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Legal Rights To Demand Removal Of Artwork From Third Party Site
[Kristie Prinz](#)

Q. A third party has my business's artwork, logo, and website link posted on its site. I have asked such third party to remove the artwork, and this third party has refused. Though I don't have a patent on the logo I have proof of design payment hence making it my property. May I legally demand he remove it from the website?

-- Drew

A.

First of all, you should understand that logos are protected by [copyright and trademark](#) protection--not patent law. So, you would not have been able to secure a patent on your logo in any circumstances.

Second of all, based on the facts you have presented, it is unclear as to the scope of your legal rights in the artwork and logo. Are you the full owner of all right, title, and interest in the artwork and logo? Did you create these works yourself or did you hire someone else to create them on your behalf?

The general rule is that copyright protection exists in design work immediately when it is created in fixed form. The creator of the work owns the copyright in the work, unless such creator (i) assigns his/her rights in the artwork to a third party or (ii) the work was made for hire.

[Section 101 of Copyright Act](#) defines a "work made for hire" as:

- (i) a work prepared by an employee within the scope of his or her employment or (ii) a work specially ordered or commissioned for use as (a) a contribution to a collective work; (b) a part of a motion picture or other audiovisual work; (c) a translation; (d) a supplementary work; (e) a compilation; (f) an instructional text; (g) a test; (h) answer material for a test; or (i) an atlas, provided that the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of this definition, a "supplementary work" is defined as a work prepared for publication as a secondary adjunct to a work by another author for

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the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an instructional text is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

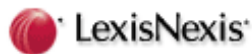
In the facts you have presented, assuming that you were not the creator of the artwork and logo, these works will not constitute works made for hire, unless the designer entered into a written agreement with the business stating that the works were made for hire. Otherwise, the artwork and logo still technically are owned by the designer who created them, and you do not currently have legal rights to protect them on copyright grounds.

Having said this, you may still have established some trademark rights in the logo based on its use in commerce, assuming you have been using the logo in commerce. You may want to explore the possibility of taking immediate action precluding further use of the logo on such grounds.

My overall advice would be to consult as soon as possible with an [intellectual property attorney](#) in your jurisdiction to see what can be done to clean up your ownership rights in the artwork and logo. Businesses make mistakes like you have made in this area all the time, especially when they are new companies, and an experienced intellectual property attorney should be able to advise you on how best to clean up your chain of ownership, and then to further guide you on how best to enforce your rights in such IP against infringers.

-- Kristie Prinz

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