

Online Marketing Made Easy ^{w/} Amy Porterfield



Social Media | List Building | Content Marketing

The Online Marketing Made Easy Podcast with Amy Porterfield Session #112

Show notes at: <http://www.amyporterfield.com/112>

Amy Porterfield: Welcome back to another episode of The Online Marketing Made Easy Podcast. I'm your host, Amy Porterfield. Thank you so very, very much for tuning in.

Today we're talking all about all the legal stuff you need to know to protect your online business. I know, the legal stuff can definitely be scary for some of us. Almost all of us are confused at the legal stuff at some point or another and many of us find this topic very boring.

Who wants to talk about policies and contracts? Most everyone will say "No" to that, right? However, because we love to talk about the sexy stuff: the sales funnel, the Facebook ads, webinars, and online courses we have to make sure everything we're doing to create those things in our business are protected.

That's why I thought this episode was so very valuable. I am not a legal expert by any means. So, I had to go out and find a really good expert to come on the show and break it down for us.

This interview is funny because I usually record the intro after the interview and one thing I can tell you, at the beginning of this interview I felt like I was a little scattered, all over the place. I love that my guest picked up on that and zeroed in.

She said she was going to lay out the five areas you need to pay attention to in order to protect your online business. I thought, "Hallelujah! I love a girl with a list." And Gena gets right to it.

To back up a little bit, my guest is [Genavieve Shingle Jaffe](#). She used to be a corporate lawyer and then got the entrepreneurial bug like so many of us. She started her own online business. I'll let her share her story with you because we get into that right at the beginning. But, I will say that I love that she has a nice mix of one-on-one consulting for the legal stuff but also has an online course.

Because she has an online course (she will talk about it) she knows what's needed to protect your online courses. We're going to get into those specifics as well. I just wanted to let you know this is a very important topic. It is one that can be a little confusing and a little scary at times but it is so very, very important that you pay attention.

I hope you take action on these five different areas she's going to lay out for us. I know I have and I think most of you will find it really easy to implement once she starts to talk about it and break it down.

To help you with the legal stuff, notice I use the word "stuff" because I too get a little confused about all of this, I wanted to make it really easy for you to start understanding what you need to do to protect yourself. Sometimes it's the different terms and phrases that these lawyers are using that make no sense to us.

Gena broke it all down. There's a freebie for this episode called Understanding Legal Contracts for Entrepreneurs. It goes beyond contracts but, again, it is the privacy policies and disclaimers and all that good stuff and why you need it. I definitely want you to download this right away.

To grab the freebie all you need to do is go to <http://amyporterfield.com/112download> or just text the phrase 112download to 33444. You can text or just go online and grab it but this is something you want to look over and make sure you are protected.

The great thing is this interview will walk you through some of the things you will get in the download to make it make even more sense. I want you to grab it and then I want you to listen in.

Before we dive in, this episode is sponsored by FreshBooks. I absolutely love sharing knowledge about how to grow your business. But having the right tools in place to manage your growth is also key. That is why you need to know about FreshBooks if you are currently a freelancer, coach, or consultant.

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I won't make you wait any longer, let's go ahead and jump into our interview with Gena all about how to protect yourself with your online business.

Amy: Gena, thank you so very much for being with me here today. I really appreciate it.

Gena: I'm so honored to be here. Thank you.

Amy: It's always fun to hear from people that have quit really big corporate type jobs and moved into the entrepreneur online space. I would love for you to share with those listening a little bit about you and what you do but also what that transition looked like for you.

Gena: I call myself a sparkly lawyer for entrepreneurs. Basically, the whole sparkle part has nothing to do with law but has everything to do with me. Since I am an entrepreneur and am a solopreneur, my business is me. I am my business. I love glitter and unicorns and all things sparkly. Who doesn't want to talk to somebody that's a sparkly lawyer?

I was working as a corporate lawyer in New York City doing high-end mergers and acquisitions and really boring things. It's as boring as it sounds. But I was learning how to draft contracts. I met my now wife in the summer of 2013. She had asked me if I had ever thought out having my own business.

