

TRANSCRIPT

On Your Terms



Driven by Goals.
Guided by Strategy.
Powered by Intention.

Episode #: 218

Why You Might Not Own Your Canva Graphics or AI Content

Sam Vander Wielen:

You would not be able to own the design of that thing that you just created. You could, of course, own the copyright to the text, the material that you've written in the eBook example, but you wouldn't own the design elements.

Hey there, and welcome back to On Your Terms. Now, today we are talking all about AI, because I have been getting so many questions from people lately about things like AI, even actually tools like Canva, about ownership of the content that you're creating on those platforms. What happens when you create graphics on Canva? Do you own that? What happens when you put something into ChatGPT and it pumps something out, do you own that? There are so many questions around this.

I find this a very fascinating area of law, let alone of online business, so today I wanted to hop in and give you a couple of basics of what I know so far about AI and ownership and even your use of these other creative tools. And then, I'm going to take a bunch of questions from the audience. We got so many questions on social media, so I'll share those at the end of today's episode in case you have a similar question.

All right. So, this episode is not telling you to stop using AI or that there's no place for AI. I have - I don't know - maybe an it's complicated relationship with AI in the sense that, I guess, legally speaking I have a couple of issues with it or at least have a lot of legal concerns because there are certain things that are just yet to play out that we don't know how they're going to go or what the answer is, and that makes me a little nervous. I guess I also just don't feel the pull to use it as much. I don't know.

Well, I feel two things. I feel like I'm a dinosaur, for one, because I'm like, "Who needs AI? Create your original content." I feel like such an old

lady. And maybe part of that, by the way, is maybe that I love creating content, and I love writing, and I love doing videos and podcasts, so this stuff doesn't bother me, but I don't know. So, there's that part.

But I also feel just a little unsure about how this all going to go. Is this a fad? I mean, I don't think it's a fad. I definitely see it integrating so much more into what we're doing, but I feel like it's one of those things where it hasn't quite found its settling point of what role it plays in our society, what role it's going to play in online business, in the content creation business. That's kind of how I feel. I just feel like it's up in the air.

Maybe because I wrote about this in the book, the example that's coming to my mind is Plinko. If you ever watched The Price is Right, I was a big Bob Barker fan back in the day. But if you ever used to watch that and then you know maybe what Plinko is, but it's this game where you drop this chip at the top and it goes through the board and it plinks and planks all over the place until it finally settles. I kind of feel like that's what we're going through with AI. Like it's bouncing around, it's pinging and ponging in between these metal rungs and everybody's kind of trying to figure it out.

You've got the gurus on social media saying it's this, it's that, download my freebie to learn how to utilize AI. I think part of it a little bit feels like a distraction. Like some people are going down this rabbit hole trying to use it. And then, other people, I hear about them using it really smartly or creatively. So, I don't know. I'm just being honest with you about kind of how I'm feeling about it at this point, but I feel like it's just not playing a big role in my life or business at this point because I'm focused on a lot of other things. So, I don't know, that's my honest take on it that you didn't ask for.

Okay. So, I just wanted to say upfront though, that I'm not telling you today to not use it in any way or anything like that. But I think it's only fair that you know some of the legal ramifications of doing so.

So, here are three things you need to know about AI and your ownership of content that you create from it. Number one, you can assume that the

content that AI creates for you – this is what we’re going to call for the rest of the episode output content. So, input content is what you put, like the prompt, essentially, that you put into the program in order to get the output content – you can assume that the output content that AI gives you is 100 percent original, is 100 percent true, a novel, that they haven’t given it to someone else. We know that AI pulls information from the internet and it generates content. And now, no matter how specific your prompt is, AI might use copyrighted content to generate responses for you because if it’s pulling things from someone’s article and then they’ve copy written that article, you’re now pulling some content from a copy written article. You might have output content that has a whole lot of copy written material in it from all different kinds of creators, so we really have no idea. It might even use content from somebody who ripped that content off of someone else.

Like, that’s what I keep thinking about is the downstream effect of, let’s say I write a blog post that’s fraudulent. It’s full of copyright material from somebody else. And now, AI pulls some of my content from my blog post to give you in your output content on ChatGPT. So, it’s like double whammy. Like I stole it and now you took the content from me that I stole from someone else, so that original person could come after you too. So, that’s a little like up in the air and concerning to me.

