

GUIDE

How To Avoid Copyright Infringement In The UK As A Small Business

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Last December, several companies were hit with an unusual Christmas gift: a letter from a lawyer representing a photographer.

This lawyer was asking for proof that certain photographs used on the companies' websites—photographs taken by his client—were legally obtained. He threatened them with fines starting at 5,000 pounds if they refused to comply or were unable to show proof of purchase.

For the companies, this came as a shock, as we live in an age where content is available at the tap of a few buttons. Saving an image, embedding a video, or copying a piece of text has never been easier.

And yet, this ease of acquiring material means that copyright infringement can be a photo in your weekly newsletter, the music on your website, or even some texts

that you included in your business brochure. Or, it could be a few snapshots in the video presentation you prepared for a client.

In all these cases, you need to have the relevant licence for all the material you are using. Alternatively, you need to make sure the work you are using is copyright free.

Just because it's publicly available, doesn't mean it's free to use!

Don't assume that content like photos, music, or texts found on the Internet are free, mistakenly thinking that, since they are accessible to anyone, then they surely must be free!

All material published on the Internet is protected by the same laws which govern books, movies, and music.

Consequently, using a photo you downloaded from the Internet as your company's Facebook page cover could infringe someone's copyright. Even something as trivial as a photo shared on a business Facebook post could get you in trouble.

What does the law say about copyright infringement?



British law is clear. Copyright is attributed automatically to any intellectual property, covering written work, [photographic](#) and artistic work, films, television programmes and broadcasts, and [music](#). This encompasses books, webpages, songs, drawings, photos, maps, and publications.

What's crucial is that the actual medium through which the copyrighted material is presented is inconsequential: it can be the Internet, written format, or sound.

In 1998, the [Copyright, Designs and Patents Act](#) was introduced. Since then, there have been several amendments to include new data the lawmakers hadn't considered initially, such as computer programmes and databases, and other rights which pertain to the information society.

Computer programs are also widely protected through copyright law. Downloading programs, applications, and other computer software without the proper licence falls into copyright infringement.

Using a stolen computer program clearly breaks the law but even storing one on your computer qualifies as copyright infringement. The law specifies that using pieces of stolen code is also considered a violating of copyright law.

When is my material protected by copyright?

British law does not require someone to register their right to any original material they have created. Once a person has produced a creative effort, this is automatically copyright-protected and there is no need to submit it to an authority in order to acquire copyright-protected status.

Therefore, the moment an artist has taken a photo that you are planning on using on your business website, this photo is already copyright-protected.

Sometimes people accompany their original work with the copyright symbol ©, adding their name and the year they created that particular work. However, this is optional and does not mean that material which does *not* include the copyright symbol © is free to use.

When the law states that some work is copyrighted, it means that only the owner may copy it, distribute it, rent it, lend it, show it in public, or perform it. When using material without the owner's consent, then there is copyright infringement.