I said, "Nope, no way." She had been an entrepreneur her whole life.

Amy: Oh, okay.

Gena: That was her career path. She was a business coach at the time. And as time went on I kind of saw the incredible lifestyle she was living, first of all. I would be getting up

really early to go to the office and I would be getting home really late. She would tell me she went to afternoon yoga.

Then I kept meeting a ton of her clients and friends and other amazing women in her world. They kept telling me they needed someone like me to draft contracts. Otherwise they were paying \$500 per hour in a stuffy law firm.

I saw an incredible market opportunity. So, in January 2014, I quit my job at my law firm. My parents were horrified.

Amy: I bet.

Gena: I started my own practice.

Amy: And the rest is history. Actually, you have a really good [story](#) on your website so I'll make sure to link to it because I know there's more to that story, the ups and downs of getting things started, and I just love how transparent you are about your journey.

That leads me to your next question. You have a tag line, "Transparency is the new black." Talk to me about what the word transparency means in terms of all of this legal stuff you help us understand.

Gena: It has many meanings in how I use it. In terms of legal, it's all about being upfront with people, being upfront with your terms, and your refund policy. The law is really all about notice. What did people know before they started working with you?

It's about being transparent. Then in terms of my own branding, I'm just very transparent in terms of profits and losses and not just talking about my revenue. I am talking about when I struggled and almost had to file bankruptcy, talking about depression and how that kicks in as an entrepreneur, and just really weaving in the good and the bad in the journey.

A lot of times, in our online marketing world, people share all of the good and the highs and ups. It's not always like that. No one's life is ever just that. I run a very large Facebook group of all women entrepreneurs. I want to set the example that I am not always as happy or successful as I may appear to be.

My downs have created some of the most incredible lessons and learning opportunities in my business.

Amy: Amen to that. The whole transparency angle is definitely valuable in any type of work. But especially for what you do, I feel I instantly connect with you and can trust you when you're so open about everything in your life, everything you want to share, and you feel comfortable with sharing. It's so refreshing. I just wanted to tell you, and you probably already know this, but it really is an awesome thing you're doing.

Gena: Thank you.

Amy: Definitely. When it comes to the legal stuff, I just want to start off right off the bat with one of the most common mistakes you see entrepreneurs making when they are just getting started with their business.

Gena: The most common mistake is just to have absolutely nothing in place at all. I understand when you're starting a business money is an issue. I started my own business too. I get it. But when you take on a client you must have a client contract before you even sign on the client.

The client contract is really there to protect you and the client. It really protects your brand and income but it also protects the confidentiality of the client. It really creates a beautiful sacred space to get all of the business stuff done up front and then share intimate details down the line.

The biggest thing people come to me about is they have a client leave part way through the program and now they aren't paying. When I ask if I can see their contract, if they don't have one, I really have no recourse for them because we can't prove what was agreed to. Getting that client contract, first and foremost, before you take on any clients is really the best thing you can do for your business.

Amy: Are you talking about clients like one-on-one coaching consulting clients? What about if I have an online course and I have a bunch of clients in my course?

Gena: Yep. That would be a different type of document. But you still definitely want to have something in writing. My business partner and I call that a Terms of Use document. It is

really for group programs but it has a lot of the same nuts and bolts that a client contract does have.

Before you work with anyone, before money exchanges hands at all, whether it's group, private, graphic design, VA, or anything, there should be something in writing that says what you are agreeing to.

Amy: Got it. Okay. We'll talk a little bit at the end about how you gets your hands on contracts like these. But, before we get there will you help us make a distinction about running an online business versus having a brick and mortar business.

For these service providers that are listening or even coaches and consultants, what are some of those main distinctions we need to wrap our heads around when it comes to the legal stuff?

Gena: They are so different. That's why a lot of traditional lawyers don't really understand the online world. It's really different in how we operate. With brick and mortar businesses, you usually just go work with a local lawyer, somebody traditional. That's fine. There are a lot of insurance things you need to take care of and all of that because people are coming to your store.