I think whenever I talk about this stuff, a lot of times people are like but I didn’t know or I thought that ChatGPT would give me this info. I think this is always a good time to remind you that when you own your own business, the buck stops with you. So, if you put out fraudulent content, if you put out content that is containing false information, if you infringe on someone else’s material, it doesn’t matter. It’s on you. At the end of the day, you put something out there, you took the content. So, we’re not going to be able to blame AI. We’re not going to be able to blame any of these tools or other people. It’s going to be on us. So, keep that in mind when we’re using things that we’re not really sure how they operate.

Now, number two, along those same lines, you can’t assume that you own the content that you create with AI because of what I just said, you don’t know

where the information is necessarily coming from. So, I, personally, don't know that I would feel comfortable submitting any information, any output content that I got from any of those tools for copyright protection with the U.S. Copyright Office, because I can't guarantee that it's completely original.

Now, according to platforms like ChatGPT, for example, their policy on this - I went and read the terms. You can go read the terms if you'd like - is that the output content is yours. They don't own it. That's basically the position that they take. They're saying they don't own it, so the output content could technically be yours. But the lawyer in me is then like, just because ChatGPT, for example, says "No, no, no. It's not ours. You can have it," that'd be like me handing you the keys to a stolen car and be like, "It's not mine. You can have it." Well, that's true that it's not mine, but it's also not yours because it's stolen. So, that's a little bit of what concerns me about how this is being done is I don't know that that content is necessarily yours either. I'm grateful that ChatGPT is not trying to maintain ownership of output content, but I don't know.

But the other thing that ChatGPT says in their terms, which I find fascinating is that they can't guarantee that they are not going to give that same output content or parts of that same output content to other people. So, if I go and put a prompt in ChatGPT and it spits out some output content for me about topic X, and then you go and put in maybe a similar prompt and you also get some output content about topic X, maybe you get a paragraph or a sentence or a part - I don't know - of the same output content that I got, well, now what does that mean not only for creativity sake and originality and standing out online - which is like a whole nother issue - but what does that mean legally? What if I go and submit that for U.S. Copyright Office protection, but now you have that same content and you got it from ChatGPT? It's very confusing.

Last but not least, the third thing you have to know is that you can't assume that any copyrighted content that you feed AI is then legally protected because maybe they're going to now feed it to other people. It could infringe on somebody else's stuff. The output content that they give

you could be wrong. Again, it could be a mishmash of things that are infringing, things that are wrong.

There's a famous story or case about a lawyer, actually, who used the software to create a brief. Essentially, lawyers have to write these big, big papers. They're like essays, essentially, that have a specific structure to submit to the court to make argument. I used to write them nonstop. And so, he got this off of ChatGPT - I think that's the tool that he used - and it pulled information from sources online where they were citing cases as examples. So, like in Smith versus Smith, 1979, this was the holding, this was the case, this was the outcome.

Well, something you need to know about the law is that when you read legal articles online, a lot of times they'll have example cases. Like if I was trying to teach you about the principle of indemnification or the defense of mistake in contract negotiations, for example, I would do it by explaining to you what it is and then giving you an example. Like Lorraine hit Sam in the face and then this happened, and then this happened, and this happened, and then they sued each other. And so, in Lorraine versus Sam, this was the outcome, this is how it went. I would use it as an example to teach you.

The problem is that now ChatGPT goes and pulls this information and it put it into this lawyer's brief, which he then submitted to the court, which is a really, really big deal when you're a lawyer, because you're certifying that what you're saying in there is true and correct to the best of your knowledge. And they take our licenses very, very seriously and lots of other things. So, he goes and submits this and it turns out that a lot of the cases were fake and they were made up because it was being pulled from this thing. So, I wouldn't do it for - I don't know - anything of a major substance.

I think the ways that I've used it so far that have been fun to play with are things like idea generation, title generation, making my titles better, maybe some description or outline of a piece of content that you have created so that you don't have to write show notes for something or a blog post or something or something like that. So, there's probably some of

those kinds of things. I know that there are a lot of people using it in much more creative ways than I am, but as I mentioned in the beginning, it's not a priority for me right now in my business because I have a lot of other stuff going on.

Okay. The other thing I wanted to talk with you about is Canva, because a lot of questions have come up about Canva. When I brought this up on social media, people were really surprised to learn that they might not own the content that you create on Canva.

So, on the surface, Canva seems like a fun design tool. It is a fun design tool and I really, really like it. But one of the biggest things that you might not be thinking about with Canva is that it's also a template library because they have thousands, hundreds - I don't know - design templates, images, emojis, icons, elements, videos, audio, you name it, structures of a design, of an element, everything. And it helps us a ton, which is great. I love it. But there then becomes a question over who owns the content, because let's say you create a social post on Canva, but you use a couple of the elements that are provided by Canva, maybe you even pay like I do for the Canva - what's it called? - Pro, I think, where you get access to additional design elements and tools.

