



### Marketing Moxie Podcast

#### Episode 40: Legal Liabilities with Tamsen Horton

Show notes at: <http://www.maggiepatterson.com/episode40>

MAGGIE: Hey, guys! Thanks for joining me for another episode of The Marketing Moxie Show. Today we are getting down and dirty talking about the law. I know, the law. It's true. That's what we're going to talk about. Let's do it.

INTRO: Welcome to Marketing Moxie with your host, Maggie Patterson. This show is dedicated to practical and proven, online and offline, marketing ideas that you can take away and apply to build your business, all with Maggie's signature, to the point, style and sass. Let's go.

MAGGIE: Today we have legal brain. I know; we're talking about the law. It's hard to understand, but trust me. By the end of this interview with Tamsen Horton, you're actually going to be running off to get a lawyer, so just fasten your seatbelt on that. She actually explains the law in a way that makes perfect sense and makes me wonder why I haven't been dealing with some of my stuff and being avoidant. Tamsen Horton is an attorney at Vuja De Law, and she is going to fill us in on everything we need to know as small business owners, online business owners, and how to get all that stuff handled.

Hey, everyone. I want to welcome Tamsen Horton today, and we are going to talk about legal stuff. I know a lot of us don't want to pay attention to it, but it is so, so necessary to protect ourselves, to protect our intellectual property, and to protect our business. As part of the business series, I definitely wanted to cover off legal, and Tamsen was the absolute perfect guest for this. Tamsen, welcome to the show.

TAMSEN: Oh, thank you so much for having me.

MAGGIE: Legal stuff. Us entrepreneurs really are way more in the creative ilk.

[Laughter]

MAGGIE: If we have to focus on this, what are some of the biggest things you see entrepreneurs, micro business owners skipping over when it comes to legal basics we really should have in place?

TAMSEN: Well, definitely the number one is you get in those creative bents--I've been there myself--and you totally don't get anything in writing. That is the number one mistake that I see across the board because you're agreeing right and left and, oh, this person is great, and it's wonderful. Most of the time it is.

Legal comes into play. It's the best insurance policy you can get. And it's honestly the best part of business because it's the only thing that lets you keep everything you create.

MAGGIE: Oh, I like that.

TAMSEN: Yeah. It's like, you can get a really fancy logo or a fancy website and those are pretty, but the law is what lets you keep it. The law is what lets you keep your house, your car, and all your stuff. When people see it like that, suddenly they have a shift in perspective. But the main piece that people goof when they're starting, and even seasoned business owners, is not getting everything in writing because you have to imagine worst-case scenario. Not having stuff in writing, I cannot even begin to tell you how many business relationships and friendships have been completely destroyed because of that. That would be the number one.

MAGGIE: I love that one. What are some of the other ones? Obviously get it in writing. I'm a huge fan of that, having worked with clients for so long. I'm like, eh, let me cover all our bases.

TAMSEN: Yes.

[Laughter]

TAMSEN: The other one is failing to protect your website. I think so often for online entrepreneurs especially, there's this false sense of, well, I don't really have a store.

MAGGIE: Yeah.

TAMSEN: If you had a physical space, there are all kinds of rules and regulations before they ever give you your permission slip to open your doors to the public. Your website is your store, and so you really want to make sure that you have the legal aspects, which is where you are using the privacy

policy, your terms of use, and a disclaimer to lay out what you're responsible for, what you aren't, how you're protecting people while they're on your site. If you care about yourself and your customers, you want to make sure that you have the proper legal notices on your website because that's your storefront.

MAGGIE: Yeah, that's good advice. And as someone who doesn't have those, I'm writing that down. My new website is coming soon, so this is the kind of stuff I've been talking about. We'll talk about that after.

TAMSEN: Yes.

MAGGIE: We often see these things going on online, like someone took your copy. Then I'm going to do this DCMA takedown. Really, when it comes to what we're putting out there on the Internet, how protected are we?

TAMSEN: You're as protective as you decide to be in a lot of regards. Intellectual property is the broad category of law that covers things like what you're writing and putting on your website, any creative brands that you come up with that are how people find you. The main issues that we're always dealing with are copywrite and trademark. Those are very often confused, and even people that don't practice in this area of law that are attorneys goof it up. But the copywrite is what covers the expression of your idea, so that is your videos, your pictures, what you're writing on your website, what you're creating in terms of content that you might sell as a media-preneur. Copywrite is where people really get goofed because there is the law is there's immediate protection when you publish something.

