

Copyright Infringement can be Very Expensive

Having no intention to offend or unknowingly breach is no defence

An infringement will still be expensive

This paper is in response to a very unfortunate, distressing and expensive copyright infringement claim against a branch of the Guild. The branch reproduced an image without permission and this was 'seen' by phishing software used by lawyers who offer a copyright protection service to artists and creators etc. There are no barriers. In this instance the photographer was resident in the USA, the lawyers were based in Germany and the 'offence' took place in the UK.

Final settlement of the claim and associated legal costs was £5,800.

On behalf of all regions and branches the Guild had to sign a 'Cease & Desist' statement. Any future infringement by any region or branch and detected by the copyright lawyers in Germany will automatically attract a minimum compensation payment of 5001 Euros plus legal fees.

Acting on this briefing

1. *Please FORWARD this attachment to all members of the branch committee.*
2. *Go to your website, blog or social media pages and take down any images where you do not know or cannot confirm the source and ownership. Seek permissions where you do not have them and ensure ownership and permissions are recorded with each image.*
3. *Please FORWARD this email to your Regional Chair with the words 'XXXX Branch Copyright Doc Read, Understood & Acted Upon'. Please do so by end July 2019. Thank you.*

Information & Guidelines

1st Rule of Thumb: Assume an image you wish to use in your publication (whether printed or on-line) is copyright protected. The onus is on you to establish that no copyright applies. If you are not sure then assume copyright applies.

2nd Rule of Thumb: Get 'written' permission to reproduce digitally or in print or share any image you wish to use. Failure to do so may be seen as depriving the creator of monies they could expect to earn from their creativity. When reproducing an image 'with permission' be sure to caption it with the title of the image and name/thank the copyright holder.

3rd Rule of Thumb: The fact that you are not intending to make money from an image you reproduce is not a valid justification for reproducing an image without permission. Nor is it sufficient to acknowledge ownership. Doing so merely reduces the compensation that you may have to pay.

4th Rule of Thumb: *Never* assume that because someone has shared an image on social media that it is automatically okay for you to share it on your page or on a group page.

Copyright: Protecting 'Images' - photographs, diagrams, paintings, sculptures, sketches, drawings, music, choreography on film, in print, digitally created or copied via scans or digital cameras. Copyright applies to 'recorded work'. Other intellectual property may be protected by patents or trademarks.

Ownership: The person who creates an image (“the creator”) will generally be the first owner of the copyright. However, there are situations where this is not the case. For photos, it may depend on when the photo was taken, as different rules may apply if the photograph was taken before 1989.

If an image was created as part of the creator’s employment, rather than by a freelance creator, the employer will generally own the copyright. An example could be where a photographer has made the creative choices in setting up a shot, but an assistant actually presses the shutter. Images of your event may be the copyright of the photographer or his/her assistant.

Images on Social Media

If you wish to draw attention to an image on a page, a blog entry or other information on a website, go to the original item, copy the URL and share the link to direct your readers to the item concerned. Never right click and save an image to share and do not ‘onward’ share social media posts unless you know the provenance/origin of the images or the permissions associated with them. Posts made by the main Guild website will conform to these guidelines and, therefore, should be safe to share. *Also see ‘Copyright within the Guild’ below.*

Copyright within the Guild

Members giving permission to their branch, region or head office to photograph and/or reproduce images of their work do so on the understanding that they are giving permission for any region and branch to reproduce that image on any website, blog and social media page including those used by delegated Guild project teams, the Director of EG Direct Learning and Committee members of the EG Virtual Branch sites when promoting these facets of the Guild. Images being provided for publication should be saved as a JPEG. The file must include the name of the member (e.g. S.Smith or Sandra Smith), the date and ©EmbroiderersGuild. When being provided for publication the file should also be accompanied by the name of the piece (if applicable), the full name of the member and a contact email address.

External images - copyrighted or Free to Use?

You can search for evidence of copyright via Google Images. In the Search Box describe the image you want. The source of each image is often displayed beneath it. Click on the image that interests you. Go to ‘Tools’. This opens another menu bar. Select ‘Image Rights’. You may also see an option to ‘View Page Source’. Choose the image you want and open it. Underneath it, it will say ‘Images may be subject to copyright. Find out more’. Click on this link to find what protection that image has. This varies - a fee or just an attribution. Look out for Creative Commons – the letters ‘cc’ displayed in a circle. This indicates that the image is free to use.

How long does copyright on images or photos last?: Copyright on images lasts for the life of the creator plus 70 years from the year of their death although the length of the copyright period will depend on when the image was created. However, there can be exceptions. For old images or photos, you may never be entirely sure if something is in copyright, but knowing the age of the photo will be a good guide to make an educated guess whether the photo is likely to be protected by copyright.

Is permission always required to copy or use an image? Permission is not required to copy an image if it is designated as ‘free’, protection has expired or its use is for private study or non-commercial research.

What if there is no © (copyright) symbol, year or name with the image? The copyright symbol does not have to be present for copyright to exist, so just because there is no name or copyright symbol associated with a photo or image does not mean the image is not protected by copyright. Sometimes uploading and downloading images causes the associated metadata to be removed accidentally. Metadata is embedded

within the image and can give details of the copyright owner. Deliberate removal of metadata that identifies the copyright owner is unlawful.

Does this mean we cannot use third party images for inspiration or illustrate meaning? No but play safe. Also go to the image providers and pay the fee.

Can I be completely safe when I use an image from the internet? The vast majority of images on the internet are likely to be protected by copyright, so it is only safe to use it if you have specific permission.

Don't rely on "fair use": It is simply a guarantee that copyright laws do not infringe freedom of speech and make critical commentary impossible. "Fair use" is an extremely complex body of case law; it is often very difficult for non-lawyers to tell in advance whether or not a certain use will be considered "fair use" in court. *If in doubt, seek permission first.*

Is everything on the internet in the 'public domain'? An image only falls into the 'public domain' when copyright expires. While images are displayed on the internet this only means that they are accessible to view but this does not in any way imply permission to reproduce.

Is Pinterest and Instagram the 'public domain'? Pinterest and Instagram photos are not in the public domain. In fact, they do not belong to these organisations. They belong to the original copyright owners.

Can anything without a copyright notice be taken as not being protected? No.

If we change someone else's work, can we reproduce the changed image on the basis that the copyright for the original is no longer applicable or valid? No.

Where can we source images free of charge or for a fee? There are many providers. Here is a selection...

Shutterstock.com/uk

Adobestock.com/uk

123rf.com

Pexels.com/uk

istockphotos.com/gb

Gettyimages.com/uk

Unsplash.com/uk

Protecting Your Work

Copyright Notices are published by the Intellectual Property Office to help explain specific areas of copyright in the UK. This notice is aimed at small businesses and individuals who may wish to use digital or photographic images on the web. It also provides advice for people who may find their own images being used online. This notice is not meant as a substitute for legal advice on particular cases, but it can help readers gauge the possible consequences of a particular course of action. It is not a conclusive view of the law – only a decision of the court can deal with that.

You can protect your work. Go to www.protectmywork.com. The site is very helpful. Copyrighting your work will cost from £33.00.

Acknowledgements: Intellectual Property Office; NCVO; Charity Commission; Wiki How. BBC. Pinterest.

Caution: *This is an advisory briefing intended to alert EG Regions & Branches to the risks and avoidance actions in relation to copyright infringements and the associated legal and compensation costs. It is neither comprehensive nor exhaustive.*