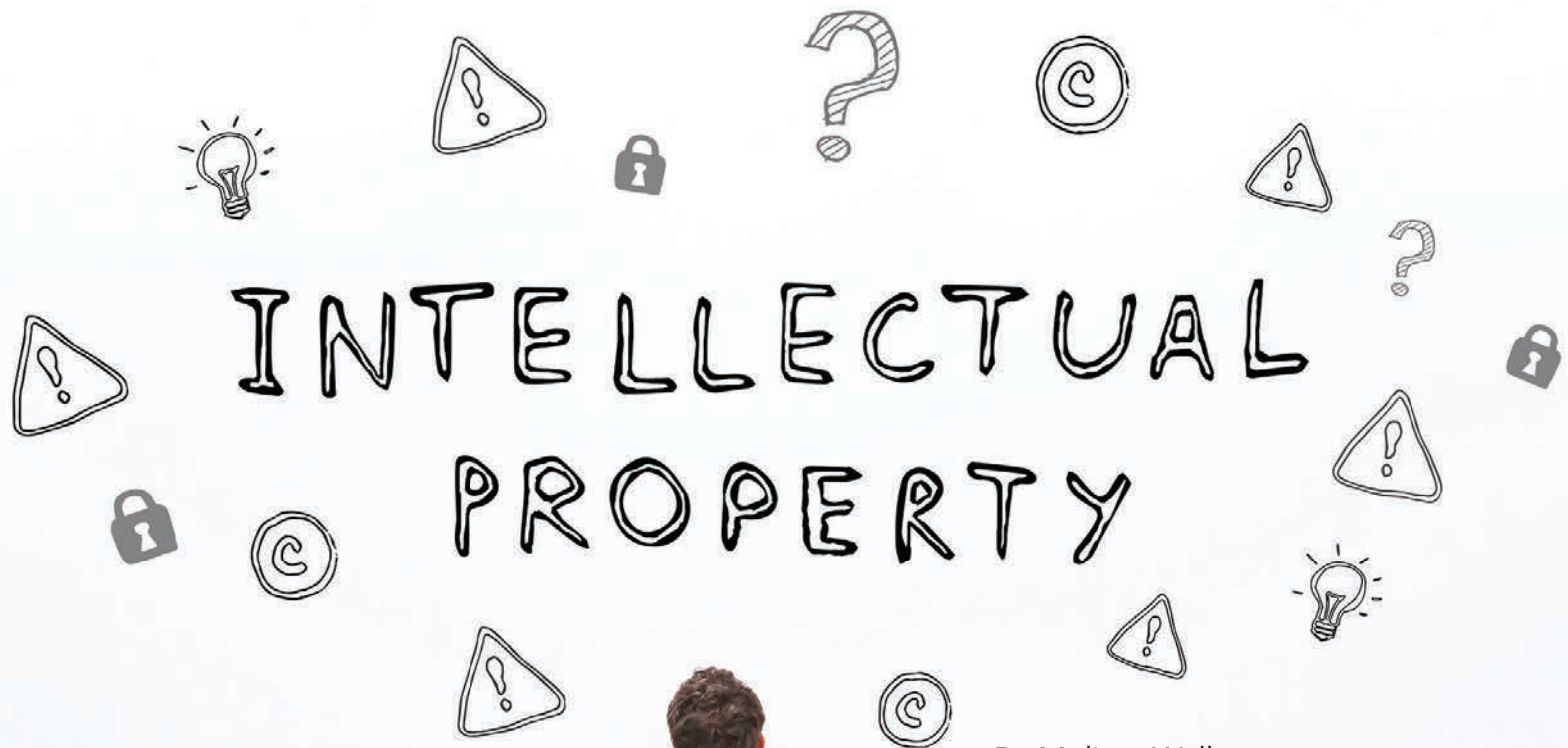


CITYVIEW'S

BUSINESS JOURNAL



Understanding copyrights, trademarks, patents and intellectual property.

By Melissa Walker

Businesses hire the employees at Performance Marketing to create original names and concepts for products.

That's why the company's employees brainstorm ideas, check them through their own system, and verify their originality through a legal process before presenting those ideas to clients to ensure names aren't already trademarked or used for another product, says Matt Glynn, the chief operating officer of Performance Marketing in West Des Moines.

