

HIDDEN PERILS

JANE KING looks at the hidden copyright dangers of stock photography and how to avoid them.

WHILE MANY AGENCIES and designers may vary their approach to the creative process, one thing remains constant – it can be both simple and incredibly complex at the same time. You begin with the creative brief, and try to decipher the ultimate goal the client's campaign is set to achieve, but often with only limited time to finalise the best way to realise a concept. There are many decisions that are made throughout the entire creative process, though perhaps one of the most critical decisions lies in selecting the right imagery that will connect with the consumer on an emotional level and make them take action – whether it is to purchase an item, donate money or join a cause.

In today's digital age there is a wealth of online visual content readily available at the click of a mouse; however, a recent industry survey revealed that many image users are taking chances when it comes to how they source their imagery, using unreleased or unlicensed content found either on image search engines or from photo-sharing websites such as Flickr and PhotoBox. Furthermore, some image users were not aware that they could still face a legal claim relating to their use of an image, even though they may have correctly licensed the image from a reputable stock photography provider.

Professional stock photography agencies like Getty Images, Corbis, Shutterstock and iStockphoto, among others, offer a vast library of high-quality content, much of which is fully model and property released. They provide legal protection as part of their licensing fee to help protect creatives from a potential legal claim, which in turn provides you with greater peace of mind. Some image providers also offer additional legal protection, either free of charge or for an additional fee, which serves basically as an extension of the warranty provided in conjunction with the original image. This provides even greater peace of mind, so that if a dispute does arise you should, in most cases, be covered. For instance, if someone who claims to own the copyright of an image issues a claim against you for copyright infringement, the supplier who licensed the image to you in the first place can step in, fight the legal battle and cover the legal costs (assuming that the user is otherwise in compliance with the applicable licence agreement).

When licensing images for commercial use, it is important to be aware of a number of potential rights holders and to obtain their permission for use of the image if it has not already been secured by the agency, or photographer, directly.

A FEW THINGS TO CONSIDER

One potential source of dispute can come from individuals depicted in the images. The most obvious way to avoid this is to secure the model's permission. When licensing imagery from any source, it is important to find out if the model has signed a release that allows the photographer to market and license the image for commercial use. Not all images come with a model release. If an image features an identifiable person and does not have a model release, and you continue to use the image to sell or promote a product, the model could potentially seek compensation or damages due for use of their likeness. So, if there is an identifiable person featured in the image you want to use, you need to check that you have a model release. For example, Getty Images clearly states to customers in its image asset detail pages whether a model release has been obtained or not for commercial use. If you want to use an unreleased image for a commercial purpose, some reputable stock agencies offer rights and clearances services that can sometimes arrange special permission for certain uses. This, however, is typically done on a case-by-case basis.

Second rights holders (that are perhaps less obvious to some) are those who own trademarks or service marks that appear in an image. If the image features a company's mark – for example, a logo on sports gear or trademark on a building – you may need to seek permission to use it for commercial purposes.

Other considerations include the rights of the individual or entity who created an object featured in the image, such as a piece of artwork or furniture. If you use an image featuring an artistic work for commercial purposes and a release has not been secured, the designer may be able to bring legal action against you for breaching their copyright. Most professional stock photography agencies typically note if a property release has been obtained that clears such marks and designs for commercial use. Regardless, it is always best to check if a property release is in place. If it is not, it could mean that legal protection is not offered on that particular image.

By now you may be thinking that licensing stock imagery is overly complicated, but it doesn't have to be. A new online resource has been recently made available at Stockphotorights.com, which offers a

wealth of information aimed to unravel the complexities surrounding image licensing for image users. With the support of BAPLA (British Association of Picture Libraries and Agencies), PACA (Picture Archive Council of America), Getty Images and Shutterstock, the website is a simple, user-friendly resource for anyone wishing to learn more about licensing stock imagery for commercial use. The content featured includes frequently asked questions, case studies, an image licensing check-list, a short educational video, a rolling feed of relevant news, informative links and a forum where you can discuss related topics with other image users and industry experts.

As a creative professional, you have a plethora of options available to license imagery online, each with a contrasting degree of image quality, price and legal protection. It is likely that you will license imagery from a resource that offers the very best imagery at a price point that fits within your overall budget. Now, with the information shared on Stockphotorights.com, you have the knowledge to license an image with confidence. By keeping these factors in mind and checking if the stock photo agency has the proper releases on file, you may be able to prevent you or your company from coming across potential legal issues when commercially using stock images. **DT**

Jane King is the marketing manager for Getty Images, Australia and New Zealand.

USEFUL LINKS

www.stockphotorights.com



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