

Always Look Where You Leap: Some Legal Pitfalls of Crowdsourcing

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Copyright

Who owns your ©?

• Works made for hire

- Works made by employees
- Within the scope of their employment
- If a worker is an employee
- copyright belongs to the crowdsourcer
- If not, it belongs to the worker.

Joint Works

- made by 2 or more authors who
- make independently copyrightable pieces of a whole



Gaiman v. McFarlane

Patents

Who owns your invention?

If you use the crowd for to develop a patentable invention, will you own the IP?

- Joint Inventors
 - 2 or more people may be considered inventors
 - Even if they did not work together
 - At the same time
 - In the same place
 - Or to the same amount.
 - If a Patent does not list all of its true inventors, it might not be enforceable
- Employee-inventors
 - An invention created by an employee
 - Who was hired to create that invention
 - Is owned by the employer

Employment Law

What if crowdworkers employees?

- Federal Employment laws offer certain protections to people who are considered “employees”
- The Fair Labor Standards Act uses a broader test than copyright to determine if someone is an employee
- If Crowdsourcing begins to look like a regular job, crowdworkers may fall under these laws.

What Can you do?

1. Be mindful of the law
2. Use clickwrap agreements to clarify the relationship between the crowdsoucer and the crowdworker
3. Always be open and honest about your policies, from ownership to data protection



CrowdFunding

Should you use the crowd to help you fund your project?

- Crowdfunding is an increasingly popular way to fund projects.
- Things like Kickstarter and Indigogo allow users to connect with the crowd and its spare change
- But, funding structures could run into Federal Securities Regulation
- Efforts are currently ongoing to change securities laws to be more accepting of crowdfunding.

DataSecurity

Are you protecting user data well enough?

- The FTC has the power to defend consumers against
- Unfair and deceptive trade practices
- Since the 1990s, the FTC has used this to protect consumer data security.
- Today, any company that holds information about its users must adequately protect those data and must not distribute those data in ways that the customers do not agree to.



Justice is blind; you shouldn't be