

Copyright in website images

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A misconception amongst some individuals and business proprietors is that images and other content found on the internet (whether in the medium of photographs or graphics) can be downloaded and used instantly without consent, payment or restriction. This is not the case and a recent High Court case held that downloading images from a website was an infringement of the owner's copyright in the image.

The case highlights the potential for copyright infringement where website owners use images and other material found on the internet without consent or a licence from the copyright owner granting the right to reproduce the image.

Facts

The copyright in a photograph used by J A Coles belonged to a Canadian photographer who had licensed Getty Images to market and distribute his photograph. Getty Images discovered J A Coles' unauthorised use of the photograph and demanded payment from J A Coles for the use of the image taken from its photo bank, or evidence that it had a valid licence from the owner of the copyright.

J A Cole removed the image from its website but Getty Images commenced a High Court Action to recover damages alleging copyright infringement.

Copyright Protection

The Copyright, Designs and patents Act 1988 (the Act) grants copyright protection in “artistic works”, which includes, “graphic works” (such as paintings and drawings) and “photographs”. The Act gives creators of artistic works rights to control the way in which their material may be used, which includes copying the material.

Decision

The Court held that J A Coles had breached the Act and it was ordered to pay Getty Images damages, plus its legal costs, for copyright infringement.

Conclusion

As a general rule individuals and businesses alike need to proceed with caution if simply cutting and pasting images from other internet websites and using the images on their website for commercial purposes. It is very easy to unwittingly use an image from a website, as they can be located by a simple internet search.

It is advisable to verify the source of all images and content to ensure that the images used are not copyright-protected, or if protected, whether or not a licence can be obtained to use them. If in doubt, do not use an image. It is no defence to plead that you did not know you were infringing copyright.

If you have commissioned a web developer to create your website, you should ensure that the developer has obtained the necessary licences and the developer should warrant that it is authorised to use any images used on the site in a written agreement.

For more information or advice on copyright issues please contact:

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