Chapter XIII
Web Sites and the Law: An Avenue for Localization

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ABSTRACT

By adhering to cultural expectations, a Web site can build ethos with an intercultural audience. Those who create successful intercultural Web sites and Web site content must understand the laws and legal systems of the target country to create Web sites that the target audience will view as trustworthy. Laws create certain expectations in audiences, and when a seller violates such laws or even appears to violate such laws, it can create a loss of consumer confidence. This chapter examines certain legal and cultural issues that will instantly brand a Web site as unreliable, because part of developing a successful international Internet business is developing an ethos that potential customers can trust. The ideas and opinions presented here should be viewed as a means for raising awareness of diverse legal cultures and reduce the need to make costly changes as a result of legal advice given outside of an appropriate cultural context.

INTRODUCTION

When La Ligue Contre Le Racisme Et l’Antisemitisme sued Yahoo!, Inc. in a French court, it became clear to everyone that Web sites, even when not intended, were international and that companies with Web sites were subject to legal action in almost any country where they could be viewed. In fact, even though Yahoo! had not specifically localized its site for the French or France, it was using software to identify users who accessed the Web site from French ISPs and then pushed French advertisements to those users. The TGI, the Tribunal de Grande Instance, ruled that by targeting French users, Yahoo! had established a basis for jurisdiction in their court.
Yahoo! pursued further appeals but still decided to ban Nazi and other anti-Semitic materials from its Web site (Reinsch, 2005, pp. 179-180). As Hestermeyer (2006) notes, “Where the other country [in this case France] turns out to be an important market the company will often comply with the judgment whether it can be enforced or not” (p. 275). Yahoo! understands that a country’s legal system and its laws are an intrinsic part of its culture. By adhering to such cultural expectations, a Web site can build ethos with an intercultural target audience. Those who design and create successful intercultural Web sites and Web site content must understand the laws and legal systems of the target country, so that they can build Web sites that the target audience will view as trustworthy.

Laws create certain expectations in audiences, and when a seller violates such laws or even appears to violate such laws, it can create a loss of consumer confidence. E-businesses, already perceived by consumers as somewhat risky, can ill afford such a loss. “Along with the potential advantages of electronic commerce come uncertainties and risks. The very attributes that make electronic commerce advantageous also create risks that undercut consumer confidence” (Alboukrek, 2003, p. 433). Consequently, consumers may perceive a Web site as illegitimate, even if it is not actually illegal, because the Web site does not adequately accommodate cultural sensitivities—for example, by displaying banned material or advertising in a manner considered to be in poor taste. If intercultural Web sites operate differently than the Web sites the target audience regularly views, the audience might not recognize the specific ways in which the site deviates from familiar sites originating in their geographic area, but they unconsciously recognize its difference. And while some difference is refreshing, these kinds of differences add an air of immorality and illegitimacy to a Web site that most e-businesses would prefer to avoid. Understanding the basic legal system of the target country even when one might not understand specific laws will help Web developers create more trustworthy and, therefore, more successful Web sites. The manner in which cultures traditionally reason is particularly important when addressing cross-boundary issues related to Web site development. For example, in addressing jurisdictional issues for cyberspace, August (2002) writes:

Judges, legislators, and treaty draftsmen are using analogy—the tried-and-true tool of legal reasoning—to modify existing rules to fit this new paradigm. Reasoning by analogy can have its problems, however, especially when differences in context are not taken into account. Nevertheless, analogy is the reasoning tool of choice for creating new law, and existing analogous rules have to be considered in any description of cyber-jurisdiction as it currently stands. (p. 531)

This chapter touches on some legal and cultural issues that will instantly brand a Web site as unreliable, because part of developing a successful international Internet business is developing an ethos that potential customers can trust. When a Web site offers products that may be banned as Yahoo! did, or defames the character of a company as Dow Jones was accused of doing, or uses deep-linking or frames in a manner that is inconsistent with other Web sites that customers view, or even relies on disclaimers when the audience is unfamiliar with disclaimers, the Web site undercuts its reliability and loses customers. By recognizing that legal issues represent a localization front even as graphics, content, and rhetoric do, Web site designers will create better localized and ultimately more effective Web sites for intercultural audiences.

The purpose of this chapter is not to offer techniques for avoiding litigation associated with international Web sites or to address specific issues of international cyberlaw. Before making a localized Web site available to the public in the target country, prudent businesses will seek
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