

Don't Get a Bad Wrap

Beware of **CLICKWRAP** Agreements

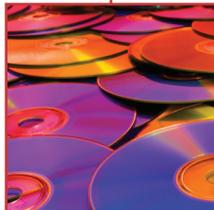
As more and more business is done electronically, the relevance of online agreements or "clickwraps" is greater than ever. Courts have long recognized their validity and enforceability.

With just the click of a mouse, you could potentially bind your organization to an agreement with unfavorable terms. But, who can effectively bind the organization to the terms of a clickwrap?

Well, anyone who has the apparent authorization to enter into an agreement on behalf of the organization. That means a salesperson could bind your organization if she has the apparent authority—that is—unless the company offering the clickwrap was notified to the contrary.

For example, in a recent decision by a U.S. District Court in Florida, the court held that a contractor who "accepted" a vendor's clickwrap could not bind the organization to its terms because the organization had previously advised the vendor that **only** its three executives were authorized to enter into agreements on the organization's behalf.

This case highlights the importance of being aware of clickwraps that your organization is being presented with in the ordinary course of doing business, as well as how and by whom such clickwraps are being accepted.



Organizations should:

- Determine who should have authority to bind the organization
- Ensure that unauthorized personnel do not enter into agreements
- Draft and implement policies and procedures for all personnel who establish a protocol for dealing with clickwraps
- Consider broader contractual solutions with vendors and other business partners

Following these tips may help prevent your organization from getting a bad "wrap." Miller Canfield's Information Technology team can assist with this issue or any other information technology issue.

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