MAGGIE: Okay. Interesting.

TAMSEN: Yes. There's immediate protection. Protection is completely different than registration. You have, in most areas -- and again, this is a very broad --

MAGGIE: Yes, of course.

TAMSEN: -- 30,000-foot view because lawyers are involved, so there's all kinds of exceptions. But, broadly speaking, from the time you publish your material, you have 90 days to get it formally registered. If someone copies your stuff and you have to sue them, you have to take formal legal action --

MAGGIE: Yep.

TAMSEN: If you haven't done that within the 90 days of publication, because they might not copy you for ten years, you then have to go and do the formal registration. If you've missed that 90-day window, the seriously good perks, meaning the money, is completely off the table. You can't even get it. Build it into that business process: publish something and run it through copywrite formal registration.

Then the other big one is your trademark. The trademark just identifies and distinguishes your brand in the marketplace because it identifies the source of the goods. It's how I know this company, this Web design company is different than another one, or Coke is different than Pepsi. You definitely want to be proactive and, in the short time that we have limited, I will just say find an attorney that understands and works in both of them.

MAGGIE: Yes.

TAMSEN: And make them your new BFF.

MAGGIE: Yeah, because this is the thing is if you hang around online enough, you see things going bad, and you start to think, like, oh.

TAMSEN: Yeah.

MAGGIE: I even had a personal case where someone lifted my name and my website and used me as a testimonial.

TAMSEN: Oh, nice.

MAGGIE: I'm like: we've never worked together, and the irony being that she was a copywriter. I was like: dude, don't take another copywriter's name. She's going to find out. She eventually took it down, but I was like: really? You're making up fictional people. Well, not fictional, but you're stealing my identity. It's just ridiculous.

TAMSEN: Yeah.

MAGGIE: And that really got me thinking about all this stuff, so I've got a big, long list of things to deal with.

TAMSEN: Well, and the part that really gets the small business owner and especially the solopreneur is either they don't know what steps to take because it's really hard to find accurate information.

MAGGIE: Yes!

TAMSEN: Or they knew what steps to take, but they're looking at all these different costs. In all honesty, the pretty stuff is far more pretty. Once they understand that law is what lets you keep the pretty stuff, suddenly, okay, oh, that's actually worth spending money on. But what gets people is if you do it at the beginning then, when someone infringes on you, it's just a matter of turning on the plan you already had in place.

MAGGIE: Ooh, I like that.

TAMSEN: Yeah. If you don't do it at the beginning, a lot of times the cost of having to fight someone to prove you're right is far more costly. And so people

will say it's not worth fighting, but really they're looking at it from the backend.

MAGGIE: Yeah.

TAMSEN: At that point, it isn't. At that point I've had many clients -- not many -- probably at least a dozen where I can say, "Look. You're totally, legally correct. If we fight this, we will win. However, what would have cost you \$2,000 six months ago is going to cost you \$10,000 now." And so they have to make the very hard decision of fighting to end up being right still requires fighting.

MAGGIE: Yeah. As I always say to my husband, do you want to be right or do you want to be happy?

TAMSEN: Yes, exactly.

MAGGIE: Sometimes it's just not worth it.

TAMSEN: It's so correct. People say, "Oh, get a lawyer and fight it." I'm looking at the other end going, but that could be two years of your life and stress and toll, and sometimes you just have to chalk it up to I know to do better next time.

MAGGIE: Exactly.

TAMSEN: And take it from there because there's a practical aspect to all of this.

MAGGIE: Kind of moving from that, why -- I know there's lots of -- I had this discussion with my parents about their will, and they're like, well, we filled out a will, a legal will kit. I was like, no, you're going to the lawyer because I'm going to be dealing with that later. No. Please spend the \$1,500.

For our business, why should we not be using the legal equivalent of the legal will kit off the Internet for \$49.99 versus an actual lawyer who understands your business and our specific needs?

TAMSEN: Yes. What I tell people is if it can be done in 30 minutes for the price of an infomercial, that might be fine for your shampoo.

MAGGIE: Yes.

TAMSEN: Or fine for a funny sponge to use in your sink. But your business is not one size fits all. The law, the same reason that I am restricted to where my license extends, the beauty of the law is it's a very complex tool. It lets us create amazing solutions, and solve problems, and all of that. When you try to take that and put it into a template and say, "Here, 100 people," which is a very small amount for a template, "all of you use this and it's going to work the exact same way."