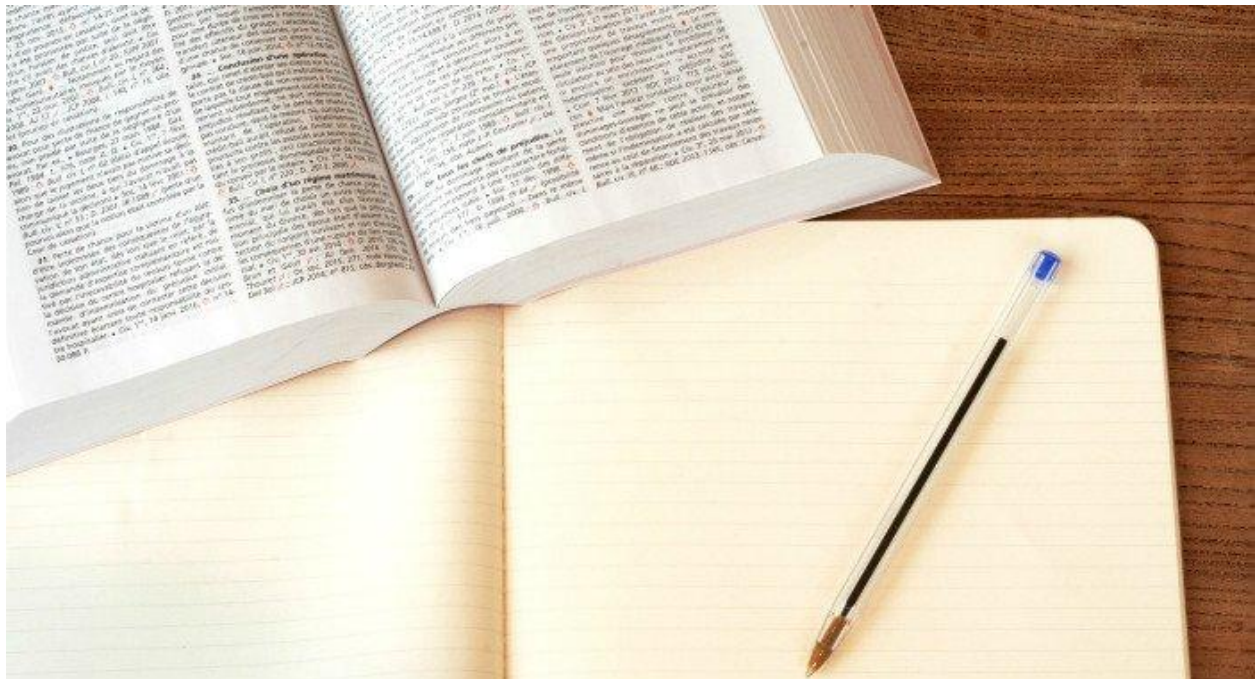
The quantity of copyrighted material stolen is irrelevant: it can be just a sentence or a long text; a single photo or a series of snapshots. The legislation is more interested in the quality and importance of the infringement and the intrinsic value of the stolen material.

If one photo's value is critical, then charges can be brought even for the infringement of that single photo.

Accordingly, don't convince yourself that using 'just a few snapshots' will be immaterial. You could be in for a nasty surprise.

The duration of copyright protection varies according to the material; it ranges from 25 years for typographical work to 70 years after the artist's death for literary works, music, and artistic products.

What exceptions are there to copyright law?



The law has provided for some **exceptions** regarding the use of copyrighted material:

- Material used for private study is copyright-free.
- So is using material as a quotation, in a critique or in a review.
- Reporting events are also copyright-free.

- Material used for educational purposes is also free of copyright. If you are running a school or have non-commercial activities involving education and training, copyright law is much more flexible, as long as the material is used for these purposes solely and the designer of the original material is credited adequately. Also, material used during teaching or examination is free.
- Finally, using material for data mining is also exempted. Therefore, material used for reviewing a theatre production is copyright-free; but using a photo taken by a photographer during the theatre performance will be covered by copyright.

Ideas cannot be copyrighted; copyright covers what producers of original material actually *make* with the ideas. Therefore, you cannot copyright 'beauty' or 'the sky'. But you can copyright any *interpretation* of ideas as this is transformed into music, text, video, photography or song.

Should I register my trademark?

A [registered trademark](#) will protect a brand or a logo, which will then be categorized as artistic expression. However, you cannot register or copyright an expression: 'to cut corners' is an English expression which cannot be copyrighted because everybody uses it.

A name cannot be copyrighted either but it can be registered as a trademark as part of the business. For instance, Tommy Hilfiger is a trademark because the creator of the business has given his own name to his company.

What are the costs?

If a copyright owner investigates your use of protected material, the [Copyright Licensing Agency Limited](#) (CLA) will forward the complaint to its compliance branch, Copywatch. Copyright infringement is usually a civil offence case.

The fines generally include financial costs, which are determined by the court depending on the case, the extent of the infringement, and the number of times the infringement occurred.

Fines could reach 50,000 pounds. You also risk up to 6 months of incarceration.

Moreover, you could end up paying statutory damages: these are paid when it is difficult to calculate the harm done to the plaintiff. Remember that most copyright infringement cases are civil cases, not criminal ones; although the damages in civil cases tend to be lower, the proof threshold is also lower and tends to be in favour of the plaintiff.

