

LUTZKER & LUTZKER — LLP —

Lutzker & Lutzker Newsletter October 2020

To our clients, colleagues and friends:

As our collective heads spin from the relentless barrage of daily news, we are staying focused on the new and interesting IP and privacy issues that continue to make headlines. Through this periodic newsletter, we explore these and other important developments that may affect your

business.

COVID-19 has posed difficult privacy issues for schools. In their concern about legal compliance, many are over-enforcing privacy restrictions and withholding vital information from their communities about the spread of the virus. [In our blog](#) we discuss the often-misunderstood federal privacy laws relevant to striking this difficult balance.

Also raising eyebrows of privacy advocates is the proliferation of the use of drones by the government, businesses and private citizens, leading to unanticipated invasions of privacy. [We explore](#) the difficulty of challenging drone misuse and the underlying need to replace a patchwork of laws with a coherent national privacy scheme.

In the wake of the death of George Floyd, public and private K-12 schools and universities have faced increased pressure to rename buildings on their campuses, as well as the institutions themselves. [In our blog](#) we discuss the legal and practical considerations of renaming.

On the trademark front, the entity that holds trademarks for President Trump's businesses has applied to register the term TELERALLY as a service mark for organizing political campaign events. [We have taken a look](#) at PTO precedent and a linguistic analysis of the proposed mark, which suggest that the application may be generic and thus unregistrable. Included is a chart showing the spectrum of trademark distinctiveness from fanciful to generic.

As our online presence is front and center these days, many businesses are doing website refreshes. [Our blog](#) identifies the legal issues that need to be considered in the process. Privacy again has a starring role since all but purely informational websites collect personal data and are subject to the U.S. privacy law patchwork, further complicated for websites reaching residents of the European Union, who are protected by the General Data Protection Regulation (GDPR).

Finally, continuing our interest in IP protections for indigenous intellectual property, [we discuss](#) the current controversy surrounding the exploitation of the copyright in the Australian Aboriginal flag. As our article explains, there are competing equities in this complicated situation and a spectrum of possible resolutions.

Don't hesitate to reach out to us at info@lutzker.com with any questions and please continue to stay safe.

Blog Posts from the Firm



What's in a Rename: Changing School, Building and Program Names Within Educational Institutions

The following addresses legal and practical considerations as private and public K-12 schools and universities grapple with issues surrounding the names of buildings on their campuses, as well as those of the institutions themselves.

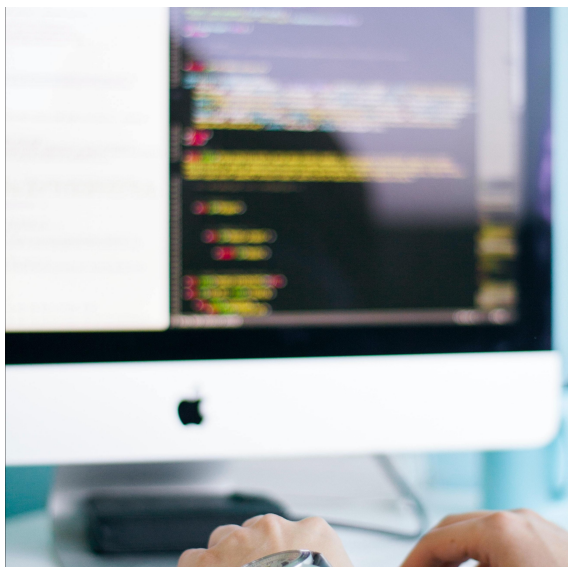
[Read Here >>](#)

Get Out of My Space: Drones and Privacy Law

Drones are nothing new, but recent concerns about their use by government officials for the surveillance of peaceful protests have ignited pleas for increased privacy protection. And their widespread use by laypeople increases the risks of invasions of the privacy of ordinary citizens. Here we discuss some of the challenges to clear, uniform and balanced privacy regulations in the U.S.

[Read Here >>](#)





Refreshing Your Website: Overlook the Legal Details at Your Peril

As many of us update the design and content of our online presence periodically, it's important to pay attention to the legal aspects - to assure we own the content and design of the site, to guard against infringing third-party rights and to limit our liability by qualifying for the DMCA's exemption for online service providers. In addition, a variety of U.S. privacy laws and the EU's General Data Protection Regulation (GDPR) necessitate compliant website Privacy Policies.

[Read Here >>](#)

Student Privacy Law During the COVID-19 Pandemic

Schools across the country are struggling to balance the need to inform their communities about the spread of COVID-19 with protecting the privacy interests of their students and faculty. Lack of understanding of federal privacy laws – namely FERPA and HIPAA - are leading to over-enforcement of privacy restrictions and withholding of vital information.

[Read Here >>](#)



Trump's TELERALLY



Service Mark: Generic or Too Descriptive to Be Registered

The company that holds the trademarks for President Trump's businesses has applied to register TELERALLY as a service mark for organizing political campaign events. Prior PTO decisions and a linguistic analysis of the proposed mark suggest that it is unregistrable.

[Read Here >>](#)

Free the Australian Aboriginal Flag: What Are the Limits of Implied Covenants of Fair Dealing in Copyright Licensing?

The current "Free the Flag" campaign in Australia raises complicated questions of fairness in copyright ownership of Indigenous property and underscores the limitations of existing Australian law to balance the competing interests.

[Read Here >>](#)



New From Lutzker & Lutzker LLP: FAQs

Lutzker & Lutzker has launched an FAQ feature on our website to provide additional relevant content on pressing issues. We begin by answering frequently asked questions related to technology in K-12 classrooms, which you can find at the link below.

More FAQ topics coming soon.

[Click Here](#)

Connect with us online



Arnold Lutzker and Susan Lutzker founded Lutzker & Lutzker LLP in 1998 to provide high-quality, cost-effective legal services to businesses, creative professionals and their lawyers in the creation, strategic exploitation and defense of intellectual property assets.

Drawing on their experiences in law, business and the arts, our firm's lawyers have stayed on the leading edge of digital-era issues, including online content, social media, mobile applications, cybersecurity and data

privacy requirements. We advise corporate counsel on challenging intellectual property matters and also help more than 300 clients protect and manage their traditional copyright and trademark portfolios.

Questions: please email us at info@lutzker.com



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