

EMPLOYMENT WEB SERIES

"Website Law"



What Every Organization Needs to Know About Ownership, Public Accessibility, Liability and More

Meet Today's Presenters



David Levitt focuses his intellectual property (IP) practice on litigation and licensing issues in the areas of copyright, website, trademark, patent and computer law. He is a past leader of Hinshaw's national IP Group.



Kristen Perkins counsels and defends clients with labor and employment claims, especially federal and state discrimination claims including third-party claims involving disability, website and technology accessibility.

Websites and Copyright Law: Learning Objectives



1



What Website Elements
Can Be Copyrighted?

2



Who Owns Each
Website Element?

3



Contract Relations and
Terms: Content Creators,
Developers, and Service
Providers

4



Trends in
Registration of
Websites and Their
Content

Which Website Elements Can Be Copyrighted?

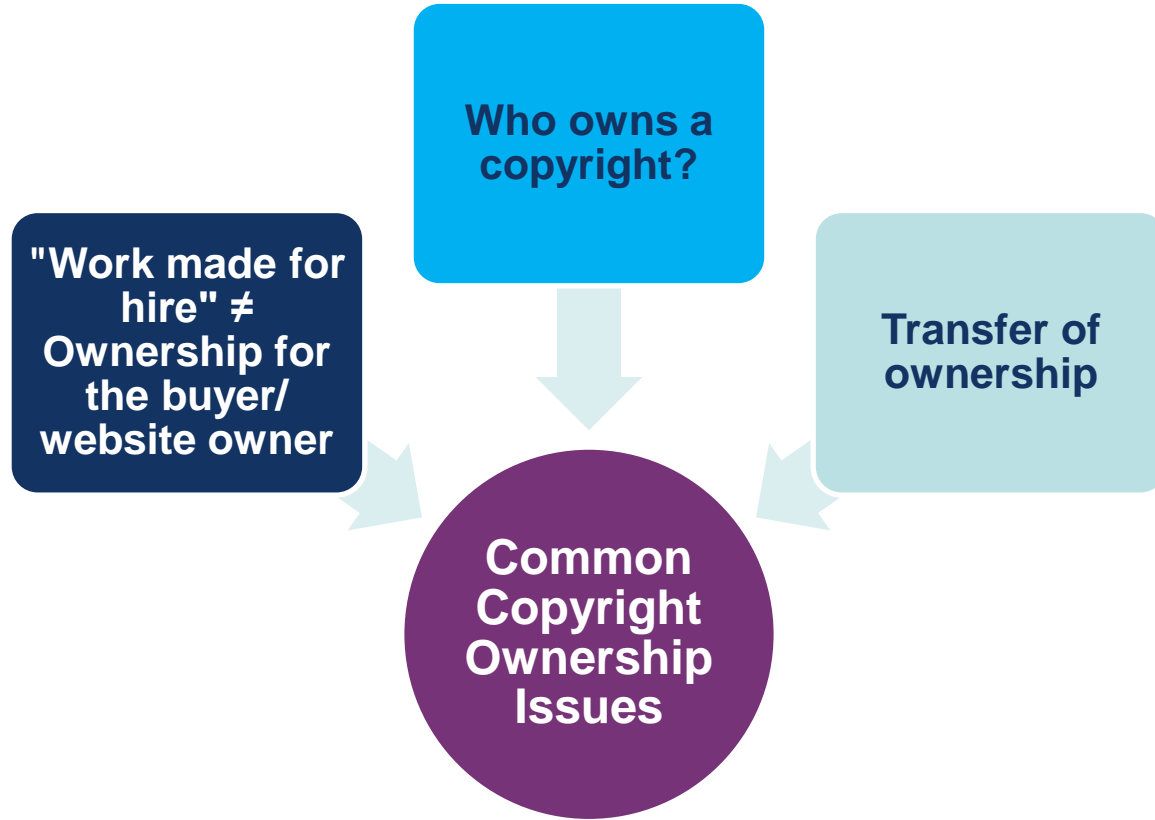


Copyrightable

- Software
- Text and other content (ex. images)
- Layout (“look and feel”)

Non-Copyrightable

- Common elements (“scènes à faire”)
- Titles and short phrases



Sources of Website Content



Employee-created
work made for hire

Content on the
internet is NOT
public domain



Registration is a prerequisite for lawsuits to assert infringement



Registration of entire website vs. Registration of each individual component element

Contracts With Service Providers (Web Developers, SEO Entities, etc.)



