

# TRANSCRIPT

## On Your Terms



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Episode #: 180

Did You Steal It or Get Inspired By It? How to Spot the Difference

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Sam Vander Wielen:

Hey, and welcome back to On Your Terms. I'm your host, Sam Vander Wielen. I'm an attorney turned entrepreneur who helps online coaches and creators legally protect and grow their online businesses using my DIY legal templates and my Ultimate Bundle Program.

So, if you're getting a head start on your content calendar for next year, then this is an episode for you. In this Greatest Hits Episode, I'm sharing what you need to keep in mind while searching for inspiration. We'll go over what constitutes inspiration versus mimicking versus stealing and how you can make sure that you don't cross that line, but also so that you know it when somebody crosses your line. I hope that you enjoy this episode. I know it was a fan favorite this year.

So, in reality, unfortunately, people are actually stealing content left and right. I think it's very common in the industry and it probably happens so much more than we even know because it's like, how do you even know? I mean, half the time I always think about the people that I catch stealing from us, I'm like, what about all the people we're not catching? There's also so much mimicking going on, though. There's both, there's stealing and there's also tons and tons of mimicking. And it's really hard to tell the difference both from a legal perspective and just, I don't know, kind of a gut check perspective. People contact me a lot, and they'll ask me, like, "I'm not sure if this crosses the line. Does it cross the line into the land of stealing or is this just really mimicking?"

And so, what I often then see is that there are a lot of people who then accuse people of stealing their content, their programs, whatever, when it's actually not stealing. So, I'll see people go on tirades on Instagram Stories or something like that and they're like, "Look at this. This girl is stealing from me. Every time I talk about deadlifts, she talks about deadlifts." That's not stealing. And then, on the flip side, I see people

who actually have been stolen from and then when they share about that, you have all these people in the comments being like, "That's just general info. That's flattery. It's flattering when someone steals from you." Please, do not ever DM me and tell me that it's flattering when someone steals from you. That is one of my biggest pet peeves in online business. It's actually stealing. And then, people will be like, "Oh, it's just information. You don't own that."

I feel so torn about this, too, because this is really funny for me to say as a lawyer, but something I feel, especially lately, I've been having more of an existential crisis about, is this idea of people not owning ideas, not owning words and phrases. And I actually do understand where people are coming from. I actually think that's a very interesting conversation. I think it's called un-copywriting, there are people who believe in un-copywriting things and making everything public, everything's to be shared. I don't know that I would necessarily go that far and I like the idea of protecting our ideas and our words. And I think if you're writing words that really are meaningful to you, then you should be able to control who then gets access to them.

But I don't know, I can see where people are coming from. I sometimes feel this about titles of things or really generic phrases. I remember somebody took issue with me saying that I empower women, like when I started my business, I would use that phrase a lot. And someone took issue with it and it was like, "Wait. So, just to be clear, you think you own the phrase empowering women? You think no one's ever said that before?" It's kind of funny looking back on it, because after that happened, I feel like thousands of people came into the online business arena and started using that phrase. And so, I don't know, I have my moments, to be honest, where I don't like all this fighting. Everybody run your business. Everybody do your thing. You don't own this word. You don't own that phrase. And then, there's lawyer me who's like, "Well, this is the system. I guess we're participating in it."

I didn't intend for this episode to become a philosophical thought of content and intellectual property, but I'm just being honest with you. I always keep it very, very real with you that this is something I actually

struggle with where I find it to be my responsibility to teach you these things. But on the other hand, I do think people get really possessive about stuff. And a lot of times I do get those DMs about the example I gave with like, "Oh. I talked about deadlifts, and now she talked about deadlifts." It's like, you don't own deadlifts. You might own a specific way of teaching it or a phrase, or the literal words that you said about it, or the video, your likeness, all of that kind of stuff, but we don't own these concepts and it's okay for other people to talk about. I don't know, I'm just being honest with you and I don't know that I have fully formed thoughts around it, but it's definitely been something I've been thinking a lot about.

And on the flip side, I then hear from so many people who want to share safely. They want to share content from other people, but rightfully give credit, but they're not exactly sure how to do that. If you were hoping to learn a bit more about that in today's episode, you're going to want to go back and listen to Episode 19 and listen to that episode called How to Share Content Safely so that you're not a copycat yourself, because I teach you in that episode how to share other people's content.

