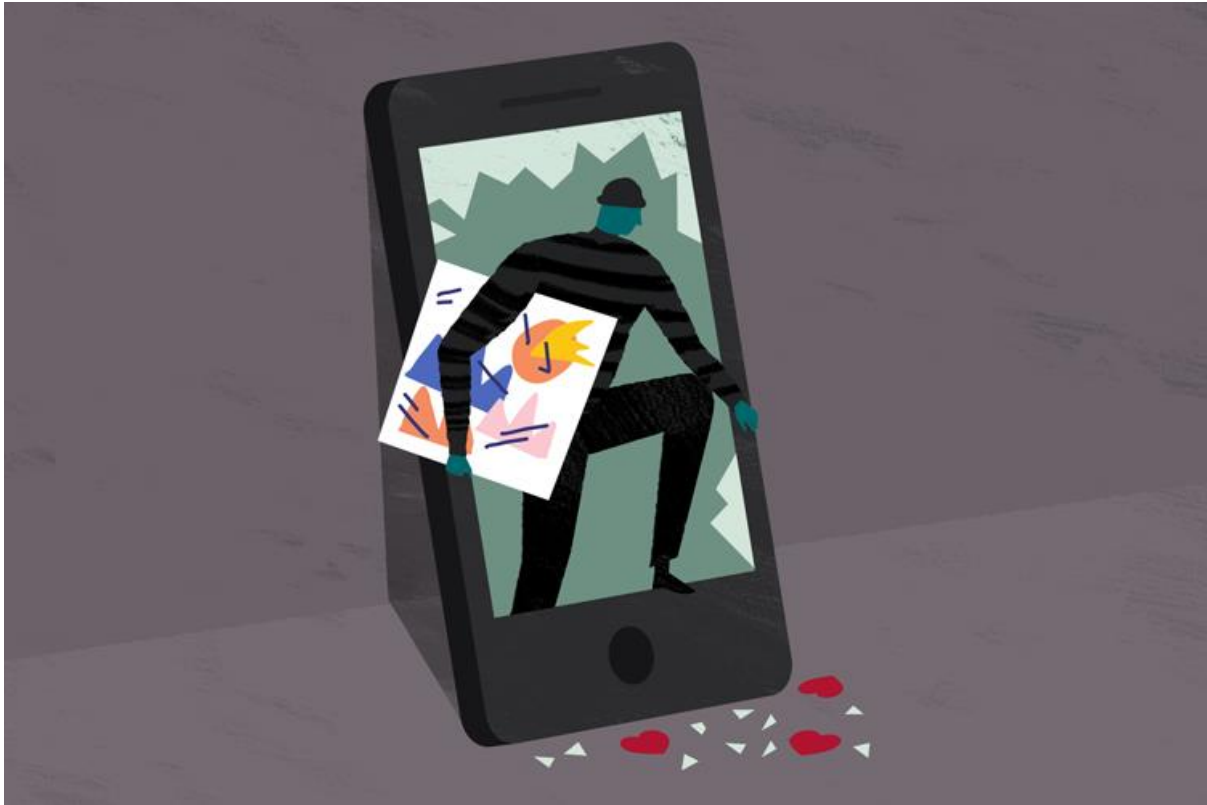


Copyright and Wrong: The Internet and Social Media

December 18, 2015 by [Sharon Givoni](#) – [0 Comments](#)

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This is Part Three in our “Copyright and Wrong” series by Melbourne-based intellectual property lawyer Sharon Givoni. Sharon is the author of [Owning It: A Creative’s Guide to Copyright, Contracts and the Law](#).

We live in an age where most of us spend a significant portion of our everyday lives connected to the internet. Unfortunately, many people seem to treat online content as ‘public domain’, unaffected by the tenets of copyright law.

Not so, as potentially serious consequences exist when it comes to using and appropriating content found online without permission. Here are some guidelines to help you navigate creative copyright on social media and the internet.

Don’t copy!

“Whatever is on the internet is free for the taking” is a total myth. In reality, designs, images, any content, published online are usually protected under copyright law.