"We've done a lot of naming for products for different companies through the years," he says. "We're working on an internal naming project right now. ... We don't want to fall in love with something and have them say, 'No, you can't do that.'"

For this most recent naming project, the team submitted six potential names to its legal team for review. Three were flagged — including the one preferred by the team — and had to be cut because they were already used in some capacity by another company.

“For all of this, that’s the big thing — to make sure you have a really solid legal team, because it can get messy,” Glynn says.

“It” being intellectual property rights, which are the rights given to persons for their creations, according to the World Trade Organization. They can be divided into two main areas:

1. Copyright and rights related to copyright. This includes authors of literary and artistic works, which are protected for at least 70 years after the death of the author. Performers, sound recordings and broadcasting organizations also can be protected through copyright.

2. Industrial property. This includes distinctive signs such as a trademark, which distinguish goods or services from others.

It also includes inventions, innovations and other creations that are protected under patents. These items might also be considered trade secrets by the company. The purpose of a patent is to provide protection for investment in an invention/new technology, so there is incentive to finance research and development activities for other technologies.

Business owners, regardless of the type of industry, likely have something that falls under the realm of intellectual property, from the secret recipe used for a mom-and-pop shop’s pizza sauce, to customer lists, to the details of a new technology, or even the trademarked logo.

“I think there are a lot of things that a lot of business owners don’t even think about protecting, and they may not recognize the value in protecting some of the intellectual property,” says Tim Zarley, an attorney with Zarley Law Firm in Des Moines, which specializes in helping clients acquire rights to, and enforce laws surrounding, intellectual property.

Intellectual property rights and laws have multiple variables, which is why professional advice is often recommended and sought by business owners.

“You can shortcut a lot of places, but this is a place that can get really sticky and messy if you try to DIY it,” Glynn says.



Matt Glynn, the chief operating officer of Performance Marketing in West Des Moines, says his company sends ideas through a review process including past legal eyes before presenting designs or product names as an original concept to a client.

What makes your business unique?

Legal advisers recommend employers meet with an attorney or legal adviser prior to setting up a business to determine how the business owner will protect his or her intellectual property and to distinguish their company from others’ names and products.

A business owner who is developing a product will want to consider whether the item has any patentable features to further protect the idea. The patent and trademark office issues patents, based on an application process and fee, to grant the property rights of an invention to the inventor.

The trademark and patent process needs to be completed before an invention is used publicly, sold or any information about it is disclosed, says Chris Holman, a visiting professor of law and the interim director of the Drake Intellectual Property Law Center. The process can

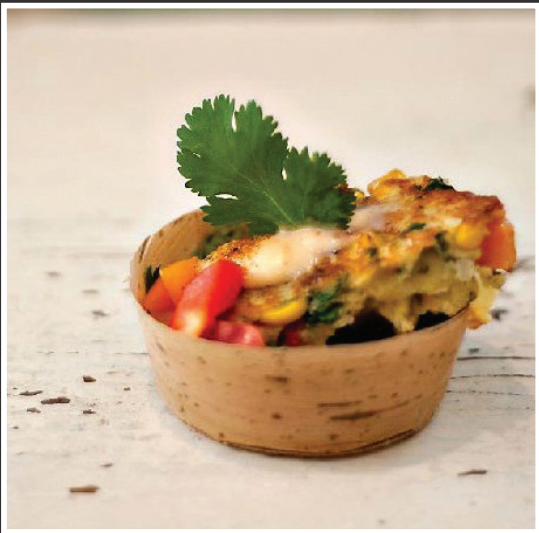


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Chris Holman is a visiting professor of law and the interim director of the Drake Intellectual Property Law Center. He specializes in patent law.

be expensive, but it is necessary to protect the secrecy and ownership of the idea. He also recommends businesses register their domain names with the patent and trademark office, especially if the word or phrase identifies the business' website.

A patent protects the invention because it excludes others from "making, using, offering for sale or selling" the invention in the United States or "importing" the invention into the United States, according to the patent and trademark office.