In the online world, we are reaching people worldwide. We have a vast reach of people. We're touching every state in the U.S. and different countries. So there are different things we need to think about in terms of our website and our marketing. How is that being reached? It's being reached all around the world.

There are certain documents you need on your website in order to protect you that you wouldn't necessarily need if you had a brick and mortar store and didn't even have a website, for example.

The online world and legal regulation hasn't fully caught up to us yet. This online coaching world is huge and it's really booming. The rules and regulations haven't caught up to us quite yet but I work only with online-based businesses. For me, I've started to learn the most important things you need to have if you're an online business.

I don't even touch brick and mortar because that's not my area of expertise. I don't know insurance. I don't know anything like that. In terms of online there are a ton of website documents. You're probably hiring contractors instead of employees. That's something different as well.

Your contractor might live in another country or another state. That's how it's really different, because of your reach.

Amy: Okay. Let's break it down. I feel I could be all over the place with all of the questions I have for you. But I want to make it really efficient if possible. Let's say we're talking to coaches and consultants and maybe those coaches and consultants even have an online training program. If you were going to look at somebody's online business, point me in the direction of areas I should pay close attention to and areas I should be thinking I need a contract for this or privacy policies and terms and conditions, the links at the bottom of the sales page.

I know there's a lot to cover, but can you point out the most important stuff so that those listening can think, "This is a good place for me to start"? It's really scary at times.

Gena: I'm going to tell you about five things.

Amy: I like it. You're speaking my language girl. Let's do it.

Gena: Okay.

Number 1

If you're working one on one with clients you want to have a client contract.

Number 2

If you're doing a group coaching program or are selling an online product or program where you're reaching a ton of people, that's a terms of use document. Basically on the invoice it would say, "By purchasing this program you agree to the following terms..." There is a little hyperlink, up pops this set of terms. It's really thorough and has a lot of client contract type language. But it protects your materials and the confidentiality.

People would click the checkbox and say they agree. By clicking the checkbox that's actually an electronic signature.

Amy: That's important.

Gena: That's the gold standard. Again, like I said, the law is all about notice so they need to have the opportunity to read these documents before making purchases from you.

Amy: Okay, cool.

Gena: Then there are three website documents.

Number 3

The first is called the Website Disclaimer. The website disclaimer is really about protecting your liability. We're going to have a ton of information on our website. We might have a blog, we might have free resources. We want to say that all of this is just for information only and is not to be construed as specific advice for your situation.

Let's say we're a health coach. I might be giving different recipes, different exercise regimes, but before you take action on anything I wrote you should consult a medical professional because I don't know your situation. You're just behind a screen. I'm writing my blog post.

That disclaimer is going to protect you from people taking action on your website or any information you give. You are saying that they cannot take your information as actual medical advice. They should consult with a medical doctor. That's the disclaimer.

Number 4

Terms and conditions protects the content on your website. It would protect our blog post. It would protect your images and your business name and everything like that. It would say, "Anything on this website belongs to me and you can't use it for your own business."

This does not replace actually getting copyright and trademark registration. That's a little bit more advanced. But I like to point that out. But, it puts people on notice that you are claiming ownership of everything on your website.

If somebody were to steal your blog post and put it on their website they actually breached your contract. You can go after them and say, "Hey, you need to take that down."

Amy: Cool. Okay.

Gena: The last one is the privacy policy.

Number 5

The privacy policy protects the information people give you. The people that come to your website give you their name and email for a newsletter or they will fill out their credit card information to buy a program or product. The privacy policy says that you promise you won't spam them or sell their information.

Several states in the U.S. actually require that you have this document on your website. Even if you don't live in one of those states, if you market to clients in those states you are required to have it. Since we have an online business and we're reaching everyone in the world, I always tell people to put it on their website. You just want to be careful. You want to be sure.

I'll just recap. Client contract, terms of use, website disclaimer, website terms and conditions, and website privacy policy are the five building blocks in really protecting your business.

