal guidance? Look up Heather Pearce Campbell at [legalwebsitewarrior.com](http://legalwebsitewarrior.com)