An attorney also can advise a business owner when picking a name or naming a product to ensure the owner isn't infringing upon anything that has already been trademarked. A trademark is a brand name and is used along with, or independent from, a service mark to identify and distinguish a good or service of one seller from

others. This could include a word, name, symbol, device or any combination. U.S. copyright law protects the authors of "original works of authorship." This includes tangible forms such as a photo, artwork, video, a manual, even a T-shirt design, as well as published and unpublished works. Zarley says once an idea is in tangible form, it doesn't necessarily need an official copyright with the circle unless the owner wants others to know it is his or her work and to be able to enforce copyright laws. Otherwise, its creation is known as common law copyright. However, if a business owner has a design it intends to sell or a manual or other printed material, it should copyright the item.

Registration of intellectual property

Registering one's intellectual property with an official copyright gives the owner the ability to file suit or seek an injunction should the intellectual property be misused or infringed upon.

Copyright is limited in a few ways, according to the patent and trademark office. The Fair Use Doctrine, which was incorporated in the 1976 Copyright Act, allows judges to excuse unauthorized uses of copyright material for criticism, comment, news reporting, teaching, scholarship and research.

Items are protected under copyright for at least 70 years after the death of the owner. Any use of copyrighted material will need permission before it's used, Zarley says.

"If you don't know for sure it's been released to the public domain, you're taking a risk by copying it," he says.

Copyright infringement is the most common violation because many don't understand how the law works, but it also requires the item to be copied exactly as the original, Zarley says.

Trademark violations can occur when a symbol or name is likely to cause confusion among users, and patent litigation can be expensive because it requires detailed review to determine whether each and every element of a device or piece of equipment has been duplicated, he says.

"A lot of it depends on the context and the use of these things to determine if it's fair use," he says.

In 2007, a court ruled that a dog toy company could use the initials "CV" for its "Chewy Vuiton" dog toys even after the handbag maker Louis Vuitton claimed it infringed upon the company's trademark and caused confusion because the company makes its own pet products. The court ruled the use was a parody that poked fun at the expense of the handbags and was allowed.

Trade secrets, employee confidentiality

Trade secrets can be vital to the success of a business. They are defined as any information with proprietary value that distinguishes the business from its competition. These ideas or methods can be protected so long as it's not publicly disclosed or independently developed by someone else, Zarley says.

The most famous example is the recipe for Coca-Cola, which has remained secret for more than 100 years even though many have tried to replicate it.

Violations of intellectual property rights occur in all types of industries, especially those that have trade secrets, Holman says. Individuals from other countries receive jobs in the United States for companies and acquire access to secret information and then steal it for companies in their home country, he says.

Violators who are convicted can receive penalties, fines and time in prison. Intellectual property rights are protected through various agencies, including the National Intellectual Property Rights Coordination Center, which works through U.S. Immigration and Customs Enforcement and Homeland Security Investigations to stop cases of global intellectual property theft.



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A U.S. District Court judge in 2016 sentenced a Chinese man to three years in prison for conspiracy to steal trade secrets from DuPont Pioneer and Monsanto. The man illegally obtained varieties of new corn seed samples from a DuPont Pioneer test plot in Iowa. He had gathered more than 1,000 pounds of corn seed to provide to scientists in China to reproduce the genetic traits of the corn.

When considering the value of proprietary information, Zarley asks clients to consider the value in the time it takes to develop the item and how important it is to distinguishing the business from its competition. While anyone could create a customer list, it takes time to accumulate the data for a specific company’s customers, and the company would want to keep that information confidential, he says.

He also recommends the business owner set clear guidelines in writing to both protect the company’s intellectual property by keeping it secret and to ensure employees understand the company has ownership of work regardless of its creator. Employees could be privy to information about an invention or idea that will be patented, so confidentiality provisions are necessary through a contract or in an employee manual that is signed to guarantee company ownership.

A confidentiality agreement is also vital if an employer needs to pursue legal action if a trade secret was stolen, Holman says.

In most cases, any material that could be copyrighted that the employee creates while at work — the “on my dime and my time” idea from the business owner — is owned by the employer or even the client, Zarley says. Even then, things can still get murky if there’s no clear guidelines.

Employees at Performance Marketing sign a non-disclosure agreement to ensure work is kept confidential and that everyone understands and agrees with the guidelines, Glynn says.

An employee, unless prohibited by an agreement with their employer, could work as an independent contractor or create an idea on their own time and with their own resources separate from the business.

“There are situations if the employee has done it on their own time, they can patent it themselves and move forward without the company,” Zarley says.

Employees at Performance Marketing are allowed to perform freelance work, and in some cases, the company will refer smaller projects — it focuses its work on Fortune 500 companies — to design or interactive team employees to perform independently, Glynn says.

