

An ADA-related lawsuit is filed every working hour.

As a kid growing up in the 1980s, I frequently watched *G.I. Joe* cartoons. After each episode, a *G.I. Joe* character would offer a public service announcement—anything from “How to Stop a Nose Bleed” to “Teamwork Helps You Win.” Each PSA ended with a kid saying, “Now I know!” and a *G.I. Joe* character announcing, “And knowing is half the battle!”

Here I am thirty years later, advocating that you apply that cartoon mantra to web accessibility* to avoid ADA-related lawsuits. Knowing really is half the battle.

Over the past couple of years, a surge of lawsuits has targeted business websites that weren’t compliant with the American Disabilities Act (ADA) or the Web Content Accessibility Guidelines (WCAG). Many business leaders—unaware of the laws governing accessibility online—were surprised by the lawsuits.

In a notable 2016 case (*Robles v. Dominos Pizza LLC*), Domino’s was sued by a visually impaired person for not ensuring its website and mobile app could be understood by a screen reader, a software program that allows users experiencing blindness or low vision to read computer screens. The Ninth Circuit Court of Appeals ruled the pizza chain wasn’t in compliance with the ADA, which they ruled extends to business websites and mobile apps.

The Domino’s ruling encourages many other plaintiffs to file suit against businesses with websites that don’t comply with the ADA.

In U.S. Federal Court, the number of ADA web-accessibility lawsuits jumped 177% from 2017 to 2018, with a further increase of around 7% the next year.

According to UsableNet, a technology and accessibility company tracking this data, an ADA-related lawsuit is filed every working hour and nearly half of the top 500 retailers have been sued since 2017. UsableNet also identified the five categories of most-sued websites: retail, food service, travel/hospitality, banking/finance, and entertainment/leisure. These five categories make up a majority of online businesses, which is why it’s vital to understand the ADA and web accessibility.

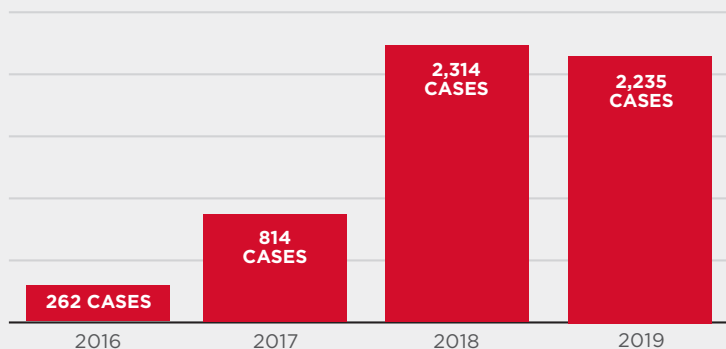
Here are five steps to help your company become ADA compliant and avoid similar legal wrangling:

1. Ensure your online presence is web accessible.
2. Get to know the groups served by web accessibility.
3. Achieve WCAG’s Level AA to protect against lawsuits.
4. Understand how ADA noncompliance lawsuits originated.
5. Broaden your market penetration by ensuring your site and your app are accessible.

Let’s look at these five steps, one by one, beginning on the next page.

ADA noncompliance lawsuits over a 4-year span

The total number of ADA web and app accessibility filed cases reached one-an-hour in 2018 and is holding in 2019. The 2019 total was affected slightly while plaintiff lawyers waited for the Supreme Court to decide not to hear the Domino’s case. (UsableNet)



Step 1

Ensure your online presence is web accessible.

The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life.

That includes workplaces, schools, transportation, and all public places. The ADA has brought greater equality to the physical world by requiring such things as wheelchair ramps, braille on elevator panels, and larger restroom stalls with hand bars and lower toilet seats. The law was signed in 1990 before websites and mobile apps were used on a daily basis and long before *web accessibility* was a term. But accessibility is the law, and websites and apps need to be in compliance.

Online resources for web accessibility

Find online articles, videos, guidelines, and tips to help you make your site web accessible. Here are a few to get you started.

W3C Web Accessibility Initiative: The World Wide Web Consortium (W3C) created Web Content Accessibility Guidelines and provides resources on how to follow WCAG to make the web accessible to anyone with disabilities. [Find them here.](#)

Section 508: Working within or doing business with a federal agency? Section 508 requires that federal agencies' electronic and information technology is accessible to people with disabilities; [Section 508](#) addresses key accessibility topics.

WebAIM: This nonprofit, based at the Center for Persons with Disabilities at Utah State University, features web accessibility articles, resources, services, and an accessibility email discussion list on its [website](#).

