

Can I post that image? Copyright in social media

THIS year, the Attorney General's Chambers (AGC) hopes to highlight the effects of the digital era and its impact on local artists, while raising more awareness on copyright and its importance in our daily lives.

In conjunction with the World Intellectual Property Day which falls annually on April 26, the Attorney General's Chambers is organising a one-day seminar on copyrights with the theme 'Tapping on the New Techs and App: Opportunities and Challenges'. The seminar will feature speakers from the World Intellectual Property Organisation, the AGC and local artists in recognition of the important role that intellectual property rights (patents, trademarks, industrial designs, copyright) play in encouraging innovation and creativity.

Social media

In this day and age, social media makes it easier for people to access and share things they like. The number of social network users has exploded and social media is all about sharing content: retweeting or reposting pictures on Instagram and Twitter, pinning pictures through Pinterest.

According to *techcrunch*, last year there were two billion Facebook users, 1.5 billion YouTube users and 1.2 billion WhatsApp users. But most of the time, images are shared without getting permission or given credit. For creators whose work is copied, posted and even sold without permission, their copyright is infringed and as a result, other people benefit from their hard work. The main problem is that most people or companies do not realise that they are doing any harm.

So the next time you are about to post content on social media, stop and think first: "Can I use that image?"

Copyright

Simply put, copyright is the legal right to deal in original creative

work, namely literary, dramatic, musical and artistic work. Once original work is created, copyright is automatically and immediately given to the creator without any need for registration or paying a fee. Copyright protection allows creators to reproduce, publish, perform, communicate and adapt their work. These exclusive rights also enable the creators to control the commercial exploitation of their work.

Copyright infringement is generally the theft of such work, when it is used without the creator's permission. Just because the work is online does not mean it is free to use. So when you re-post that image or video on social media, it is possible that you are committing copyright infringement without even knowing that you are doing anything illegal.

Credit given to copyright owner - do you now have a right to use that image?

Just because you have credited the owner, it does not mean that you now have a right to copy and post that image on social media. It is not always enough to just credit the owner - quite often you will need permission from the copyright holder to use their images. For instance, if you see the phrase 'All Rights Reserved', that means the work is copyrighted and the only way you can use it is if you obtain permission or a licence from the owner, or if the image is used for a 'fair dealing' purpose.

Fair Dealing

There are some very specific circumstances in which you can use images without permission from the copyright owner. This is called 'fair dealing', which means you have the legal right to use copyrighted images as long as the images are used for non-commercial research or study, criticism or review, news reporting or parody or satire, along with acknowledgement of the image sources. So if you are a food blogger

who is doing a review on the best cafes in Brunei, posting up an image of that beautiful latte art you found on that cafe's social media account is likely to be permitted as 'fair dealing', provided that you give credit to the source.

So what should I do before I post that image?

Before posting up any images, consider the following:

- If you are posting for a 'fair dealing' purpose, do try to include credits to the owner, along with a caption explaining what the image is and why you are posting it. You should also provide a link to the original source of that image.
- If you are not posting for a 'fair dealing' purpose, you will need to obtain permission from the copyright owner to use the image. Quite often, copyright owners will allow use of work subject to being given credit - however, a deal of this nature should not be assumed. Permission can also be obtained in a form of a licence.

For example, Getty Images allows you to search its library for images using keywords, and once you have found an image you want to use, the licence you get will depend on how you want to use the image.

- You can also check the original source of work for copyright notices, or information about how the image may be used.

There are some circumstances in which the copyright owner has already given permission for material to be used, without having to first approach them for permission. These are commonly referred to as 'creative commons'. Images released online under a 'creative commons' licence may be copied, uploaded, embedded or posted without permission, provided that the use is within the conditions stated on the licence.

- If the image was posted by another user in the same social media platform, check the social media network's terms and conditions for authorisation to re-post the image. For example, under Pinterest's Terms of Service, a user who posts content on Pinterest provides all other users a licence to use that content on Pinterest. However, under Instagram's Terms of Service, users are responsible for ensuring that they have the appropriate permission to post that image.
- Try looking for free images in many free stock photography websites where the creators have released their rights to the images, such as Flickr and Pexel.

How about as a social media user who posts images online - what are the implications of doing so?

Each social media platform has its own set of Terms of

Service, which you agree to when you open an account. These terms of use are legally binding contracts and they are treated exactly like any contract in the 'real world'.

Within these terms of use is a licensing agreement that you commit to. When you post images on these social media platforms, they automatically obtain a licence to use those materials and even share them without obtaining your permission or paying any royalties. This licence ends when you delete the materials or terminate your account.

So do be careful of what you post online, as these images can potentially be shared by these social media platform without your knowledge.

If you are a creator and do not wish others to use your work without permission, consider using the © symbol along with your name and date, where appropriate. Also consider watermarking your images, so they cannot be copied. Being aware of and controlling your copyright can restrict unauthorised use, which gives you the comfort that your creative output remains exclusively yours.

For more details on intellectual property, visit the AGC website at www.agc.gov.bn, or email international.affairs@agc.gov.bn - Attorney General's Chambers

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