So, stuff is all mixed up, all over the place in the online business industry when it comes to sharing content safely. And I think that that leaves a lot of people not knowing whether or not they can do anything about it. And that when they get stolen from or they're not sure, is that stealing? Is it mimicking? Was it even mine to share? Who owns this? And that inaction then leads to freezing. And you don't know whether you can move forward or not. You're not sure if you should contact this person. You're not sure if you should keep creating content because you're afraid everyone's going to steal it. And I just see this kind of cycle going round and around and around.

So, I've actually had a lot of lawyers steal from me, both my actual content, my products, my copy. If you haven't heard that story before, you can go back and listen to Episode 43, I broke it all down on there. I've had somebody steal my entire website. I've had people take phrases and names of programs, all that kind of stuff. I have one person DM me about all the time now, and they write us emails all the time about now

being like, "She just does everything that you do" and "She stole your branding. And her webinar is called the same thing." It's annoying. I turned it over to my lawyer because these days, I can't even deal with it, and so I turned it over to our lawyer. They shoot something off or they look into it. They investigate her. They're going to do what they need to do. This happens all the time.

I've also had a lot of people mimic me, where their guide or their webinar is essentially called the same thing as mine, they just take out "A" for "The". The bullet points are basically identical, they just, again, change "A" to "The". They create all the same products and they package their products in the same way, they call them the same thing, but then they always price them a little bit cheaper. You see that all the time. I see the branding, the kind of trading on our likeness kind of thing. I get reports about this stuff all the time. It's super, super annoying.

Fun fact, I once was on a trip when I was 13 with my mom and my sister. I think it was the only trip we took together. I once on that trip got banned from saying the word annoying because my family, when I was 13, thought that I called everything annoying and they were getting annoyed by this. It turns out I was right, everyone is annoying. I swear, sometimes I have my Larry David days. And today that I'm recording this, I'm having my Larry David day where I think everything actually is annoying. And I think 13 year old Sam was onto something, frankly. I'm just kidding. Everyone's lovely.

So, let's break down then what is the difference between stealing and mimicking so that we can properly navigate this and, really, to not only to be able to do something about it legally, but, honestly, what I'm hoping that you walk away with today is a better sense of what you can let go of. Because I can tell you within the first several years of my business, I spent more time than I care to admit circling and stewing in the mimicking cycle where I was just annoyed. I was like, they were annoying, and I didn't like it, and I thought it was unfair, and I was stomping my feet at the universe. And all that's really doing is letting them win because it's taking you off your game and not keeping you focused on your business. Which is how I rebound really quickly now, where if somebody is stealing

from me, whether it's legitimate stealing or they're mimicking me or the mimicking is starting to jump into the theft arena, that is why I don't deal with that myself anymore, because, for me, it was just easier to be like, "Okay. Just turn it over to an attorney, they look at it and they see whether there's anything to do, and then they follow up on it."

I want to stay laser focused on my business and I don't want my business to suffer because of some nonsense. Because that person, they're ultimately not going to be successful if they're stealing from you. So, if they're not going to be successful, why would I allow them the amount of energy and the capacity to come into my business and muck it up? So, I'm not going to let that happen. I'm not going to let anybody do that to my business. So, I stay focused and I get it to the right person.

Before I could afford to hire a lawyer though, I would kind of make this decision myself. So, I would get really good at just being like, that's just mimicking, this person's annoying, boom, they're going to go away. And I just wouldn't do anything about it, but I also had to put it out of my mind and keep working, keep my head down. When it was actually stealing, I would reach out, and that's what I talked to you about in Episode 43. You can go back and hear what to do in that case.

So, stealing, I want you to think of stealing content - what we, as attorneys, would call infringement - as like high school plagiarism. Do you remember in high school when you would have to write a paper and they would teach you about the rules of plagiarism, and taking quotes from things, and when to quote things directly, and when things were too close to something that you read. So, it's not as simple as like taking someone's caption and then just editing it so that you skirt the rules of plagiarism. I would say whenever you start with someone's content as the starting point, we're already in plagiarism infringement land.

So, things that I can think of examples in terms of plagiarism in our industry are copying somebody's caption, either word for word or the bulk of it, taking the content of a graphic and repurposing it as your own. So, a lot of times people will just take the content, the copy from a graphic and then put it onto their own graphic, obviously stealing the entire

graphic or stealing a photo. Your sales page copy, website copy, any of that kind of stuff would be considered plagiarism of content.

