

## HOW TO SHIELD *your website or app* FROM COPYCATS



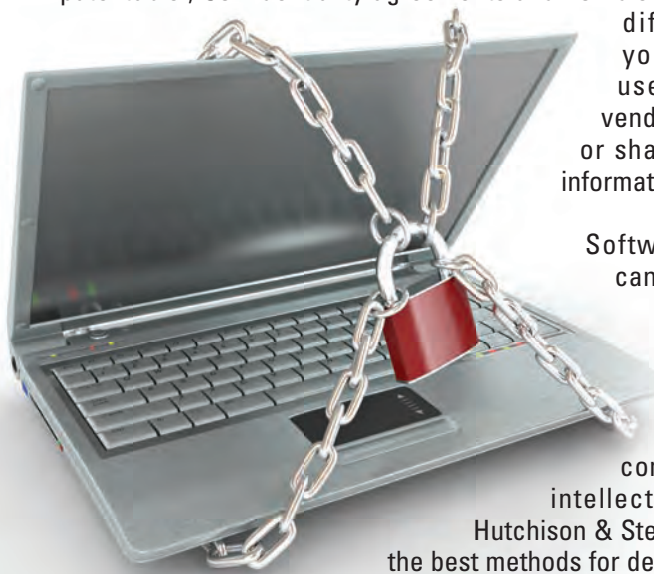
They say that imitation is the sincerest form of flattery. That's all well and good if someone copies your new outfit. But imitation is a whole other issue when it comes to online innovation.

Let's say you've just come up with a new online business idea and you're convinced it has the potential to be the next big market disrupter, like Uber or Airbnb. Can you patent the website, app or software? The unhappy answer is that it depends.

Websites, as a whole, are not patentable. However, there may be certain aspects of a site that qualify for patent protection. In the U.S., some businesses have had success patenting a software process while others have secured patents for business methods. For example, Amazon holds a patent on its one-click checkout. Others hold patents on specific, technical algorithms or other unique functionality made possible by software code. But patents are difficult and expensive to obtain. You could be locked in the patenting process for years, only to find out your application failed.

Alternative ways to protect your online ideas include copyrights, trademarks, and confidentiality agreements. These tools can be used to protect the content of your site as well as your brand, logo, tagline, and product names. A copyright can also protect the source code used to develop your site. (Code itself is not patentable.) Confidentiality agreements and non-disclosure agreements present

different ways to protect your concept. They can be used to deter employees or vendors from copying your idea or sharing proprietary business information with a third party.



Software and app innovations can revolutionize the way your company operates, adding significant business value. Don't let patent challenges stop you from getting ahead of the competition. Consult with the intellectual property attorneys at Hutchison & Steffen who can advise you on the best methods for defending your innovation. ■

*Actual resolution of legal issues depends upon many factors, including variations of fact and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking any action on matters covered by this newsletter. Nothing herein should be construed to create or offer the existence of an attorney-client relationship.*

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WORKER'S COMPENSATION



LETTER FROM  
GOVERNMENT:  
WHAT SHOULD  
YOU DO?



HOW TO SHIELD  
YOUR WEBSITE  
OR APP FROM  
COPYCATS



FIRM  
WELCOMES  
THREE  
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# Legal Matters

WINTER 2018

## YOU GOT A LETTER FROM THE GOVERNMENT: WHAT SHOULD YOU DO?

By Daniel H. Stewart, *Partner*



No matter the size of your business or the industry in which you operate, there is almost certainly at least one government agency tasked with regulating your activities. More often than not, your business is allowed to open—and stay open—solely at the grace of some official body. And if it is not your business that relies on governmental go-ahead, your employment or ability to offer professional services is almost certainly tied to some sort of licensing regime.

Fair or not, efficient or not, the ever-widening intersection between the government and our professional lives has broad political support. And agency oversight will continue to operate as a one-way ratchet, always cranking up the control and supervision.

Therefore, the odds are good that in the near future you will receive at least one letter from a government agency opening an investigation, demanding action or records, or threatening dire consequences. What should you do? Here is some simple advice:

**First**, decide whether you want an attorney (if you do not already have one). Not only will an attorney be able to walk you through a difficult and foreign process, but chances are he or she will have prior experience with the government actors on the other side. Such relationships and

institutional knowledge will be critical in helping you resolve the matter.

**Second**, determine if the letter was expected. If so, the hope is that you had already been taking steps to deal with or account for the agency's response. Unless you are at risk of criminal charges or substantial civil fines or actions, few agencies strike first with total secrecy. Usually, official notices are part of an ongoing conversation, not a shot in the dark. Expected is always better than unexpected.

**Third**, figure out the jurisdiction. Federal, state, local, and quasi-governmental bodies like a professional board of examiners



Continued inside...



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will all likely have some form of jurisdiction over you or your business. Determining where the authority lies will go a long way to knowing the extent of the risk and the path to resolution.