There can also be an out-of-court decision agreed between the copyright owner and the infringer.

Sometimes, the arrangement might include a simple purchase of a licence from the owner. In many cases, however, you could also end up paying their legal fees as well.

Business reputation matters too!

Bear in mind that, apart from a financial settlement, you might damage your business reputation. This might impinge on your future financial needs, for instance, if you need to get a loan from a bank. Also, ending up in court could damage your company's name and image.

Again, this could have present and future implications regarding investment or business expansion. Imagine having a besmirched criminal record for your

business; it just doesn't look good. Obtaining a licence is the easiest and safest way of keeping your company's good name.

How can I avoid copyright infringement?



Before using a photo, a video or a text make sure you have the appropriate licence. The licence will give you the right to reproduce or copy the material. Read carefully what sort of rights the licence grants you.

You might have the right to use the photo in electronic format but not in printed format. So, using it on your company's website is fine, but putting it in your business leaflet or your company brochure is not.

Also, a licence might be for single use but not repetitive one. Always have the licence in written form (hardcopy or digital).

If you are planning on using a photo on all your company's official material, including logo, website, Facebook page, and written presentation, then the copyright owner might demand more money in exchange for your right to use their photo.

Likewise, a licence might not give you exclusive rights; the copyright owner might keep the right to use it too or they might sell the rights to more prospective buyers. If you want an exclusive licence, you could be asked to pay a higher price for it. Finally, you may want to consider whether you need a perpetual licence (i.e. a licence that you can use forever) or one that is limited to a specific amount of time.

Check licence terms closely

In any case, you need to be sure about the use of the licenced material and you need to determine what you plan to do with the copyrighted material you are about to purchase.

Most software programs and other applications have standard licences and terms. However, many photos, texts, music scores, and other creations do not have standard licences to accompany them; perhaps the artist has not devised licences.

In that case, you need to get in touch with the copyright owner and ask for—written—permission to use their work. The copyright owner will determine the fee and use of their material.

Lastly, spend some time training and informing your employees, co-workers, and colleagues about what they can use in their work and how to handle copyrighted material. Explain to them the potential cost to the business but also the moral issues at hand. This could save you a lot of trouble in the future.

Royalty-free material

If you can't afford to buy every single photo you wish to use on your company social media or blog, don't despair. There are dozens of websites which offer royalty-free material such as photos or music.

Some examples include:

- [Pixabay](#)
- [Unsplash](#)
- [Pexels](#)
- [Canva](#)

Always make sure that you have read what their licence covers. Sometimes, the artist asks to be credited (but does not ask for any money), other times you are free to use the photos in any way you want. In most cases, the material is not to be used for obscene, profane or insulting work.

Copyright covers your work as well



Remember that copyright laws protect more than art. If you think you don't need it, consider how much material you produce in your everyday work. If you have a catering business, you may take photos of your work.

If you are a lawyer, you will write texts regarding cases—yes, even legal documents are protected by copyright.

If you are a gardener, you may have a blog with gardening tips and ideas. As an architect, you have plans, digital sketches, and photos of your finished buildings.

In all these cases, you have produced something of value; something that other people could, potentially, use without your agreement. Your work is worth protecting.

Monitoring the use of your work by other people used to be pretty hard. In the digital era, however, a simple online search will reveal whether someone has been using your photos, texts, or other material without your consent.

If you find your copyright has been violated, you can ask the other party to pay you a fee. There are various options available to defend your intellectual property, as these are outlined in the [official UK government services and information website](#).

Non-digital written violations and other infringements are more difficult to catch. However, our times are digital and people who have violated intellectual property in physical format will probably also upload their material online.

Therefore, keep an eye on the Internet to check that your intellectual rights have not been broken.

Why is copyright law important?

Copyright law aims at encouraging people to create original material. That is why it rewards them for the time, effort, imagination, and experience they put into creating their work. Buying a licence or paying a fee means that these people will continue providing their work.

Copyright law also protects anyone who has created something valuable during their line of work, as a hobby, or as an inspiration. It acknowledges this effort and protects it.

Observing copyright law is more than a case of protecting your wallet or company reputation. It's the decent thing to do.