So, those things, the tools that I just listed out, all the elements and images and templates, they are provided to you through what's called a limited license, essentially. So, they are provided to you with a limited license, meaning you can use it. It's totally legal for you to use it. So, you can use it to create social graphics, blog posts, PDFs, handouts, PowerPoint presentations, eBooks, you name it. You can design it on Canva. You're perfectly within your rights to use it because that's what the license says that they're providing to you to be able to use it.

However, you don't then own the copyright to that thing that you create. Now, that would be a little concerning to me in the case, for example, an eBook. I know a lot of people write their eBooks on Canva. If you're using a template from a creator on there or design elements, photos, images, whatever, from creators on there, you actually don't have the right to then own the content you create with it. So, you would own still the text of

your eBook, for example. But if you went and created an eBook that you just created on Canva yourself, like completely on Canva yourself, you used just Canva colors and – I don't know – the free stuff that Canva provides, whatever, the unlicensed stuff – you can always tell the difference because, for example, you can't often use things unless you have the paid version of Canva. But it will also tell you that it's from a creator when you click on it versus things that are just provided, like the freebie stuff that's provided by Canva, that's okay – if you were using a bunch of the elements that are provided through a limited license on Canva, you would not be able to own the design of that thing that you just created. You could, of course, own the copyright to the text, the material that you've written in the ebook example, but you wouldn't own the design elements. So, that's something that is, I think, very important to know about Canva.

So, let me just summarize about Canva really quickly. When do you own content you create on Canva and when do you not. The general rule of thumb is if it's a 100 percent original design that you've created, that you only used your own design elements or the basic free provided stuff from Canva that's not from another creator, then you should technically be in the clear. However, if you use any of Canva's templates, elements, stock images, things from any other creator that are on there that have their name on it, your ownership is limited to the terms of Canva's licensing agreement, meaning it is not 100 percent yours.

So, it's really important to actually take the time to understand the terms of a platform before you're using them, what's legally binding, what you own, what you don't. It might just be as simple as making an easy swap or something like creating a design of your own versus using a template, I think you can keep it pretty simple.

All right. With that, I want to answer a couple of questions from the audience that I got online about both Canva and AI.

Lucid Copy Co asked, "What if you're creating using fonts that you've purchased and uploaded?" So, I think the same thing goes that I've said in this episode so far that, first of all, I want to know what the license

agreement is for those fonts that you're creating, because then that's another concern. You might not be able to resell something for commercial purposes, but you can use it for personal purposes. So, that would be a question you'd have to look into with the font company, wherever you got that from. And I still think it matters the other design elements that you have if you're talking about Canva.

Another person on Instagram asked if this was also the case for things like Google Docs. So, no, with Google Docs, you own the creation of whatever you're writing on Google Docs. They also wanted to know if this was true with other creation platforms or post-drafting and scheduling platforms. So, I'm not sure. I'm not actually personally familiar with any other platforms other than Canva. I mean, Canva is just the widest, most used, other than Adobe Suite and things like that, but that is a whole different ballgame. And I think with the things like Adobe, typically, you're designing your own stuff. I'm sure that they have some sort of answer to Canva. But I admittedly have only used Canva since I started my business. And, no, there's no concern over post-drafting and scheduling platforms, but this is another example where if you're putting all your content into a tool, you want to know what the terms are. You want to read the terms and know do you still own all this stuff.

All right. Little Creative Company asked, "When you say we don't own the 'content' we make with these templates, do you mean the copy we use in a Canva graphic is not owned by the creator if using a template or just the graphic itself? Would love to help guide my clients with this more as they create content." So, this is a great question. So, what I'm saying is that if you create, let's say, a graphic on Instagram and it has content on it but it also has design elements that are licensed through Canva, you don't own the entirety of the thing that you've created. So, you can't go and submit this graphic itself for copyright registration with the U.S. Copyright Office, because all you own, as you've pointed out, is the content that you've written, but not the entirety of kind of the packaging of that content with the design. So, you could register the content, the written copy, but not the actual graphic itself or anything like that if you've utilized those other elements on Canva.

By Maria Henning asked, "My question would be, how do we need to use Canva to ensure that we absolutely create everything that's 100 percent ours?" So, you need to create on Canva using, again, the free elements, not the paid elements or the licensed elements on there. Anything like free colors, the lines that you can put on, that kind of stuff, I imagine would be fine.