Employees make note when they are working on a separate project such as website development and are asked to perform the job outside of their regular work hours. There have been situations — one employee built a mobile gaming application — when employees have created their own idea and Performance Marketing has partnered with them to help move the idea forward, Glynn says.

In most freelance or independent contract cases, the contract will outline the terms of who owns the final product.

“If they go outside the company and work as an independent contractor, the person who creates it owns the copyright unless the contract has the words ‘work for hire,’ ” Zarley says. “That’s the magic language that transfers ownership. If you’re working for me, everything you do, I own the copyright.” ■



Tim Zarley is an attorney with Zarley Law Firm in Des Moines and specializes in intellectual property.

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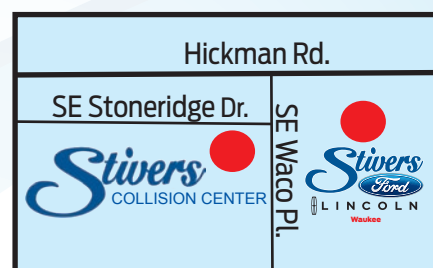
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The West Des Moines Chamber of Commerce celebrated a ribbon cutting for R & R's Westfield Campus on Feb. 18.



The Johnston Chamber Ambassadors visited Bergan KDV on Feb. 22.



Cindy Gordon, Barb Wiedenman, Kim Schaaf and Julie Mangels at the Ankeny Chamber's Annual Dinner held at the FFA Enrichment Center on Feb. 21.



Todd and Paula Bierle at the Johnston Chamber's Business After Hours event at Purple Poppy on Feb. 7.



Josh Cline and Janae Mariner at the Bondurant Chamber's Annual Dinner at Brick House Fitness on Jan. 18.



Cooper Riley and Cinnamon Rost at the Clive Business dinner on Feb 2.



Brenda Roe-Weaver and Ray Main at the Urbandale Chamber's AM Exchange held at Image 360 on Jan. 29.



Jim Miller, Ray Meister and Eric Kress at the Waukee Chamber Luncheon held at the Waukee Community Center on Feb. 14.



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ADDRESS: 1393 KEOSAUQUA WAY, DES MOINES

DATE: JAN. 9, 2019
PRICE: \$330,000
SELLER: NJREC INC
BUYER: CITYVIEW 34 LLC
SQUARE FEET: 0
ACRES: 0.683

ADDRESS: 938 12TH ST., DES MOINES

DATE: JAN. 9, 2019
PRICE: \$100,000
SELLER: NJREC INC
BUYER: CITYVIEW 34 LLC
SQUARE FEET: 0
ACRES: 0.679

ADDRESS: 1514 ARLINGTON AVE., DES MOINES

DATE: JAN. 9, 2019
PRICE: \$110,000
SELLER: ALEXANDER, LA VONNE J.
BUYER: TWISTER LLC
SQUARE FEET: 4,605
ACRES: 0.502

ADDRESS: 701 FIRST AVE. N, ALTOONA

DATE: JAN. 9, 2019
PRICE: \$1,825,000
SELLER: COX, WILLARD B.
BUYER: MARTIN MUELLER PROPERTIES LLC
SQUARE FEET: 26,640
ACRES: 4.08

ADDRESS: 6545 N.E. 14TH ST., DES MOINES

DATE: JAN. 9, 2019
PRICE: \$1,100,000
SELLER: HGCL LLC
BUYER: MURRAY GROUP LLC
SQUARE FEET: 19,500
ACRES: 2.66

ADDRESS: 3104 UNIVERSITY AVE., DES MOINES

DATE: JAN. 11, 2019
PRICE: \$1,500,000
SELLER: RANDALL, GERALDINE M
BUYER: KUM & GO, L.C.
SQUARE FEET: 3,762
ACRES: 0.609

ADDRESS: 1416 BEAVER AVE., DES MOINES

DATE: JAN. 11, 2019
PRICE: \$175,500
SELLER: ELIZABETH J. NELSON LIVING TRUST
BUYER: PENFIELD, GARRETT
SQUARE FEET: 2,660
ACRES: 0.19

