

On Your Terms Episode 122:
Can you use other brands trademarks images

Sam Vander Wielen: Hey there and welcome back to another episode of On Your Terms. I'm your host, Sam Vander Wielen. And today, we are talking all about whether or not you can refer to trademarked products in your handouts, in your courses, in your content, all that kind of stuff.

So before we hop into this week's question from Jill, I have to give you the Norm tip of the episode, which Norm very strongly believed, because apparently this is something that came from his mom, that you have to go out the same door that you come in.

So when we would go into a store and you would enter through the front door, he would not let me leave through a side door or a back door or anything like that. We had to go out back through the same exact door that we came in. It was a good luck thing for him. So that's what Norm thought. So you can think that next time you go out the wrong door. I mean, at least according to him. Okay.

So we're going to get to Jill's question this week. And if you have a legal question for me, make sure that you use the link in the show notes to submit any legal or business question that you have for me that you want me to answer on the show. I love hearing from you, and I want to make sure that this is as helpful to you as possible. So I'm going to need you to take a second and put in the queue so I can do the A down below in the show notes.

Okay. So Jill already did her duty here and she asked, I'm currently creating a PDF to be sold on my website. That's something along the lines of a healthy food swaps grocery guide. Within that document, I'm including specific pictures of branded

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On Your Terms Episode 122:
Can you use other brands trademarks images

food products. Do you happen to know if I'm legally able to sell a document with images in it like these?

So such a good question, Jill. And I'm sure this could come up for a lot of you no matter what kind of products you're pointing to, any product that you mention, even a digital thing like Instagram, for example. When we run Instagram ads, there's certain, and if I talk about Instagram or I talk about Facebook, there are certain disclaimers that you have to put on there that they are trademarked by Meta and that we don't own that and all that kind of stuff.

So technically speaking, the tricky aspect here is that you're selling something versus giving something away for free because it's not educational, right? In the sense of we kind of differentiate like educational versus commercial when it comes to legal stuff.

So the other tricky aspect here is that those images that you're sharing contain those companies' intellectual properties. So probably their trademarks, right? If it's like a logo like Kellogg's or something like that. And then maybe even their copyright and pictures or stuff like that. Right. And their logos, all of that.

So I'm definitely not the end all be all trademark and legal expert on every single thing because there are, you know, these are probably complicated questions that we could dissect all day long and we could get into it of like maybe this, maybe that. But I'm trying to use your time wisely and just say that I think that your use, your proposed use of these companies' trademarks would actually fall under what we call nominative fair use.

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On Your Terms Episode 122:
Can you use other brands trademarks images

Nominative. I can never say this right. Nominative fair use.
Okay.

So a key to being able to use them safely is not making it seem like they're yours. That's what's really important here is that we never want to like put something out there making it seem like it's ours. Like selling purses and putting LVs on them and making it look like Louis Vuitton. Right. That's not good.

So since you're not representing anything, like in this guide, I'm assuming as your own, I'd probably just put a statement at the bottom of the guide or the PDF or whatever, you're listening to whatever you're going to put this on stating something like the images shown contain trademarks owned by the companies in the photos or something like that. Or if it was one company in particular because you were only focusing on this one brand, you could put that.

Another key factor is stating clearly that you're not at all associated with or sponsored by those brands. So you see this a lot. Like I said, when we run like Instagram giveaways or you sell a course about Instagram or Facebook, even in my own Instagram and Facebook ads, when I'm talking about legally protecting your business and I say you don't want your Instagram caption to get stolen, I have to mention that we are not affiliated with or sponsored by Instagram in any way. So there's that too but it's not some sort of extension of their brand.

So I think between those three things like not making it seem as if it's your own for any reason, stating something that these are trademarks or you're citing something, you're showing something that's intellectual property that's owned by X

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On Your Terms Episode 122:
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company. And third, saying we're not affiliated or sponsored by that company in any way is a great way to fall under this nominative fair use exception to copyright infringement.

So hopefully the idea there is that nobody would hit you with copyright infringement because you've done these steps properly. So I hope that that's helpful. You can send me a DM on Instagram and let me know if this episode was helpful. I also recently added trainings to my Ultimate Bundle Program, by the way, that teach you how to properly copyright something, that teach you how to properly file a trademark. It walks you through actually filing a trademark.

And when I go through the copyright section and I teach you how to submit something for copyright protection, I talked in that video about how like, let's say, for example, if Jill submitted her PDF for copyright registration, you would have to exclude the items that were listed as the trademarks of other brands, right? So you would have to exclude that. And I actually show you that in the walkthrough video.

So if you haven't heard of it yet, the Ultimate Bundle is my signature program that gives you access to over 10 DIY legal templates, over 35 on demand video trainings teaching you everything from how to form your business to how to legally protect your content to get paid, what to do if someone doesn't pay you, how to get a refund or not take a refund if you don't want to.

So I teach you everything legal, nuts and bolts, for online business owners. It's the only legal program and resource that you'll ever need if you have an online business until you scale

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On Your Terms Episode 122:
Can you use other brands trademarks images

majorly and get super huge and then you can hire a fancy pants lawyer if you want.

So you can check that out below in the show notes. I'll drop a link to learn more. And to get the Ultimate Bundle, you get instant access, lifetime access, and you get future updates. So I keep the templates and the trainings themselves updated and you always get that for no additional cost. So if you have any questions about the Bundle, of course, just send me a message. I'm happy to help.

And the best way to get the Ultimate Bundle is actually to sign up to watch my free legal workshop, Five Steps to Legally Protect and Grow Your Online Business, which you can do so in the show notes below. And because in that training, I not only teach you the legal roadmap that you need to protect your online business, but I offer you a killer deal and discount on the Ultimate Bundle at the end as well. So you can go listen to that and sign up below. Thank you so much for listening and I can't wait to chat with you next week.

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You can learn more about legally protecting your business and take my free legal workshop, Five Steps to Legally Protect and Grow Your Online Business at samvanderwielen.com. And to stay connected and follow along, follow me on Instagram at @SamVanderWielen and send me a DM to say hi.

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On Your Terms Episode 122:
Can you use other brands trademarks images

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