

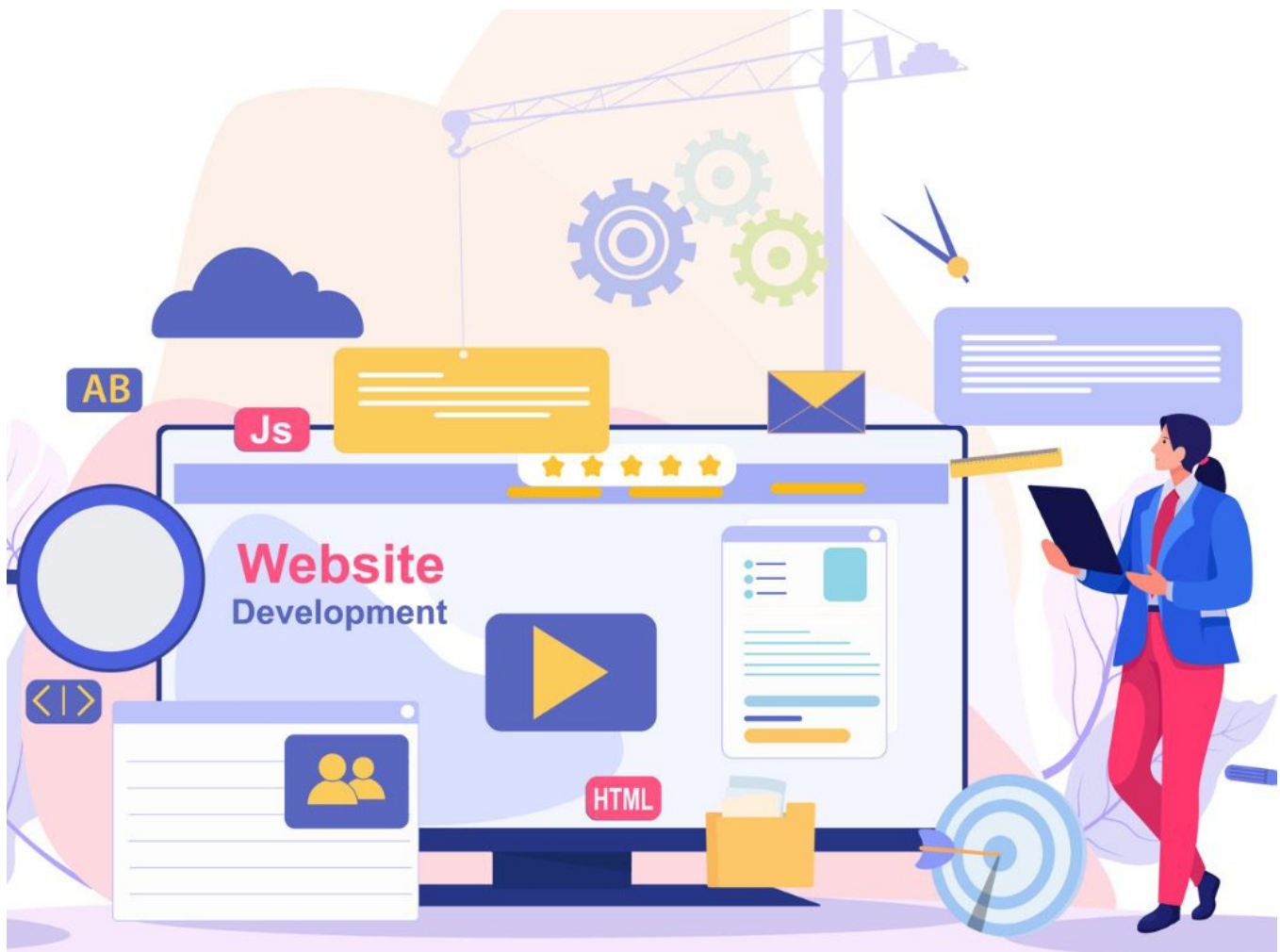
THOUGHT LEADERSHIP

Why Legal Teams Need to Develop, Maintain Strong Brand Guidelines

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Brand guidelines, also known as style guides or manuals, are essential tools for protecting and strengthening a company's identity. They provide clear instructions for the consistent use of trade names, logos, taglines, product marks, and other brand elements across print and digital media.

By defining parameters for placement, typography, color, and tone, brand guidelines safeguard legal rights. They ensure that every brand representation reflects the company's values and voice. For in-house counsel, confirming the existence and enforcement of such guidelines is a critical step in preserving brand integrity and value.

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Why have brand guidelines?

Consistency is everything. When brands have a consistent look and feel, consumers are more apt to remember and trust them. This builds consumer loyalty and maximizes the value of the brands. Brand guidelines establish that consistency by educating internal designers, marketers, and salespeople, as well as external vendors like ad agencies and retailers, and even consumers, in the proper use of a company's brands.

The haphazard use of a company's brands in different typestyles, sizes, and colors will weaken its impression among consumers and lead to less trust, loyalty, and sales. Legally speaking, since trademark rights depend upon consumer perception, courts are less likely to accord strong trademark protection to brands that are used inconsistently.

Here are seven other reasons why companies should adopt brand guidelines:

1. **Maximizing shareholder value:** Intellectual property aka intangible property is one of a company's most valuable business assets. Brands can drive sales through [product differentiation](#) in the marketplace. They can also serve as collateral in financial transactions or as a revenue generator through licensing, and they can also be sold off to generate income. Clear brand guidelines maximize the value of those brands and the value of the company.
2. **Minimizing the burden on legal:** When employees know brand guidelines exist and can easily find them on the internal website, marketing and other teams don't need to ask legal about the proper use of the company's brands. Reducing the amount of back-and-forth frees up the legal function to focus on higher value work.
3. **Demonstrating trademark vigilance:** In litigation, a trademark owner can demonstrate the strength of its mark by showing it created and enforced brand guidelines, proving close control over use. Because courts expect trademark owners to police their rights to receive relief for infringement, developing and following internal standards provides critical evidence.
4. **Controlling mark usage by those in privity:** A brand owner can cite brand guidelines in agreements with licensees, franchisees, and distributors,

securing the contractual right to cancel if they fail to comply. The owner can attach the guidelines as an exhibit and post them online for easy updates. This approach ensures third parties cannot dispute having notice of branding requirements.

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5. **Avoiding genericness:** Genericide, which happens when the public adopts a brand name as the generic term for a product, is fatal to trademarks. Think about aspirin, cellophane, and escalators. These were all proprietary trademarks at one point. Brand guidelines protect against this risk by prescribing proper trademark use—such as pairing the brand with a product descriptor and adding a trademark notice. By educating the public, companies preserve their brands' distinctiveness.

6. **Defining your trade dress:** Trade dress covers the overall look of a product, its packaging, and even its design. When packaging varies widely, proving a common source becomes harder. Brand guidelines define and standardize trade dress, guide marketing to use it consistently, and provide evidence to support infringement claims.

7. **Guiding the use of fluid marks:** Many brands are embracing “fluid” marks that change appearance frequently, moving away from static branding. This approach is especially popular in online marketing efforts. But style manuals are still relevant in these cases. The key is that marketing stays creative without letting others define the brand.

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Final thoughts

Brand guidelines should be reviewed and updated periodically to add new company brands, remove discontinued ones, and reflect any changes in their usage. By valuing and closely monitoring brand guidelines, in-house counsel can support marketing and ensure the entire organization communicates a consistent voice to all stakeholders.

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