



Are your website images putting you at risk?

The availability of images and graphics in electronic form on the internet is so vast and so easy to download that there is a real risk of breaking copyright and/or trademark law.

The originators of the material are, quite rightly, protective of their intellectual and artistic property and are increasingly very aggressive in their pursuit of unauthorised use. So what do we need to consider and how do we mitigate the risk?

Peter Butterworth, an associate e-Business Consultant for the B2B Centre answers some popular questions regarding the legalities of using of images on websites and provides a fascinating insight into the complexities of using images online.

What licences /permissions are required to use someone's images on my website?

Copyright Law exists to protect the owner/creator of original work. Unauthorised copying, even for purely personal use, is subject to the law and illegal. Therefore prior to using any images or graphic designs on your website you must get permission. I think you can group this authority into 3 types.

1. Written permission from the owner. By contacting the owner and having been granted permission you are free to use it subject to any conditions that they may insist on. This could be restrictions on where or how it is used or it may be that the owner wishes to be credited for his/her work (e.g. to show copyright and their name and/or web address underneath the image).
2. Royalty Free. This type of licence generally involves a single payment for the right to use an image for promotional & marketing purposes by a single entity (e.g. one company with one website). No further constraints or payments are due irrespective of length of use and other factors that apply to Rights Managed.
3. Rights Managed. This license has tighter restrictions on use and tends to be a more expensive option. Rights are granted for a specific, one-time use at a rate determined by a combination of factors including: the time for which it is required, the purpose, the print run or circulation of the publication, geographic distribution etc.

How long does copyright last for?

Photographs are protected under Current European & UK copyright law for the life of the creator plus 70 years. A copyright statement or use of the copyright symbol © is not required for protection. Older work is subject to the laws at the time and can get complex.

Pre-1911 no copyright existed. Pre-1945 it is as per current law so copyright would have expired by 1994. However, under some circumstances it could have been "revived" so may still be in place. Post 1945 is as per current law.

For anonymous photographers it is 70 years from when taken or first published. Owning prints does not mean you own the copyright as copyright can go to beneficiaries after death.

How do they know I am using an unlicensed image?

Digital images can have hidden, protected encoding that is embedded in the image whether copied, cropped or transformed. Images owners can use trawlers that search the internet scanning for these unique identifiers.

Alternatively, very clever software now exists that can match actual images themselves. Once alerted, evidence of unauthorised use can be recorded and billing or legal proceedings commenced. The first you may know is an invoice arriving in the post.

Can I use an image as a base and crop bits or transform it (e.g. in Adobe Photoshop)?

This is a grey area. The extent to which we can now manipulate digital images means there is a point where you could argue that it is no longer of any resemblance to the original. Copyright only covers copying and use of the image.

It does not cover new images that are very similar, albeit original, work. If you crop an image then that portion is still subject to copyright. Once you start transforming digital work, it starts to get open to interpretation of the law.

Can I copy or use another company logo and/or images of their products on my site?

Logos and branding are normally protected by Trademark Laws that can be complex and not clear cut. Trademarks are infringed if a logo is similar enough that its use, in the course of business where goods and services are similar, can lead to confusion. Before using another companies logo and/or images of clear branding (e.g. Mercedes Benz logo on a car itself), I would recommend you gain permission first.

The purpose may be seen as making an association between your company and theirs for your own credibility & stature to which they have no control (e.g. a photographer with limited skills may use the Canon branding and camera images. Although this may be the equipment they use, the end result may be poor and not the image Canon wish to portray about their high quality products).

Are there restriction on photographing public spaces & people?

Public access does NOT mean public property. Restrictions may apply at:

- ☐ Events (e.g. music gigs),
- ☐ Places of interest (e.g. stately homes, National Trust properties)
- ☐ Statues (e.g. you are ok if on permanent public display but not if short term loan from the artist)
- ☐ Public places, monuments (there are many byelaws & regulations on e.g. Royal sites, Trafalgar Square etc)
- ☐ Sensitive locations (e.g. prisons, military sites, atomic power stations)
- ☐ Coastline (part of the UK coastline is private land and requires permission e.g. Lulworth Cove)
- ☐ Breeding & Nesting grounds (either to disrupt or draw attention to help locate a site)
- ☐ People (where someone is the prime subject a "Model Release" form should be signed to give permission)
- ☐ Property (where someone's property is the main focus a "Property Release" form should be obtained)
- ☐ Children cannot be featured in any part of a photograph unless a model release has been signed by the natural parents.

So where can I source licensed images from?

The following is a sample of Royalty Free on-line sources of images. Most allow lost cost purchase (e.g. £0.57) for the rights to download and use images from a stock library subject to a royalty free license. Please read the terms and conditions of each provider as they can vary. Generally you can use images on your website to promote your business. Usually the license is single use and so cannot be used across multiple websites. You cannot sell copies of the image itself but you can use it to on sales & marketing materials. Note that on some websites you can choose to purchase an image for single or multiple use, so you should select and pay for the appropriate usage.

www.istockphoto.com
www.fotolia.com
www.shutterstock.com
www.picturenation.co.uk
www.sxc.hu

As my web design company sourced the images for me, are they not responsible for any breach of copyright?

If images are used on YOUR website to promote YOUR business then it is deemed that YOU are gaining commercial advantage from their use. Therefore any invoices, claims for compensation or legal action will be directed to you. You would have to pay and then, separately, prove negligence of your web designer and prove that they acted without due diligence.

I would recommend that all web designers state clearly to their clients the issues raised in this article and that they provide copies of licences/permissions for images sourced on a client's behalf. Now that many companies have control of their own websites, the web designer loses control of the content and any responsibility is passed to the owner.

What should I do next to protect myself?

- ☐ Ignorance is no excuse!
- ☐ Beware of Google images - they are for viewing & not necessarily for using.
- ☐ Review all images on your site & if in doubt take them off. If images have been provided by your web designer then request license/permission details from them.
- ☐ Ensure that any recognition is given on the site to images where an owner has requested it.
- ☐ Consider using your own images where possible (digital cameras can give high quality results even to a novice photographer). Or commission the services of a professional working on your behalf.

Further Information:

[UK Copyright Law](#)

[Example Model & Property Release forms](#)

[News item showing that even look-alike original works can get caught](#)

[e-Business and the Law Guide](#)

[Designing a Website Guide](#)

By Peter Butterworth, Associate e-Business Consultant
 National B2B Centre 7th April 2008