ADDRESS: 1208 E. 20TH COURT, DES MOINES

DATE: JAN. 11, 2019
PRICE: \$333,000
SELLER: BUDGET LIGHTING INC
BUYER: 1208 20TH LLC
SQUARE FEET: 4,684
ACRES: 0.707

ADDRESS: 2615 DEAN AVE., DES MOINES

DATE: JAN. 14, 2019
PRICE: \$775,000
SELLER: DEAN INVESTMENTS INC
BUYER: HOLT SALES & SERVICE INC
SQUARE FEET: 19,800
ACRES: 2.557

ADDRESS: 6135 FLEUR DRIVE, DES MOINES

DATE: JAN. 14, 2019
PRICE: \$287,500
SELLER: BUTLER(TRUSTEE), BARBRA
BUYER: FLEUR DE LIS MOTOR INNS INC
SQUARE FEET: 0
ACRES: 0.792

ADDRESS: 484 S. 19TH ST., WEST DES MOINES

DATE: JAN. 15, 2019
PRICE: \$520,000
SELLER: HOLLENSBE, BRANT W.
BUYER: TT&C COOPERATIVE HOUSING
SQUARE FEET: 8,312
ACRES: 0.53

ADDRESS: 3355 N. ANKENY BLVD., ANKENY

DATE: JAN. 16, 2019
PRICE: \$1,028,910
SELLER: KIMBERLEY PROPERTIES INC
BUYER: CLASS OF '87 LLC
SQUARE FEET: 0
ACRES: 2.624

ADDRESS: 2109 E. EUCLID AVE., DES MOINES

DATE: JAN. 21, 2019
PRICE: \$350,000
SELLER: BEEM, DARRELL D.
BUYER: HUANG'S PROPERTIES LLC
SQUARE FEET: 4,911
ACRES: 0.683

ADDRESS: 2904 KINGMAN BLVD, DES MOINES

DATE: JAN. 22, 2019
PRICE: \$210,000
SELLER: FT DM LODGE 25 IOOF
BUYER: SANDAHL AND SPAIN INVESTMENTS, LLC
SQUARE FEET: 4,694
ACRES: 0.501

ADDRESS: 6520 S.E. 14TH ST., DES MOINES

DATE: JAN. 22, 2019
PRICE: \$4,605,100
SELLER: WCK-UP SOUTHRIDGE, L.C.
BUYER: ALL POINTS DEVELOPMENT, L.C.
SQUARE FEET: 0
ACRES: 1.949

ADDRESS: 203 5TH AVE. S.W., ALTOONA

DATE: JAN. 22, 2019
PRICE: \$300,000
SELLER: HARPER, JAMES A
BUYER: JRG GROUP LLC
SQUARE FEET: 1,792
ACRES: 3.636

ADDRESS: 1102 S.E. BELMONT DRIVE, ANKENY

DATE: JAN. 24, 2019
PRICE: \$1,061,500
SELLER: JJ BELMONT APARTMENTS LLC
BUYER: KUNKLE, DAVID E.
SQUARE FEET: 14,976
ACRES: 1.011

ADDRESS: 2711 GRAND AVE., DES MOINES

DATE: JAN. 28, 2019
PRICE: \$545,000
SELLER: 2711 INVESTMENT, LC
BUYER: 2711 GRAND AVE., LLC
SQUARE FEET: 2,558
ACRES: 0.327

ADDRESS: 205 E. 14TH ST., DES MOINES

DATE: JAN. 28, 2019
PRICE: \$410,000
SELLER: REDI GROUP LLC
BUYER: ANSON ARBOR LLC
SQUARE FEET: 3,056
ACRES: 0.498

ADDRESS: 4200 KNOB HILL DRIVE, DES MOINES

DATE: JAN. 28, 2019
PRICE: \$785,000
SELLER: DORIS J BASKERVILLE LIVING TRUST
BUYER: UNIVERSITY PARK APARTMENTS LLC
SQUARE FEET: 13,074
ACRES: 1.275

ADDRESS: 4009 UNIVERSITY AVE., DES MOINES

DATE: JAN. 28, 2019
PRICE: \$185,000
SELLER: WEBB CO
BUYER: 4009 UNIVERSITY AVENUE, LLC
SQUARE FEET: 2,478
ACRES: 0.165

ADDRESS: 4060 DIXON ST., DES MOINES

DATE: JAN. 30, 2019
PRICE: \$2,900,000
SELLER: PENTA PARTNERS LLC
BUYER: SCHIMBERG CO. IOWA PROPERTY, LLC
SQUARE FEET: 56,500
ACRES: 3.882