Who owns the
software?

Did developer use
independent
contractors?
Did they assign rights
to the developer?

Scope of license

Indemnity provisions

What happens when
the contract ends?

Common Scenarios



Ownership Dispute

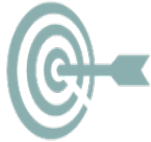
- Website developer sues claiming that it owns the copyright to a company's website when the relationship ends

Unauthorized use of photos

- Claims arising from using photographs of persons or products found on the internet without confirming permission to use them



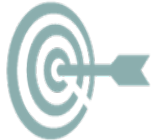
Takeaways



Ownership Matters!



Software is separate from content



**Carefully review – and negotiate if needed – contracts
with website developers/SEO companies**



Registration decisions can be outcome determinative

Websites and the ADA: Learning Objectives



1



The ADA's Applicability
to Websites

2



Status of Websites as
Places of Accommodation

3



Tester Plaintiffs and
Claims-Related Practical
Issues

4



Preventative Measures
Your Organization Can
Take

The ADA's Applicability to Websites



**Act does not explicitly
discuss websites**



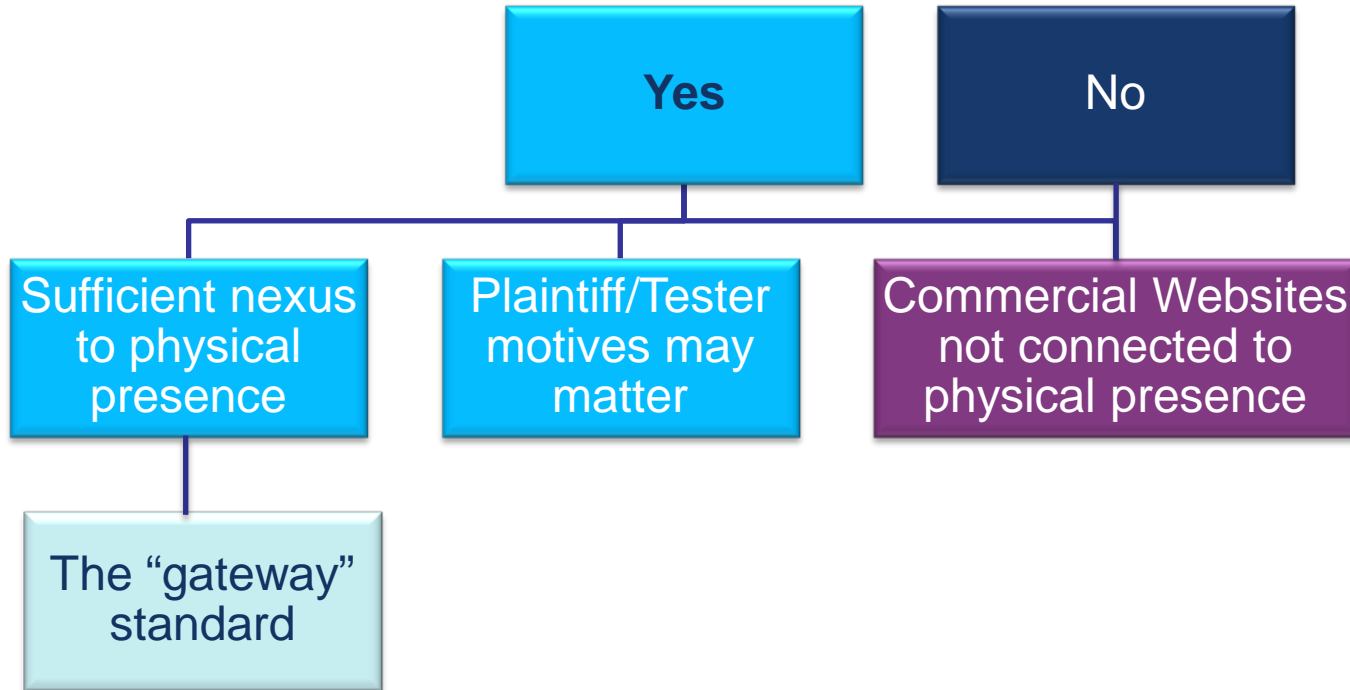
**But it is a broad,
remedial statute**

As such, can be applied to
websites

Case Law: SPLIT



Are Websites Places of Accommodation? Maybe...





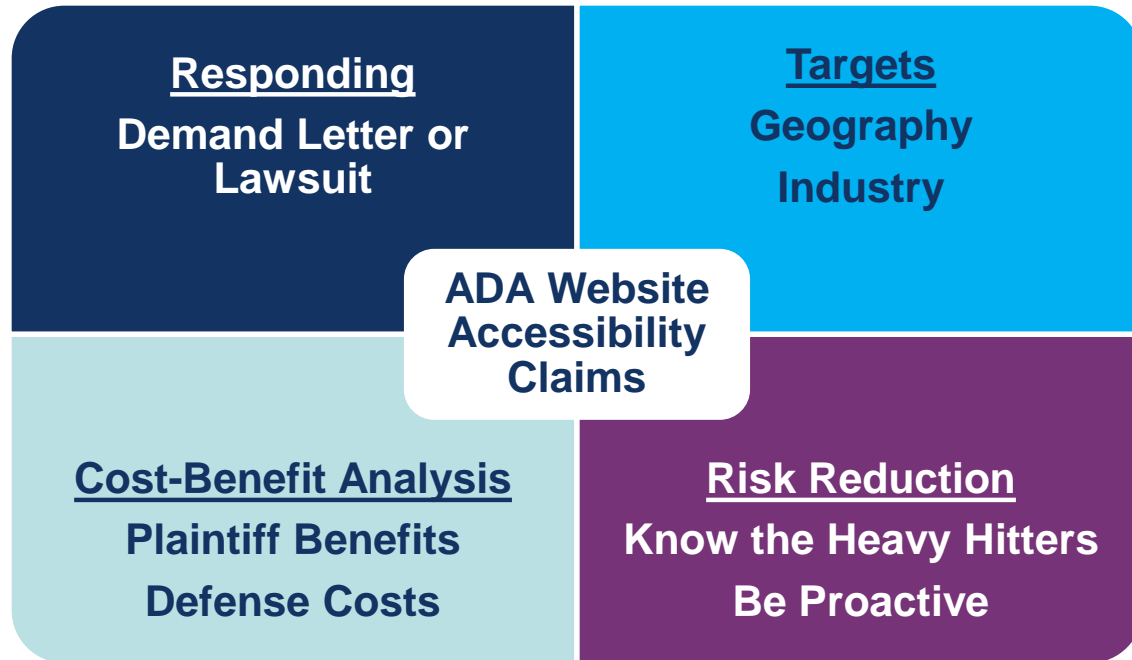
Current Federal Administrative Guidance



Are Websites Places of Accommodation?

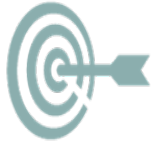


Practical Considerations

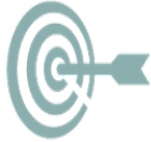




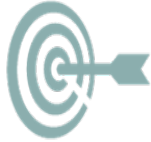
Preventative Measures for Organizations



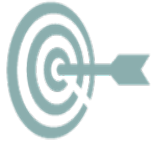
Consult online reference guides



Hire WCAG 2.0 AA technical requirements expert



Use a free website compliance site



Make fixes during regular website updating



Thank You

We welcome your questions and feedback.



Kristen D. Perkins
David H. Levitt

954-467-7900 – kperkins@hinshawlaw.com
312-704-3515 – dlevitt@hinshawlaw.com

www.hinshawlaw.com