Nielsen Norman Group: [The Nielsen Norman Group](#) offers a hub of videos and articles relating to accessibility.

The A11Y Project: [A11Y](#) is a numeronym used for accessibility; providing short articles on accessibility with the most up-to-date standards.

Step 2

Get to know the groups served by web accessibility.

- Users experiencing deafness or limited hearing need multiple contact options on a website, including email and online chat. (It's not enough to list only a phone number.) These users also benefit from text transcripts and online video captions.
- Website and app visitors on the autism spectrum need consistent navigation and website layouts. Minimize clutter and distractions; make text as simple as possible; and define any jargon, abbreviations, and nonstandard terms. In addition, users should have as much control as possible over a site's behavior. For example, avoid content time limits and automatic refreshes. Create clear instructions and easy-to-understand error messages for forms that must be filled in by users.
- Users experiencing blindness, low vision or color blindness need text equivalents for descriptive website images. They must be able to navigate sites using only the keyboard; they require sites to flex when they enlarge text or to be compatible with software magnification; and they need high-contrast site colors.
- Users with physical limitations need clickable or tappable content with large surface areas. All content should offer control via a keyboard; not everyone can physically use a mouse.

What are screen readers, and why are they important to web accessibility?

Screen readers are software programs designed for people experiencing blindness or low vision. Using a speech synthesizer or braille display, a screen reader looks for and processes any kind of text displayed on a computer or mobile screen. More than fifteen screen readers are available today; the most popular are NVDA (Non-Visual Desktop Access), which is a free, open-source screen reader for Windows computers; JAWS (Job Access with Speech), a screen reader for Windows computers that tends to be used in the workplace; TalkBack, a widely used screen reader for Android devices; and VoiceOver, a screen reader preinstalled on Apple devices.

A sighted user scans a web page—using a visual hierarchy of images, colors, and visual cues—and often navigates menus with a mouse. In contrast, a screen reader user either consumes web content by reading the page content or by navigating the page elements. Those using a screen reader consume page content in a linear fashion, from the web page title through each text element in the order of its appearance in the document's source code. Users with screen readers can also scan a web page, jumping from link to link or heading to heading using keyboard shortcuts. This is why it's important to create descriptive headings and write descriptive link text on your site. While all screen readers share similar functionality and capabilities, voices, pronunciation, and keyboard shortcuts vary.

To learn more about screen readers, try one yourself. Consider using the preinstalled screen reader on your computer; you can likely access it via preferences and the web accessibility menu.

Step 3

Achieve WCAG's Level AA to protect against lawsuits.

Originally created in 1999 by the World Wide Web consortium (W3C), WCAG was the first international standard for digital accessibility. WCAG 2.0 was published in 2008 and then updated to WCAG 2.1 in 2018. The standards have three levels—A, AA, and AAA—with four accessibility principles.

To reach Level A, the site needs to, at a minimum, include basic web accessibility features, including making the site accessible by keyboard only, providing text alternatives for non-text content, and using more than one sense for instructions.

To reach Level AA, the site needs to address the largest and most common

barriers for disabled users, including a contrast ratio of 4.5:1 between text and background, the capacity to resize text to 200% without loss of content or function, and available audio description of video content. Satisfying these requirements removes significant accessibility barriers.

Most websites will not reach Level AAA, the highest level of web accessibility, because a few guidelines (e.g., sign language interpretation for prerecorded video and adding closed captioning to live audio) are difficult to implement. The best practice for complying with WCAG guidelines is to achieve Level AA and then address the Level AAA qualifications that are possible for your organization.

Think like a bartender

An easy way to familiarize yourself with WCAG guidelines is to remember the acronym **POUR**. Can you answer yes to these four questions?