Amy: That's so valuable. Thank you for going through those. I have a few quick questions. Those last three: Website disclaimer, terms and conditions, and privacy policy; those three are links at the bottom of your website. Is that right?

Gena: Yes, correct.

Amy: They open up to another webpage with all of the details?

Gena: Yeah. You don't want to have all of the language. It's pretty thorough. It would go in the footer so that on any page of your site it would be visible.

Amy: Great. Those are important on your own website but also (this is a question) on your sales page?

Gena: Yes, absolutely.

Amy: Great. A lot of the times I will have an opt-in page. People can opt in to my freebie. You know all about it. On there, do I need all three of those?

Gena: It doesn't hurt. It absolutely doesn't hurt. You definitely want to be careful. Be sure. But the most important one for that page is the privacy policy. Fortunately, a lot of other social media platforms have caught up to this.

With LeadPages, you have to have it on there. I know Facebook ads, at one point in time, wouldn't even run an ad to a page that didn't have terms on it. I thought, thank goodness, it's getting caught up.

That one, because you're collecting that information from people, you want to be certain. But the disclaimer is really important as well because your freebie is going to be giving people advice and giving people tips. You want to make sure, again, that they are not taking that to heart. They are still consulting with a lawyer, an accountant, a financial advisor, and stuff like that.

The disclaimer would have certain language depending on your business.

Amy: You had mentioned copyrighting and trademarking. Talk to me a little bit about where that becomes really important and some of the sticky things around it, why it seems so complicated for a lot of us.

Gena: I'm going to talk about trademarks because that's...

Amy: I don't even know the difference between those two, to be quite honest.

Gena: That's okay, most people don't. A trademark protects a name, phrase, or logo. It is all about brand identity and preventing brand confusion. We have the Nike swoosh, we have the Target symbol, we have "Just Do It".

Those are trademarks to a certain business and brand. It is something that identifies a brand. Even the red sole of a Louis Vuitton shoe is a trademarked color.

Amy: Interesting.

Gena: That's a trademark. A copyright protects original artistic expression. It's more books, music, lyrics, and artwork. The copyright is all about protecting artistic work. You can copyright a blog because it's a written work. But when it comes to your business name that would be a trademark.

Amy: I've got it. So, if we went about getting a trademark for the name of a course, is that something you suggest? What kind of steps do we take to make it happen? Even bigger would be the name of our business.

Gena: Yeah. A trademark is a long, extensive process. It can take up to a year to actually get your official registered trademark because you're dealing with the government. The government can be slow.

Amy: Yes.

Gena: There are a lot of steps involved. When you're thinking about a trademark, and it can be expensive, you want to make sure this name or logo or phrase is something that is so key to your business and crucial to your brand that you would be devastated if somebody else started to use it. It can be your course but I would suggest it be your signature course.

You want it to be something that's making you money and that people are recognizing the course associated with you. B-School is a trademark. We know it belongs to Marie. When it gets to a point where you're known for this, or you want to be known for it and you really don't want anybody else to use the name or phrase, that's when you consider moving that trademark route.

Most lawyers suggest, not because we make a lot of money from it, that you do work with a lawyer. It's not just that specific word or phrase that's protected, it's anything that is similar to it.

Let's use B-School. If I had a course that I wanted to call Legal B-School, I can't do that. That word is already protected. But, if I searched the phrase Legal B-School nothing would show up so I might think I could go ahead and use it. Really you can't.

Amy: And that's where a lawyer would come into play to help you figure that out?

Gena: Yeah. Let's say you did move forward and filled out the application and then you came back and got rejected. You can't get your money from the application. The government doesn't give refunds.

Amy: Got it. What kind of money are we talking to move forward with something like that?

Gena: I personally charge \$2,000 for a trademark. I know a lot of people charge more in our industry. A lot of time goes into it because we're doing a really thorough search for you. We're filling out the application. We're handling all correspondence with the government. Throughout this year-long period we are getting emails from the government and we respond to them for you so that you don't have to worry about doing anything.

