

REPLAY AD →



JOIN US TO EXPERIENCE
THE COLORFUL SIDE OF BUSINESS →

XEROX

Technology | Document Management | Consulting Services

BusinessWeek

▶ Close Window

JUNE 25, 2007

BW SMALLBIZ -- FRONT LINE

Vendors: Web Design Horrors

Be sure you get the site you bargained for

In 2005, Genma Stringer Holmes, founder of Holmes Pest Control in Nashville, hired a Web designer she'd met through her church. She wanted him to create two Web sites to boost sales for her 11-employee, \$500,000 company. Holmes wasn't looking for anything particularly fancy—she just wanted an informational site about her company that would include the latest news about pest control. Two years later, she says, she's stuck with two sites that can't be updated. Since the designer registered the names himself, only people he designates can change them. Holmes can't shut the sites down or have another Web developer redo them. The Web designer hasn't returned her phone calls or e-mails since February, 2006. (He did not return calls from *BusinessWeek SmallBiz*.) Says Holmes: "I was naive and didn't know what I was doing."

WHOSE DOMAIN IS IT?

Small business owners are getting a lot less than they bargained for from some Web vendors. "This happens all the time," says Jan Hulswit, a sales associate for Chesterbrook (Pa.) Web hosting company 1&1 Internet, where Holmes' domains are registered. Hulswit says he gets about eight calls a day from business owners in similar predicaments. "People think they are getting someone reliable to build their Web site, and they don't think about the details, such as actual ownership," he says. "When things go sour, the designer comes out on top. It's almost like [small business owners] are being held hostage."

The most common problem is that the Web developer, rather than the business owner, will register the domain name. Other times designers vanish before a site is finished. And a business owner whose expectations are unclear is asking for trouble.

The Council of Better Business Bureaus in Arlington, Va., received 1,971 complaints against Web design outfits in 2006, compared with just 603 in 2003. "The problem is definitely growing," says Alison Preszler, a BBB spokesperson. "More small businesses realize the need to have a Web presence, so there's more demand for Web designers. But as more companies enter that market, you're seeing more that are not on the up and up."

Yankee Group analyst Gary Chen says that since 2005 there has been a sharp rise in the number of small companies turning to outside designers. "The typical cycle for Web sites is that entrepreneurs design the first one themselves and then they want something more, maybe e-commerce, so they hire a professional," he says. Unfortunately, not all of those professionals deserve the title.

There's little recourse if you believe your Web designer has cheated you. If you and the designer are still in contact, you may be able to buy back your domain name from them. The next step is court. Small-claims courts may enable you to recover any fees paid to your developer. But because they are set up to deal only with simple cases, these courts "generally won't give emergency injunctive relief, like an order telling a developer to give you the code for your site, or to release control over your URL," says David Tollen, principal at Tollen Legal, a San Francisco law firm specializing in technology. In most states, small-claims judges just don't have that authority.

Plus, the amount of money you can try to win in small claims court is capped in each state. In California, for example, awards max out at \$7,500 for an individual and \$5,000 for a corporation, limited liability outfit, or other entity.

Those who choose the traditional courts face a tough slog. Ownership disputes are fairly straightforward, but without an ownership agreement, the Web developer is going to win. If you're arguing about whether the developer delivered the site it promised, "that's not the kind of thing you want to rely on a judge and jury for," says Michael Cavaretta, a lawyer at Morse, Barnes-Brown & Pendleton in Waltham, Mass. "They don't have the technological expertise to sort these things out."

SPELL OUT DETAILS

To protect yourself, you'll want to start with some of the same precautions you'd use with any new vendor. You'll need to check references and look at plenty of the designer's work for other clients. You'll also want to consider the designer's location—a face-to-face meeting can do wonders for a relationship that seems to be going south.

To eliminate the chances of a misunderstanding, make sure you're clear about how your site should look and what it should do. Then structure payments based on milestones. You could pay a portion of the fee when you get a final design showing what the site will look like and another chunk when a mock-up of the first page is finished and ready to view online. You might also ask the developers to produce a shadow site on their own server that you will approve before your site goes live. Be sure the developer explains what he or she will do to maintain and refine the site. All this should be in a detailed contract, or an addendum to a basic contract the designer provides. And while it may be tempting to pay hourly, be warned: "The more incompetent the designer is, the more you end up paying," says Richard Neff, a Los Angeles attorney with Greenberg Glusker.

INTO THE ETHER

When Holmes talked to a lawyer in March, 2006, he explained that the odds were against her and that a lawsuit probably wouldn't be worth her money. "He said it's hard to sue virtual people," she recalls. Her designer was "somewhere on the World Wide Web. Emphasis on world." She says she would settle for reclaiming her domain names, and she plans to continue calling and e-mailing her former Web developer until he responds. Meanwhile, she's launching a new site this June under the URL holmespestcontrol.com, which she recently acquired, and she put in an order with GoDaddy.com to buy the domain name holmespestcontrol.net—currently owned by her developer—as soon as it comes up for sale. She has once again hired a Web designer, but this time she did much more homework, looking at lots of work and checking references. She ended up paying \$2,500 to I Design, a firm in Brentwood, Tenn., that she calls "a pleasure doing business with." One good sign she noticed right off the bat: "He insisted I register the domain name myself."

By Eve Tahmincioglu

[Advertising](#) | [Special Sections](#) | [MarketPlace](#) | [Knowledge Centers](#)

Xerox Color. It makes business sense.

[Terms of Use](#) | [Privacy Notice](#) | [Ethics Code](#) | [Contact Us](#)

The McGraw-Hill Companies

Copyright 2000- 2007 by The McGraw-Hill Companies Inc.
All rights reserved.