Journey with Rachel asked, "I'm curious about how not being able to hold a copyright affects us from having our information 'repurposed a.k.a. stolen' by others if we use Canva? It makes sense to me that an image of theirs is theirs and someone else can use it. But if my content is mine and I add a Canva flourish to make it pretty, does it mean it's up for grabs for anybody else to use?" That's a really good question, Rachel. And my first thought is that I do hear from people a lot on Instagram where they'll say people are copying their graphics, and now this has me thinking, well, if you're creating the graphics on Canva, the graphic design itself is actually not yours. You have a limited license to use it.

I mean, this is always the downside to using those kinds of platforms, too, is everybody has access to what this looks like, so then everybody's content ends up looking the same. It's why I've never love, love the people can purchase social media templates and design elements and stuff like that, I've never loved it because then everybody's stuff ends up looking the same and their terms always say that you don't end up owning the design, so you don't really become known for anything. And then, if somebody else replicates it design-wise, there's not anything you can do about it.

Again, we have to separate design and the entirety of the package from the copy itself. Of course, people can't copy your copy. That's infringement as well and that's a separate issue. But I do hear from people in our industry and on social media who will just say, "Oh. They're making all their graphics look exactly the same," all this kind of stuff. Well, maybe you don't own it if you used things like Canva. So, I think that that's a really good question.

All right. Gabba Lisa E. - I don't know, maybe I'm messing this one up - on Instagram said, "Who do you recommend for logo creation services?" So,

honestly, I recommend getting something original that you created so that you could actually register it, especially if you want to trademark it. And if you do that, you want to make sure with the creator who creates your logo, the designer, that you own all the intellectual property rights to it and that you're able to go forward and get a trademark for it.

All right. Morganite Media asks, "I'm curious how this works for people who make Canva templates specifically to sell on their online storefronts. Is Canva going around with lawsuits against these people?" No. So, what I think is happening in those cases, if you're talking about a company that makes Instagram templates that then they sell to you and you open them in Canva, for one, we don't know if they're actually designing them in Canva. Just because you get templates delivered to you in Canva doesn't mean that that's where they're designed. So, they might be designing them elsewhere. The other thing is that they might be designing them from scratch, so that's possible.

But it's interesting, because even when I've seen these template companies selling social media templates, they'll have gifts in them or photos in them of famous people and stuff. And I'm like, "Well, you don't own that, so technically speaking, you can't sell it." So, it's interesting, but this is where it is a bit of the like people always think that the online business industry is the Wild, Wild West. And I always say, no, it's not because there are so many rules. But it's not that there are no rules. I think it's just a matter of being overwhelmed. There's so much content. There's so much going around. So, it's either that it's a matter of time before that person would maybe get in trouble for it, or it's just not going to happen because it's too busy and there's too many things going on, or there are bigger fish to fry, I don't know. But, no. Keep in mind - this is not knocking against templates - just cause you get templates delivered to you in Canva doesn't mean that that's where they were designed. And they could have designed in Canva from scratch so that they could be theirs, they own it.

All right. We got so many good questions online. Thank you to all of you who had submitted your questions for me. If you have any more questions, of

course, you can reply back to my email this week. I'm always reading your responses. I love hearing from you.

And next Monday, June 24th, I've got a huge, huge announcement dropping for you about the Ultimate Bundle. If you have been wanting to join the Ultimate Bundle, my signature program that gives you over 13 DIY legal templates, all the contracts and website policies that you need, plus over 35 on-demand video trainings to learn everything from how to form your business, to what to do if someone doesn't pay you, to how to get a copyright and a trademark, like we talked about today, you can keep your eyes peeled for next Monday, June 24th, because I've got a major announcement dropping then.

All right. Thanks for listening and I'll see you next Monday.

Thanks so much for listening to the On Your Terms podcast. Make sure to follow on Apple Podcasts, Spotify, or wherever you like to listen to podcasts. You can also check out all of our podcast episodes, show notes, links, and more at samvanderwielen.com/podcast. 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, [@samvanderwielen](https://www.instagram.com/samvanderwielen), and send me a DM to say hi.

Just remember that although I am an attorney, I am not your attorney and I am not offering you legal advice in today's episode. This episode and all of my episodes are informational and educational only. It is not a substitute for seeking out your own advice from your own lawyer. And please keep in mind that I can't offer you legal advice. I don't ever offer any legal services. But I think I offer some pretty good information.