ADDRESS: 4302 S.W. NINTH ST., DES MOINES

DATE: JAN. 30, 2019
PRICE: \$690,530
SELLER: QUICK, ETHAN M .
BUYER: 900 ELDER LANE, LLC
SQUARE FEET: 12,271
ACRES: 0.749

ADDRESS: 8797 N.W. 54TH AVE., JOHNSTON

DATE: JAN. 30, 2019
PRICE: \$695,000
SELLER: 8797 54TH AVENUE LLC
BUYER: IVY RIDGE PROPERTIES LLC
SQUARE FEET: 4,910
ACRES: 0.503

ADDRESS: 3800 MERLE HAY ROAD, UNIT 1100, URBANDALE

DATE: JAN. 30, 2019
PRICE: \$2,200,000
SELLER: BONSTORES REALTY TWO LLC
BUYER: BTD MERLE HAY MALL LLC
SQUARE FEET: 165,004
ACRES: 7.814

ADDRESS: 1040 HOAK DRIVE, WEST DES MOINES

DATE: JAN. 30, 2019
PRICE: \$635,000
SELLER: 1040 HOAK LLC
BUYER: ROBIN'S NEST APARTMENTS LLC
SQUARE FEET: 18,772
ACRES: 2.497

ADDRESS: 2423 INGERSOLL AVE., DES MOINES

DATE: JAN. 31, 2019
PRICE: \$400,000
SELLER: BRSS LLC
BUYER: SPAULDING & SHAULL PROPERTIES LLC
SQUARE FEET: 4,840
ACRES: 0.531

ADDRESS: 205 S.E. ORALABOR ROAD, ANKENY

DATE: JAN. 31, 2019
PRICE: \$1,695,000
SELLER: FOUR MILE INVESTMENTS LC
BUYER: ET REAL ESTATE HOLDINGS, LLC
SQUARE FEET: 15,943
ACRES: 1.51

ADDRESS: 505 N.E. BROADWAY AVE., DES MOINES

DATE: JAN. 31, 2019
PRICE: \$34,000
SELLER: CH AUTO LLC
BUYER: SCHROEDER, BRIAN
SQUARE FEET: 0
ACRES: 0.423

ADDRESS: 5049 N.E. 14TH ST., DES MOINES

DATE: JAN. 31, 2019
PRICE: \$6,200,000
SELLER: INTERSTATE PLAZA LLC
BUYER: 5049 NE 14, LLC
SQUARE FEET: 116,591
ACRES: 12.352

ADDRESS: 307 E. THIRD ST., DES MOINES

DATE: FEB. 1, 2019
PRICE: \$717,220
SELLER: JB PROPERTIES LLC
BUYER: PRKG 1212 LLC
SQUARE FEET: 0
ACRES: 0.224

ADDRESS: 304 E. WALNUT ST., DES MOINES

DATE: FEB. 1, 2019
PRICE: \$717,220
SELLER: JB PROPERTIES LLC

BUYER: PRKG 1212 LLC
SQUARE FEET: 0
ACRES: 0.291

ADDRESS: 2535 HUBBELL AVE., DES MOINES

DATE: FEB. 1, 2019
PRICE: \$3,750,000
SELLER: LANY DM LLC
BUYER: AMERCO REAL ESTATE COMPANY
SQUARE FEET: 107,190
ACRES: 12.32