- 1. Is your project perceivable?** Content must be presented in different ways (with the use of assistive technologies). If users can't see it, they need to be able to hear it, and vice versa. Offer text alternatives to non-text content, add captions, and use subtitles or alternatives for multimedia content. Keep in mind that one in twelve men and one in two hundred women in the world are color-blind. Does the content on your site have enough contrast? Are text links and similar elements discoverable by more than a color change (i.e., underline, bold text, etc.)? Adding alternative text to images also improves your search engine optimization, because search engines can't read content on images but can read alt-text.
- 2. Is your project operable?** The user interface can't require interaction that a user can't perform. Make sure functionality is available from a keyboard because not everyone can physically use a mouse. Give users enough time to read and interact with content; some users may take longer to find or read content as a result of poor vision, or they may take longer to physically respond to prompts. Be mindful of content that may cause seizures in susceptible users; a light that flashes three times or more per second can trigger seizures in some people. Help users navigate and browse content by creating navigation components (e.g., breadcrumbs) that help users understand where they are.
- 3. Is your project understandable?** Can users understand the interface and content? Make text readable and understandable; use few abbreviations; and aim for a seventh- to ninth-grade reading level. Ensure content appears and operates predictably; keep navigation and functionality consistent across the site; and don't change unless user controlled. Finally, help users avoid and correct errors; error messages should give specific, easy-to-follow feedback for fixing common problems on the site.
- 4. Is your project robust?** Can most browsers understand your site's content? Does the site work with assistive technologies? Maximize the compatibility of your site with existing and future tools by following the W3C web standards when building and maintaining your site, and to ensure quality assistance on your site using assistive technologies.

Step 4

Understand how ADA noncompliance lawsuits originated.

In 2017, President Trump issued an executive order requiring that all federal agencies identify regulations for “repeal, replacement or modification.” As part of that order, Attorney General Jeff Sessions rescinded guidance documents, including several that clarified ADA implications. Later that year, the U.S. Department of Justice scrapped ADA guidance, which then led ADA activists to define the law through lawsuits; these began forcing companies to ensure ADA-compliant websites. Depending on the plaintiff’s home state, a plaintiff may sue for damages or receive money in exchange for keeping settlement details confidential. As for the companies being sued, many were caught off guard because they weren’t sufficiently informed about ADA compliance. ADA lawsuits create negative press, and many companies didn’t want to fight in the courts. Domino’s was one of the few that tried and, after a three-year legal battle, lost.

Additionally, a person with a visual impairment sued Burger King when she encountered access barriers that left her unable to find content on restaurant locations, hours, and promotional coupons. *Playboy* was sued by a man who is legally

blind; he couldn’t read an online article because the site was incompatible with screen-reading software. Even Beyoncé was sued because her official website lacked alt-text and keyboard access, which meant the plaintiff’s screen reader didn’t work when she attempted to buy a hoodie.

Besides suing Beyoncé, this same plaintiff, Mary Connor, has sued for not being able to purchase a hoodie on Rihanna’s site, a Christmas tree from [christmascentral.com](#), and Honey Barbeque Jerky from [chefscutrealjerky.com](#)—all because of web accessibility barriers. In total, Connor filed more than twenty similar suits in twelve months, and she’s not alone. A Florida man with sight impairment has filed nearly two hundred lawsuits, “accusing government agencies, restaurants and stores of violating the ADA by not taking steps to ensure that documents on their websites can be accessed by anyone’s personal computers”.

The point? There’s a good chance someone will visit a site you own or work on to check it for ADA compliance.

Four handy tools to check for web accessibility

- **I Want to See Like the Colour Blind (Chrome App)**

One in a dozen men and one in two hundred women are color-blind. To experience your website through the eyes of a person who experiences color-blindness, turn on [this Chrome app](#).

- **WebAIM Contrast Checker**

To see if your site will pass WCAG AA and AAA color-contrast guidelines, enter a foreground color and a background color in RGB hexadecimal format using [this online tool](#).

- **Images ON/OFF (Chrome App)**

Using [this tool](#), toggle site images on and off to quickly check if any alt-text is in place.

- **Axe (Chrome App)**

Use the [Axe app](#) to check for web accessibility.

Step 5

Broaden your market penetration by ensuring your site and your app are accessible.

According to a 2010 report from the U.S. Census Bureau, one in five Americans has a disability—that's more than fifty-two million Americans. In addition, the U.S. Department of Labor found that Americans with disabilities have an impressive \$200 billion in discretionary spending. ADA-compliant websites and mobile apps can reach a significant consumer base with substantial resources. A web-accessible site also has better search engine optimization (SEO), because the code is cleaner and easier to find. Good SEO increases a site's visibility in organic, or unpaid, search engine results, allowing even more users to find it.

Much like the messages in *G.I. Joe* PSAs, understanding the challenges and opportunities of web accessibility is half the battle—the other half is actually implementing what's required. By doing so, you'll avoid expensive legal complications, better serve users with disabilities, and broaden your market penetration. **Now you know!**

*The content provided in this white paper is not intended to constitute legal advice, and is provided for informational purposes only. This document contains links to other third-party websites which are provided solely for the convenience of the reader.

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