MAGGIE: Yeah.

TAMSEN: I don't know of any area in any of our lives where that's the case because we all have nuances. It's hard in the marketplace because you're like, well, that looks really good. But one size fits all for your law or for your health, those are the two areas: take time, interview some attorneys, and then make a really educated decision because I have a love/hate relationship with some of the online providers that you might see on television. I love them because they bring me an amazing amount of business because, in 30 minutes for \$69, they can destroy someone's life.

MAGGIE: Yeah.

TAMSEN: I hate them for that reason.

MAGGIE: I think that's it. As consumers, no matter what kind of services you're buying, you always need to do your homework.

TAMSEN: Mm-hmm, yes.

MAGGIE: You can't just take it at face value. If it is too good to be true, it probably is.

TAMSEN: Yes. Yes. That's oh, so true. I'm a sucker for it. I see an infomercial and it says my shampoo is going to make my hair these beautiful, flowing locks of whatever. Then you get it at home and you're like: okay, so that didn't work like it was supposed to.

MAGGIE: Yeah. Fail! My hair looks the same as it does with the \$3.99 shampoo from Target.

TAMSEN: Exactly! Exactly. You're like, you know what? That's shampoo. That is not putting myself on the line. I'm not obligating my family. I'm not -- I mean, they are legal documents and, when you sign them, they apply whether you didn't know or whether you had your dream team attorney who knows your ins and outs. They apply across the board.

MAGGIE: Okay, so one question to you, and you mentioned this, so where you're practicing. I think, geographically, how do we go about picking a lawyer? I know, for me, I do most of my business in the U.S., but I'm based in Canada.

TAMSEN: Yep.

MAGGIE: I know you and I have had another discussion about this, but how do I make things enforceable? What things do I need to consider? Where do I hire someone?

TAMSEN: Well, you always want to start where your business is legally registered.

MAGGIE: Okay.

TAMSEN: For people that are in the U.S., it's the U.S. For another country, obviously start with your country, and then find someone in your country that understands and will take the time to really get where your markets are because international law with this explosion of the solopreneur and how I can sell to someone down the street as easily as I can someone in India -- if I wasn't a lawyer -- so the generic business world kind of a thing.

MAGGIE: Yes.

TAMSEN: That I always tell people law is clean-up crew. Business goes years ahead of where law is. Law comes behind the innovation, the great ideas, and is the one that goes, ooh, that didn't work right. Let's make another law to correct what happened that we didn't know what happened.

MAGGIE: Yep.

TAMSEN: Always start in your country of origin and make sure that whoever you're talking to is asking you lots of really good questions. Attorneys don't tend to do that just because it's an element of the law that not everyone gets. You want an attorney to be asking you good questions: Where are you selling; where is your payment processor located; how are you getting funds? And then move from there under their guidance.

MAGGIE: I love that because that was something I actually went through when I made the shift from an in-person to an online business. My accountant just -- they literally could not -- they didn't know what to do with me.

TAMSEN: Yes.

MAGGIE: They were like: "I don't understand why you would be using PayPal." What happened to all the nice corporate checks? What are all these \$2.99 transactions?"

TAMSEN: It's so true. As those of us that, this is our daily world, it's completely normal to do business on Facebook or get clients from Twitter. That's kind of the speed that we run at.

MAGGIE: Exactly.

TAMSEN: A lot of legal and accounting, they're not there yet and so, yeah, there are plenty of times you will totally throw them for a loop on those.

MAGGIE: Yeah. We had to make some changes there because it was just way too complicated for someone who doesn't like math.

[Laughter]

MAGGIE: Please! I just need someone to tell me how much money I'm making and what I owe the taxman. That's all I need to know.

TAMSEN: Right. I don't want anyone nasty. I don't want nasty letters in my inbox. Just tell me what to pay and how to not get in trouble.

MAGGIE: Yeah, because as much as I like to put on the front of not being a rule follower, with that kind of stuff I am. I'm very, like, okay, I'm a Libra. I like to keep things balanced. We pay the taxman. We get legal stuff taken care of. Otherwise it's too scary.

TAMSEN: Yes. I was even talking to someone this morning. I said: You know what? I love paying taxes because taxes mean, as I was driving down the road, I can drive to businesses. But more importantly, I'm like, it let's the Internet exist. And if the Internet exists, more people can find me. More people can buy from me. In the realm of things, even large tax bills are very good for business.