ADDRESS: JUST SOUTH OF N.E. 51ST AND N.E. 16TH, DES MOINES

DATE: FEB. 1, 2019
PRICE: \$700,000
SELLER: CATALDO, GEORGE
BUYER: 6450 LLC
SQUARE FEET: 32,700
ACRES: 5.589

ADDRESS: 4509 N.E. 14TH ST., DES MOINES

DATE: FEB. 1, 2019
PRICE: \$640,000
SELLER: JHTK LLC
BUYER: MS PROPERTIES, LLC
SQUARE FEET: 12,000
ACRES: 0.968

ADDRESS: 5554 N.E. 16TH ST., DES MOINES

DATE: FEB. 1, 2019
PRICE: \$1,700,000
SELLER: CATALDO, GEORGE R
BUYER: 6450, LLC
SQUARE FEET: 47,200
ACRES: 3

ADDRESS: 1716 E. ARMY POST ROAD, DES MOINES

DATE: FEB. 4, 2019
PRICE: \$190,000
SELLER: VIRDEN, JERRY L
BUYER: MARTINEZ, ANTONIO
SQUARE FEET: 4,480
ACRES: 1.908

ADDRESS: 1005 EIGHTH ST. S.W., ALTOONA

DATE: FEB. 7, 2019
PRICE: \$500,000
SELLER: ALTOONA INVESTMENTS LLC
BUYER: TRINITY DEVELOPMENT 1, LLC
SQUARE FEET: 0
ACRES: 1.548

ADDRESS: RURAL POLK COUNTY NEAR N.E. HUBBELL, BONDURANT

DATE: FEB. 7, 2019
PRICE: \$532,000
SELLER: HARDY WORLD LLC
BUYER: BONDURANT BUSINESS PARK, L.L.C.
SQUARE FEET: 0
ACRES: 21.53

ADDRESS: 2250 FULLER ROAD, WEST DES MOINES

DATE: FEB. 8, 2019
PRICE: \$650,000
SELLER: DELAVAN INC
BUYER: 2250 FULLER ROAD, LLC
SQUARE FEET: 24,200
ACRES: 6.554

ADDRESS: 175 S. NINTH ST., SUITE 640, WEST DES MOINES

DATE: FEB. 8, 2019
PRICE: \$192,000
SELLER: WEST GREEN INDUSTRIAL PARK LLC
BUYER: CUSTIS REAL ESTATE HOLDINGS LLC
SQUARE FEET: 1,920
ACRES: 0.044

ADDRESS: 1026 34TH AVE. N.W., ALTOONA

DATE: FEB. 11, 2019
PRICE: \$2,900,000
SELLER: ALTOONA PROPERTIES, LLC
BUYER: SR REAL ESTATE HOLDINGS, LLC
SQUARE FEET: 21,760
ACRES: 6.064

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CITYVIEW'S BUSINESS JOURNAL

EXPERT ADVICE

ON ISSUES THAT MATTER TO YOUR BUSINESS

MARKETING

Do you know what people are saying about you on the internet?

According to a recent *BrightLocal* consumer survey, online reviews matter now more than ever. Over 91 percent of people now read the reviews before they decide to give your business a try. Over 84 percent trust this feedback as much as they would a personal recommendation.

Encourage your customers to leave and share reviews about their experience with your business. This can be done through signage, follow up emails or an old-fashioned in person request for a review.

But what about a bad review? Look at this as an opportunity, not a problem. Is this a customer that you can contact to correct the issue? If so, you may be able to improve your review and their opinion of you by solving their problem. If not, it is important to take the time to provide a thoughtful response to the review. Do not ignore it!



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HUMAN RESOURCES

Can a focus on human resources help generate revenue?

Changing your perspective on HR processes can create a strategic advantage for your organization. Typically, HR is considered a cost center, because executives think it does not generate any revenue. This narrative is misguided. The HR function does contribute to your revenue, mainly through a focus (or lack of focus) on strategic employee revenue. In fact, several organizations consider the way they accomplish some combination of the 166 core HR processes an organization must complete as their competitive advantage or market differentiator. In other words, it's focusing on how efficient and effective your employees are and how your organization can receive the best return on the effort of your employees. If done right, strategic HR processes can help you select the right people, develop talent, and produce the leaders of the future, which (you guessed it) results in greater revenues!



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ACCOUNTING

Can I still itemize deductions on my tax return?

Yes. Under the new tax law, it is harder to itemize on the federal tax return. The federal standard deduction increased to \$24,000 for married filing jointly, \$18,000 for head of household and \$12,000 for single filing status. However, the Iowa standard deduction remains low in comparison and is much easier for people to itemize on their state return. You can claim the standard deduction on the federal return and itemize on the state return. Furthermore, you can still deduct unreimbursed employee business expenses like union dues, tools and investment advisory fees on the Iowa return. Itemized deductions comprise six categories: medical costs above 7.5% of income, certain taxes like property taxes and vehicle registrations, mortgage interest, charitable donations, miscellaneous itemized deductions like unreimbursed business expenses and casualty losses. Deduct the larger of itemized deductions or standard deduction on your return.



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