

## A Guide of Legal Considerations for eCommerce Companies – Part IV

### eCommerce Logistics: Shopify, DropShipping, Payment Processing, and Customer Service and eCommerce Support Services

In our final installment of our four-part eCommerce legal guide, we'll cover some of the legal aspects associated with major logistical components.

Some of the agreements and contracts covered in this Part IV can be confusing even for seasoned eCommerce business owners, so if you feel that you have questions, don't hesitate to reach out to our Columbus eCommerce lawyer.

#### Shopify

You may be considering using Shopify for your eCommerce business. If you do choose to use Shopify, assuming you're running an American eCommerce business, be aware of the following terms that you may agree to:

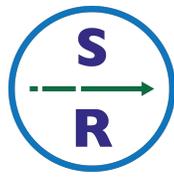
-Both Shopify and you can terminate your Shopify account at any time. If you choose to terminate your account, any amounts you owe Shopify will become due immediately.

-If you receive any confidential information of Shopify, you are obligated to not disclose that confidential information.

-You must keep a valid credit card on file with Shopify, and all Shopify fees will be charged to the credit card. If issues arise with charging fees to your credit card, Shopify may suspend or terminate your account.



-When you sign up with Shopify, Shopify may create an Apply Pay account, a Google Payment account, a PayPal Express Checkout



account, and a Shopify Payment account for you, and the latter two may be set as the default payment methods. If you do not want to use a particular account, it is your responsibility to deactivate such account.

-If you get into a dispute with Shopify, all issues must be litigated in the Province of Ontario, in Canada.

-Shopify may have the right to audit the security practices of your systems.

### Dropshipping Agreements



### What is drop shipping?

If you're new to eCommerce, unsure of going the FBA route, or lacking space for inventory (i.e. your significant other would like to start using the garage again for storing actual automobiles and not mountains of cardboard boxes), dropshipping can be a great tool.

Dropshipping is a fulfillment method where a wholesaler or supplier directly ships the product once customers place their orders with you. You have your own online store and brand, the customer is paying you, and you're paying the wholesaler/supplier.

### What needs to be in your dropshipping contract?

There are numerous areas you'll want to cover in your dropshipping agreements. Big ticket items include:

-Fees, Fees, Fees: Detail here. Beyond the shipping fees, are there stocking fees? Oversize charges? Print fees for custom labels? Extra charges for specific packaging?

-Invoicing: How are you paying the dropshipper? When? How are fees calculated? Based on your payment structure, is reconciliation or reporting needed?

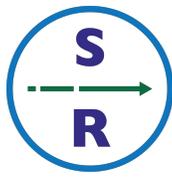
-Package Contents: What goes in the packaging besides the actual product? Nothing? Receipt? Promotional materials?

-Returns and Exchanges: If the package arrives damaged or your customer needs to exchange the product for a different size, who will the customer deal with? Who does the customer send an exchange or return back to?

-Pricing Changes Updates: Say, purely for hypothetical conjecture, the products you sell use Canadian steel and the price of Canadian steel suddenly jumps significantly. If the wholesale price jumps, that's going to cut into your margins. Ideally you want a notice period (30 days or more) of any price increases.

-Shipping Method: UPS? FedEx? USPS? Fastest method? Most cost-effective? Must get there in X amount of days?

-Inspection Rights: This is your business and your brand. You should want the ability



under the contract to, upon reasonable notice, inspect the dropshipper facility and see how your products are being shipped.

-Termination: This can really depend on a number of factors. In some scenarios, a party may want the ability to terminate the contact whenever. In other scenarios, sudden termination could be disastrous for both parties; a notice period may be needed, such as 60 or 90 days.

### Payment Processing



Payment processing can be a huge part of your eCommerce business. Failing to properly review and negotiate a payment processing agreement can result in surprise costs, penalties, and fees. Even worse, you may find yourself stuck in an agreement that provides little recourse or legal rights if an issue arises.

Some of you may scoff and say “well, [insert giant corporation] will never negotiate its rates or terms.” While said payment processor may not immediately cut a given payment processing rate in half, other key terms may be negotiable. If said payment processor refuses to budge on any provisions and you’re not

comfortable with the payment processing agreement, shop around.

For established eCommerce companies with solid financials and who have been operating for a number of years, don’t sell yourself short. Chances are your payment processor makes a good amount of money off of you and may be willing to negotiate rather than lose your revenue.

Some points to consider in a payment processing agreement:

-Rates Increases and Notifications: Be sure that the payment processor must give you notice if there is any increase to any of your rates. Shoot for at least 30 days’ notice.

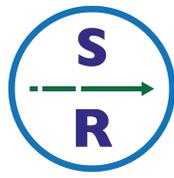
-Termination Rights: Often times, the payment processor can terminate for a long list of reasons. If you find yourself in breach of the agreement, the payment processor may be able to terminate the agreement immediately and take additional action against you as well. Consider negotiating for a cure period that will give you some grace time to correct any material issues.

-Termination Fees: Be aware that a payment processor may stipulate a hefty early termination fee.

-Liquidated Damages: If you’re the eCommerce company, you want no part of a liquidated damages provision.

-Audit Rights and Notifications: There may be a provision that allows the payment processor to visit your company’s physical business





company will want to make it very clear it retains all ownership of all intellectual property associated with the eCommerce company. If the support services work includes staffing and customer service or other scenarios where the provider will be operating under the company name, it may be wise to contemplate various intellectual property licenses and associated restrictions.



-Payment Terms: Your preference for specific payment terms will likely hinge on a number of factors including your cash flow preference, how you generally conduct business, and which side you're on. One party may prefer monthly payments whereas another might prefer quarterly payments.

### eCommerce Attorney Columbus Ohio



Based in Columbus, Drew Stevens is a technology and corporate attorney licensed in Ohio and Washington. Drew works with a number of software and technology companies, including eCommerce, SaaS, InfoSec, IoT, telecom, manufacturing, and software development businesses.

Drew focuses his practice on technology transactions, mergers and acquisitions, intellectual property, and business law. Drew works closely with growing companies, to help protect intellectual property assets, structure business and M&A ventures, assist with transactional and business needs, and advise on data security regulations and breaches.

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