



What's Your Copyright IQ?

An unintentional mistake on your website and you could be sued out of existence. Be sure you avoid the dangers.

By Andrew A. Gonzalez

In the old days, the power of the press was a luxury reserved for those with a press. Every entrepreneur had to be aware of complex copyright laws. Professionals understood that the power of the press carried with it great responsibility and legal risk.

Today, anyone with a desktop computer and an internet connection can become an electronic publisher. Technology in general and the internet in particular have dramatically increased the ease with which works are violated. In this environment, a number of misconceptions have become common currency.

Now that your organization has a website, you need to be keenly aware of laws that have always applied to intellectual property in the real world. How much do you really know about copyright law? Make certain that you're not adhering to any of these dangerous myths:

MYTH: If it doesn't have a copyright notice, it's not copyrighted.

FALSE. In the United States, almost everything created after April 1989 is copyrighted and protected whether it has a notice or not. The default you should assume for other people's works is that they are copyrighted and may not be copied unless you know otherwise.

“Copyright mistakes can happen easily in today's world.”

MYTH: It's okay to copy as long as you give proper credit.

FALSE. If you copy an original writing, graphic, song, or other work without permission, you're guilty of copyright infringement. The Digital Millennium Copyright Act (DMCA) restricts access to or distribution of copyrighted material. Violators may be subject to civil and criminal penalties.

MYTH: I goofed and used someone's graphic on my web page without realizing that it's copyrighted, but I can't be sued as long as it was an honest mistake.

FALSE. Ignorance of the law is no excuse. Copyright law does not care about your “intent,” only that you have infringed the work of another.

MYTH: It's okay to use less than 10% of someone's work.

FALSE. Although it may be permissible to use limited portions of a work for limited purposes, there's no rule permitting a certain percentage of the work to be reproduced, distributed, performed, or translated.

MYTH: The work doesn't show a copyright notice, so it's in the public domain and content can be used freely.

FALSE. A work has automatic copyright protection the moment it exists. While it's good practice to insert a copyright notice, it's not mandatory.

MYTH: If I don't charge for the work I've copied, it's not a copyright violation.

FALSE. It is a violation even if you give it away – and there can be serious damages if you diminish commercial value of the property.

“The penalties include both criminal prosecution and harsh fines.”

- MYTH:** It doesn't hurt anybody and it's free advertising.
- FALSE.** It's up to the owner to decide if they want the free ads or not.
- MYTH:** I paid someone to create something for me so I own the copyright.
- FALSE.** If the content creator is on staff, and the work is created during their employment as part of their job, usually the employer owns the copyright. If, on the other hand, the content creator is an independent contractor, then the contractor may own the copyright unless there is something in writing transferring copyright to you.
- MYTH:** I copyrighted the name of my brand.
- FALSE.** Copyright protects original works of authorship, but a trademark protects words, phrases, symbols, and logos that identify the source of the goods or services.
- MYTH:** I can mail myself a copy of my work to protect it (commonly known as “the poor man's copyright”).
- FALSE.** There's no provision in copyright law granting any such protection.
- MYTH:** If I'm caught infringing, I'll just stop.
- FALSE.** Stopping won't keep you from being sued or prosecuted. The penalties for copyright infringement can be severe, and the technology for catching offenders gets better all the time. The penalties for copyright infringement include both criminal prosecution and harsh fines. 

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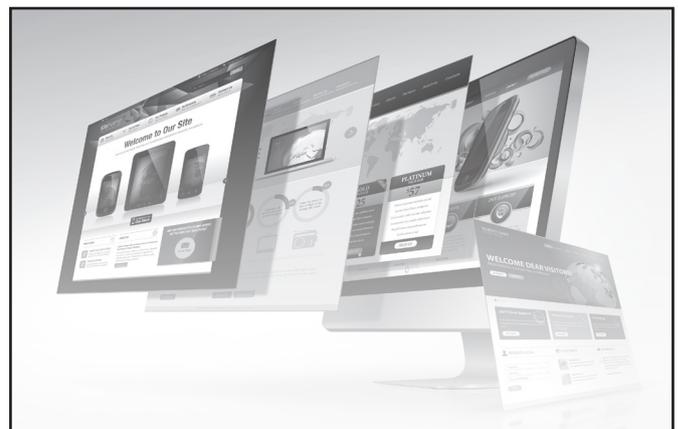
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