Amy: I definitely see the huge value in that. Let's say somebody wanted to hire you to get a trademark on their business name or course name. What should they do before they reach out to you?

Gena: I always suggest they not put it out there yet.

Amy: Don't tell anybody about it and don't use it at all.

Gena: If it's a new course and you know it will be your signature and want to get it trademarked, come to me before you actually put it out there. If you put it out there and we find that somebody has the same or similar word or phrase and are operating in your specific industry (it's all based on whether you are in the same industry – it's called classes) we're going to have to change your entire website and all of your marketing. You will be wasting a lot of money.

If you already have the course out there and have been operating it for a few years, it is going really well, and you want to continue, you can then just come to me. That's fine. We can start the search there and hopefully it will be good to go.

Amy: Fingers crossed. But is there a site that people should go to and look to see if it's already taken so that they don't waste your time or anybody else's time? Is there someplace they should start?

Gena: Sure. The government has a website. It's tess2.uspto.gov

Amy: We'll link to that in the show notes as well at <http://www.amyporterfield.com/112>. I also want to link to a few other different resources from Gena because there is so much great, valuable insight that she can share with all of us about where to get started.

As I said in the intro, what I love about Gena's style is that it's not about making us scared of what's out there or that we will get sued or this is wrong and that's wrong and you'd better protect yourself. Gena, you don't come from a place like that and I really appreciate that because you're all about education.

Gena: Sure, I can use fear-based marketing but I just think it feels really icky. For me, my whole mission is to educate and empower entrepreneurs with the legal side of their business so they feel really calm and confident understanding the contracts they are giving and also the ones they are signing.

Amy: For sure, that's a whole other ballgame right there, just before you sign anything, being especially careful as you go out on your own and start making those decisions.

As I mentioned earlier, a lot of people that are listening right now are either creating their first online course or they already have an online course and one of their biggest fears, and this is very valid because it's happened to me many times, one of their biggest fears is getting their content stolen or ripped off.

For me, as you know, people will take my entire course, put it on another site (I'm totally confused how this is happening), and then they sell it for \$97. Talk to me about what that's all about and what we can do to protect ourselves.

Gena: That infuriates me. I get so upset. This happens a lot. I have a lot of people that will come to me and have me go after these other websites.

Amy: That's what you've personally done for me.

Gena: Yes. I say I am fighting cybercrime. I'm 5' but I'm fierce.

Amy: I love it.

Gena: When you have a course and you're selling the course, this is why it's so important to have this contract, a terms of use document, in place. In that document will be information about intellectual property ownership, who owns the content and what you can do with it.

This contract is going to say that anything you receive, all the course materials, the modules, the lessons, whatever you give, belongs to "me". You cannot use it to teach your clients. You can't give your clients access to this. You can't sell this, you can't give it out. You are getting a single user license to access these materials.

They will implement the materials in their own business but they can't take it and start their own business. If somebody does copy you, that's when you can take the contract and go after them and let them know they have breached the contract.

What I have done for you and what I do for many other people is send a cease and desist letter. It basically tells them to "stop doing this right now and if you don't further action will be taken, you'll have to give us the profit you have made from the course."

It usually doesn't get to that point. A lot of times people will take it down. These other websites where they literally take the whole course, I don't understand how this happens.

Amy: It's insane.

Gena: Going after them is a whole other ballgame. I usually just end up going through the hosting company. There are two different routes you go. You obviously contact that person who runs the website or owns the website. A lot of times they aren't going to respond to you.

I then find out who hosts the website and send them a DMCA takedown notice. It means digital millennial copyright act. When people violate that there is a form you use to send to

the hosting company. If the hosting company becomes aware that someone is violating the terms they have to remove the content.

A lot of times that works. Sometimes it doesn't because now a lot of people are using foreign hosting companies and it is getting really hard to track these people down. But we do what we can.

Amy: It's been really valuable and definitely something you just have to keep a pulse on and know that when it happens to me, I've seen it happen over the years many, many times. It's frustrating and we definitely take action when we see it happen. But at the same time, just a little word of advice for those of you who are creating courses, I do not worry about it extensively.

