

Copyright issues for charities

Protecting your assets by bringing a copyright claim

Why would I want to bring a copyright claim?

The logos, images, text and other content you have created belong to you and are part of your valuable assets.

If someone else is using them without your permission, they're taking advantage of your work for their benefit. So, you may want to consider bringing a claim for copyright infringement to get them to stop and to pay you what they owe you for using your work.

What should I think about?

Now is the time to think about **three important things**.

- 1. Is the work original?** Copyright subsists automatically upon the creation of original works.
- 2. Do you own it?** If you have created the work, then you will own it. If you employ people and they have created it in the course of their employment, you will own it as their employer.
- 3. Has the other party has copied your work, or a substantial part of it?** 'Copying' means what it says. If they have created it independently it won't be copyright infringement even if it looks the same. Something that looks like it's been copied may well have been, but that's not the whole story, and you'll need to find out how it was created.

Often people ask a design specialist to create logos and other works. What is the copyright position?

If you asked someone external to create it for you, you will need to make sure that they have assigned their rights over to you in writing and signed it.

This doesn't need to be complicated, but it is important to get it right which means it has to be in writing and signed.

How do I know that they haven't copied it from someone else?

You would need to check that they have created an original work and not copied it from anywhere else – usually you will ask them to provide warranties to protect you because you could be held responsible if they have copied it.

Why do I have to do all of this?

All of this is important because if you can't prove ownership, you can't bring a copyright infringement claim. So, make sure you've got a paper trail in place now, before you find you need to rely on it.

What if they've only copied part of it?

The entire work doesn't have to be copied, just a substantial part of it. This is a qualitative test, so for example, headlines are capable of copyright protection (even if the whole article isn't copied).

In another case, parts of a journal that had been copied and published in a newspaper formed 'a substantial part' of the journal because they were the most interesting. So, you'll need to consider on a case-by-case basis whether something that's been copied is a 'substantial part' of the original.

What's the purpose of bringing a claim?

Usually you want to have the infringing work removed and to obtain financial compensation and costs.

But if your real concern is that someone is doing the same thing as you commercially, and they've copied you to get a head start, they could side step the copyright issue by changing it e.g. rewriting text.

So, you need think about whether it's the copying you object to or the fact that someone is competing with you generally.