The Copyright Act gives copyright owners the exclusive right to post their work online, and to 'exploit' that work in any way they wish. This means they have the right to sell the design, use the design, publish the work on the internet or authorise others to use it. If you use a design without permission, this may constitute infringement of that owner's rights.

What if you don't know who owns the copyright?

In Australia, even if you can show that you made efforts to locate the owner of the work, you will not be safeguarded against a claim of infringement.

How close is too close?

How can you know whether the design you created is too similar to the other work to avoid infringing upon the other work's copyright?

The answer is a complex one and unfortunately no bright line rule exists to determine when an artist has gone beyond 'borrowing' and has 'copied' it instead. Contrary to popular belief, there is no rule that if you alter work by 10 per cent (or some other arbitrary amount) that you will avoid copyright infringement. A court assessing whether infringement has occurred will consider each situation on a case-by-case basis.

Don't get copied!

Despite the law's protection, the internet remains a dangerous place when it comes to protecting your own work globally. If you post your designs online, you are exposing yourself to the risk that anyone around the world may copy and use your work without your knowledge or permission. If you discover that someone overseas has reproduced your designs, it could be very difficult (not to mention expensive) to get them to stop, especially if their laws surrounding copyright differ from ours in Australia.

What can you do to protect your work from would-be infringers?

The best thing to do is to be proactive and practical in protecting your designs. Try using watermarks or digital marks on images of the designs you post online. This can serve as a simple and effective deterrent for those who are tempted to use your work.

Another practical measure you can take is to use the "©" symbol on your website or other online space, followed by your name and date. This lets others know that you own the work, and if anyone else wants to use it they need to obtain permission from you first.

Other measures, including inserting metadata or uploading low-resolution images, may also limit the risk of someone using your work for their own purposes.

Free to use

Not all works found online are under copyright. The copyright of a work may have expired (copyright generally lasts for the life of the author plus 70 years) and been released into the "public domain" for free use.

Some material is also available to use under a “Creative Commons” licence, although even in this instance you will still need to adhere to certain requirements. There are a number of different types of “Creative Commons” licences so be sure you understand which one applies and what you are allowed to do.

Generally though, it is always safest to ask the author personally before reproducing anything you find on the internet and be sure they are happy with what you are reproducing it for.

Social media

Artists across all creative mediums often have a love/hate relationship with social media. While it can be a wonderful platform for the global distribution and recognition of work, the downside is the potential for the work to be copied, changed and circulated broadly with no attribution back to the owner, as this could result in lost revenue and a lack of recognition.

It is always a good idea to ensure you understand the terms and conditions of each of the social media platforms you use, as posting your designs on social media can also have other consequences that you need to be aware of.

The general rule with social media policies is that you will own copyright in your own content that you upload. Although posting something via social media may not mean you are giving away your copyright, it does mean that by virtue of agreeing to the terms of use of the site (upon signing up to the platform), you will generally also be granting the site operator a licence to use your work in many different ways. The good news is that most social media platforms have policies in place to help protect the copyright of their users.

Your online story

What you say or do online can be used against you in the same way as can any other form of published communications or media.

What you post on social media, your own blog or your website may potentially infringe someone’s copyright, amount to defamation, mislead or deceive people, or be subject to contractual obligations.

Uploading content or posting comments in a hurry may also leave behind a trail of destruction that can be hard to repair. Digital content is frequently archived, meaning that computer forensics experts can retrieve content posted online years later, even after it has been deleted. As the saying goes, “the internet never forgets”.

Conclusion

It’s clear the internet carries benefits and risks for designers. While some people may hold fast to the idea that being online is the only way to be recognised in this day and age, that same online presence raises a raft of legal considerations in its own right.

This should not in itself disturb you.

As Facebook founder Mark Zuckerberg once said, “the riskiest thing is to take no risks”. Certainly, when it comes to creative businesses and their need to establish an online presence, this statement rings true. However, a little bit of knowledge about what those risks are can save a lot of heartache in the future.

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Image by [Symon McVilly](#)