Then, there's the other category that I can think of, is, improper use or resale of your products and programs. So, like purchasing your program and then selling it as their own, buying your program and then making their own that's inspired by your program. That's still improper use because it was probably against the terms of use if you were using them.

And then, the other category of stealing is straight up intellectual property infringement, which would be the improper use of your trademark or the improper use of your copyrighted material. So, obviously if you've trademark something and then they're using the word or the logo or the phrase, the tagline, or even if you haven't; if you think you have common law trademark rights to something and now they're using it; and then same goes for your copywritten material, if somebody buys your course and then they resell it as their own and you copyrighted the material, then you've got a nice little copyright case on your hands.

Then, what goes into this mimicking arena? Well, Mimicking would look more like, I always think of the Ludacris song. It's like, when I move, you move just like that. That's what I always think of because that to me is mimicking. It's like they're watching you, they're like a little mirror shadow of you. But keep in mind, that means that they're always behind you, they're two steps behind. And so, when you do something, then they do it, not because they steal your content, but more like you talk about deadlifts - just to go with the example - then they talk about deadlifts. That's mimicking you, and that's very annoying, but unless they stole your caption from your content or they stole you the graphic content, or whatever else, then that's not stealing. It's just annoying. Really, really annoying.

It also is possible, by the way, that this has nothing to do with you, and we do sometimes center ourselves in these things, and we think that, "Oh, everybody must be watching my stuff. I must be known for deadlifts. That's why when she talks about deadlifts, she's taking that from me." Now, in some cases, we have better evidence in that. It's like the person's liking all our stuff, commenting on our stuff, contacting the people who follow

us, and then they're creating the same content, and it's always like a couple days after we create it, and there's kind of a more of a repeated pattern. That's what I would look for to see more of a pattern of mimicking versus individual cases of mimicking.

It's very possible that this has nothing to do with you and I always want you to consider that. That's obviously not the case when people steal. And in my experience, most copycats, the number one thing that they say when you contact them is like, "Oh, my god. I had no idea. I didn't even know about you." And it's like, "Oh, wow. What a crazy thought then that you literally copy and pasted all my captions or you literally took all the content off of my slides," or whatever. So, that's always what people will say, but I do think that there are many cases where that's true, especially more when it comes to mimicking than stealing.

Another place where I can see a lot of mimicking is kind of in very general, generic, descriptive titles or phrases for things. So, that's where I also want you to consider that when someone says I empower women, you don't own that. That's a phrase. It's super generic. If you say I help people legally protect their online businesses, I don't own that phrase. I've never claimed to own that phrase. That's a generic phrase. That's me describing what I do. It's literally descriptive. And so, that wouldn't be something that I'd go after someone else because they say I help online business owners legally protect their business. It's like, sure, you're just describing what you do. So, that's the kind of stuff that I would see as more mimicking and all of that.

There are times, however, that you can actually do something about mimicking. So, mimicking is not always something that you just ignore. First of all, I would create an SOP and a little bit of tracking system. And I would do this, even if it's just you and your team, you don't have anybody working for you yet. But if there's somebody that you notice who's doing this and it starts to become more of a pattern, I would maybe turn to a Google Sheets kind of thing, start keeping track of stuff, create a little bit of an evidence trail because you're going to forget over time. But also that way, if it does escalate into something more serious, like they do steal actual content, they take your freebie, they're on your email

list, and then you find out they downloaded your freebie and made it their own - that happened to me - then that would be something that then you'd have all the stuff that you need to basically do something about it.

So, there are times when this mimicking thing, either on its own, is a legal issue, it gets a little too close to this gray area where they start using your branding. That's kind of like trading on your likeness, because if you're really known for your branding, your vibe, your colors, or they pick your podcast name, or they pick your product name, or something like this, then stuff starts to go more into this stealing realm, then you can be prepared. So, I do think it's something that you can keep your eye on.

It's something that we as a team, we're going to have something coming for you in a couple weeks, but it's something that we, as a team, have an SOP for and we have a whole set of procedures that we follow when this comes to our attention, whether it's something that we find or something that somebody else tells us about. So, you got that coming for you.

So, I hope that this was helpful in breaking down what the difference was between stealing content and mimicking people. Send this episode to a friend if you think it would be helpful. Rate and review the show if you have a moment. It means so much to me. Thank you so much and I will see you next week.

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