**Fourth**, isolate what is at stake. Administrative agencies have authority to both enforce the law and adjudicate disputes. They have power to investigate, issue fines great and small, or close you down for good. Investigations may be mild and harmless, or the first step towards serious action against you. You need to be able to decide what is at stake right away. Doing so will help you formulate a response.

**Fifth**, respond in a timely fashion. Simply throwing the letter in the trash or refusing to respond is never the right answer. You should always respond in some way, even if your response is limited. The deadline to respond should be in the letter.

**Sixth**, start gathering records and making sure your employees or staff (if any) know not to destroy any relevant documents.

**Seventh**, investigate. If you have not already done so, start your own investigation into the issues raised by the letter. If the letter cites a statute, rule, or regulation, make sure you or your attorney researches it.

**Finally**, do not panic! Only in rare situations do administrative probes trigger substantial consequences. Most likely, you will be able to resolve the situation in a way that keeps you employed or in business. Contrary to popular misbelief, most government employees and agencies are not looking to destroy you. They generally want to be efficient and fair. They have tough jobs, and making their jobs more difficult is usually not a winning strategy. ■



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## THE FIRM IS PLEASED TO ANNOUNCE THREE ATTORNEYS JOINING ITS LAS VEGAS OFFICE



SANDRA S. ROBERTSON

Sandra S. Robertson is an associate practicing primarily in the areas of business and commercial litigation, tort litigation, insurance coverage, and professional liability.

Originally from Chicago, Illinois, Sandra graduated in 1990 from Eastern Illinois University with a Bachelor of Arts degree in English. Sandra attended DePaul University College of Law on an academic scholarship, and obtained her J.D. in 1994. While in law school, Sandra studied international law at University College Dublin, in Dublin, Ireland.

Sandra began her career at a large, litigation-based firm in Las Vegas, practicing in the areas of medical malpractice defense, products liability defense, and other general insurance defense. She became a

Partner at that firm in only 5 years. Sandra published articles on hedonic damages, brain mapping, and other tort-related issues; she also hosted employment law seminars for the firm's clients. Sandra then established her own practice and primarily represented business clients and physicians requiring independent counsel in malpractice matters. Sandra, thereafter, became General Counsel for the Nevada Insurance Guarantee Association and was responsible not only for all litigation, but also for drafting proposed legislation.

In 2006, Sandra took an extended leave from the practice of law to travel around the world, and then to raise her two children. While on leave, she volunteered as a judge for the Truancy Diversion Program and spent considerable time helping to raise funds for various charitable organizations. Sandra returned to the practice of law in 2016.

In her free time, she is happily running to and from baseball with her son or acting classes with her daughter. Sandra is very active in their school, as well. Sandra enjoys walking her dogs, reading, crocheting, and is a competitive ballroom dancer. ■



PIERS R. TUELLER

Piers R. Tueller is an associate with Hutchison & Steffen, practicing primarily in the Firm's litigation and administrative and regulatory law practice groups. Piers obtained his Juris Doctorate from the William S. Boyd School of Law at UNLV where he scored top of his class in the areas of Criminal Procedure and Intellectual Property Seminar and repeatedly earned a place on the Dean's Honors List. He attended Baylor University School of Law prior to his transfer to UNLV.

As a law student, Piers worked as a law clerk at several government agencies, including the Gaming Division of the Nevada Attorney General's Office, where he assisted in drafting the Attorney General Opinion on Daily Fantasy Sports. He also clerked at

the Office of the United States Attorney for the District of Nevada and with the Clark County Public Defender's Office.

Piers received his Bachelor of Science in Political Science / Foreign Affairs from Brigham Young University – Idaho with a highlight being his study abroad in Israel. He is a former campaign staffer and enjoys politics and American history. In his spare time, he enjoys watching movies, playing sports, and traveling with his family. ■



JENNIFER M.K. WILLIS

Jennifer M.K. Willis is an associate with the Firm practicing in asset protection and business planning, and trust and probate litigation.

Jennifer is originally from California. She graduated magna cum laude from the University of Utah in 2001 with dual B.S. degrees in Political Science and Speech Communications. She received her J.D. from Boston College Law School in 2004. While attending law school, Jennifer worked for Greater Boston Legal Services, where she was a Student Practitioner assisting battered women obtain restraining orders and divorces from their batterers.

On graduating from law school, Jennifer returned to California where she worked first as court-appointed counsel in dependency proceedings, assisting parents to reunify with children who had been removed for abuse and neglect. Jennifer's real love is estate and wealth transfer planning, and estate and gift taxation and planning. In fact, she spent several years with a boutique firm in Northern California engaged exclusively in this practice. She was unable to turn down an opportunity to return to Utah, where her family is located, and jumped at an offer to work as In-House Counsel for a payment processing company in Utah County. Seeking warmer climes and a chance to return to trust and estate practice, Jennifer relocated to Las Vegas to join Hutchison & Steffen.

When she isn't working, Jennifer spends her time raising her two daughters and acting as shuttle driver for their various activities and frequent trips to Disneyland. She and her family also enjoy hiking at Mt. Charleston and attending midnight showings of every Star Wars and superhero movie that Hollywood can churn out. ■