MAGGIE: Well, the reality is, as what I always say to my husband is, a large tax bill means I'm making money, so yea!

TAMSEN: Exactly.

MAGGIE: As much as I hate paying it, really, you pay it. It's just the cost of doing business.

TAMSEN: It is.

MAGGIE: You can't complain.

TAMSEN: It is.

MAGGIE: Tamsen, thank you so much for all this. Where can everyone find you? And, in the show notes, listeners, everyone, you will be able to get a great handout with a lot of the information we discussed in today's interview.

TAMSEN: You can find me at Vuja De Law. It's the opposite of déjà vu. Maggie, I'm sure, will have a link down below.

MAGGIE: We sure will.

TAMSEN: Also, I'm out there in the social media world under Tamsen Horton, so feel free to reach out. I am a firm believer that law is the sexiest, coolest, and funnest part of business, and so I'm always glad to help people. Even if I can't be your attorney, I can typically point you in the right direction, so I am always more than glad to do that.

MAGGIE: Thank you so much.

TAMSEN: You are so welcome.

MAGGIE: Outside of my friends who are lawyers, Tamsen might be the most interesting lawyer I've ever met. My friends who are lawyers, we don't

ever talk about the law because I don't find it that exciting, but Tamsen actually made a lot of sense starting with takeaway number one. The law is what lets us be creative. Who knew? I've never framed it that way. That is masterful storytelling right there because she has just brought me around completely because the reality is, without the law, without protecting our assets, without protecting our intellectual property, it doesn't matter. We can't be as creative as we want to be.

Takeaway number two, get it in writing - such a good, basic, business lesson. But we spend so much time in social media; we spend so much time talking on the phone or on Skype or wherever it is. The next thing you know, you're in the middle of a joint venture and nothing is in writing. Smart business owners get it in writing.

When I used to work in a PR agency, I used to always say to clients, "Okay. That's great. Let me recap this in a conversation so we can agree," because you need to cover your ass. And if you can cover your ass with a formal agreement, that much better, says Tamsen.

Number three: I loved what Tamsen said about infomercials. Legal things are not meant to be templated. This is your business and your life you're messing around with, so buying a \$49.99 legal will kit or the equivalent thereof is not the way to conduct business. The best way for you to conduct business is to understand that law is not one size fits all. Sure, a standard contract might be a good starting point, but getting your lawyer to customize that template or actually deal with your specific situation, whether it be a joint venture, figuring out your terms of service for your website, and so on and so forth.

Understanding who is going to be a good fit as a lawyer if you are hiring a lawyer is also really important. For instance, when the interview was done, I talked to Tamsen about some things I need to handle. Given that I'm in Canada, I need a Canadian lawyer, so it makes perfect sense. Whereas there are other things that are actually better handled by a U.S. lawyer, so educate yourself to protect yourself.

You know, this is not an infomercial. Your business should not be run by that. It's fine if you want to take those kinds of risks with your hair. I think that's a terrible idea if you make that risk with your hair. Hair is serious business. Ask my husband who has none. He doesn't listen to the show, so I can make all the jokes about baldness I want. I love it though. Anyways, I digress, but this is not an infomercial. This is not that type of thing, so really think about what you're doing and make really smart steps to protect yourself and your business.

If you want to learn more about Tamsen, you can hop on over to the show notes at [www.MaggiePatterson.com/episode40](http://www.MaggiePatterson.com/episode40). You'll find everything there, as well as an awesome resource Tamsen put together on how to protect your assets and things we need to know as small business owners.

If you are not in the Marketing Moxie group, what are you waiting for?  
Goodness gracious! Join us on over there:  
[www.MaggiePatterson.com/group](http://www.MaggiePatterson.com/group). I know, very profound.

That is all, my friends. Thank you for listening. Next week we will be back with another episode on the business of business, and we will be talking about customer experience because that topic is so important as small business owners. Thank you so much, and I will catch you all again soon.

OUTRO: Thank you so much for listening. Hop on over to our home base at [www.MaggiePatterson.com](http://www.MaggiePatterson.com) for the show notes and more episodes. And you can join the Marketing Moxie Facebook group at [www.MaggiePatterson.com/group](http://www.MaggiePatterson.com/group). And remember, as Yoda says, "Do or do not. There is no try." That's what having moxie is all about.

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