It's something we try to take action on and then I keep moving forward. You're never going to be able to control everything that happens online. A lot of times I tell myself if somebody's buying my \$1,000 course for \$97 and it's obvious on these sites it's not coming from me (they are usually really janky sites, it looks terrible, and it's usually really outdated content) I think they are likely not my ideal students anyway.

In my opinion it's very obvious that something's been ripped off or something's not quite right. At the same time, I just keep moving forward, head down, keep doing my work, and then rely on very, very skilled people like Gena to make some magic happen. That's the way I look at it.

Gena: That's a good way to look at it, for sure.

Amy: Definitely. Gena, this has been so incredibly valuable and before we jump off, a few things: If you were talking to someone who was just starting their business, just getting going with their first online course and they are blogging consistently, they have their podcast out there, maybe they have some clients, I know we talked about these five areas to pay close attention to, but if we were just going to talk about general insight around the legal when it comes to your business what kind of final words of advice would you share?

Gena: Don't worry about the legal. Don't let it scare you. It's really there to protect you. Understand that these contracts are really beautiful protection for both you and your clients

and you can just get them piecemeal. You don't have to worry about getting all of them at once.

Amy: I like that. That is great advice. What if somebody wants to work with you or check out your own online courses? You have some incredible online courses all around some of the topics we talked about and even further than that. Where can they learn more about you?

Gena: Thank you. My main website is <http://www.genavieveshingle.com>.

Amy: I'll make sure to link to it.

Gena: The online legal course that I run, I run with another lawyer, Lisa Fraley. She is amazing. It's called Damsel Goes Bare (<http://www.damselgoesbare.com>). It includes all of the stuff we talked about and more.

Amy: I actually have one more question. What do you do if you don't have any of this legal stuff in place? The terminology alone could just about kill the average person. So is that something you offer as well in your courses?

Gena: In the course we give the templates. You get templates, you get video lessons on how to customize these documents, and in the full version (we have two tiers), you actually get access to both Lisa and I to ask questions. We have a private Facebook so you are getting access to attorneys so that you can ask questions and clarify.

Amy: That's so valuable. That was smart to add. I think a lot of people would love just to get on the phone with you and talk it out and make sure they are protected. I'm so glad we got a chance to talk about your courses and also just everything you offer. I'll make sure to link to everything in the show notes plus the freebie I told you all about in the intro at <http://www.amyporterfield.com/112>.

Thank you so very much for being here with me today. I think you've added a lot of insight in the areas that so many people are almost afraid to talk about but they know it's something they have to focus on in their business. I really do think your style and approach make it so much easier. Thank you for that.

Gena: Thank you. I like to add a little sparkle wherever I go.

Amy: You did so today. You have a wonderful day and thanks again.

Gena: You too, bye.

Amy: There you have it. I hope you enjoyed this interview with Gena as much as I have. I found it incredibly valuable. Don't forget, I have a very, very important download for you to make sure you really understand what you need and why you need it in terms of different legal contracts and different legal language on your website.

Definitely grab the freebie. All you need to do is go to <http://www.amyporterfield.com/112download> or you can text the phrase 112download to 33444 and you can grab it right away.

One more thing before we wrap up, don't forget to take me up on the special FreshBooks offer. If you are a freelancer, a coach, or a consultant, FreshBooks is ridiculously easy cloud accounting software that will help you feel a whole lot less stressed when dealing with invoicing, running down late payments, and expense tracking. To experience the full power of FreshBooks totally free for 30 days go to www.FreshBooks.com/amy and then enter "Amy" in the "How Did You Hear About Us" section. I can't wait for you to check it out.

One more thing before we jump off. I want to tease next week's episode. It's all about building a high-converting sales page, the art and science of sales pages, what you need to know to make sure they actually convert. That's next week.

I can't wait to see you there. Until then, have a wonderful week. Bye for now.

Show notes at: <http://www.amyporterfield.com/112>