Securing Assent: The Internet Twist of Electronic Contracts

If any area of the law could be shielded from the all-consuming influence of the Internet, it ought to be the age-old law of contracts, writes **Mark Sableman** in Thompson & Coburn's blog, Internet Law Twists & Turns. He points out that basic elements of contract law, like requirements of offer, acceptance, and consideration, don't change because of the Internet.

But courts have been struggling with one crucial point involving electronic contracts: "When and how does a user agree to a contract electronically? This crucial element of contract formation – manifestation of assent – is the Internet twist for contract making."

"Getting clear assent in real time, however, isn't always enough. You also may need to prove at a later date that consent occurred. Your ordering software should record customer activity, such as the click-through consents. And you should retain records of your past website forms and contract terms, so that you can recreate those that were in place at the time of any contested transaction," Sableman writes.

Read the article.