

CLIENT NEWS BRIEF

Schools And Public Agencies Face A Rise In Digital Copyright Infringement Claims For Use Of Protected Photos

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Cease and desist letters alleging copyright infringement for the unauthorized use of digital photos—along with demands for settlement payments ranging from hundreds to tens of thousands of dollars—are being sent to public agencies. This trend seems to be on the rise, whether it is a journalism student's use of a photo for the online student newspaper, or a social media manager's use of a graphic for the agency's Facebook feed. Although the initial demands can be quite high, including threats of hundreds of thousands of dollars in statutory damages if the copyright owner has to litigate the claims, sometimes the license fees can be negotiated down depending on the number or nature of infringing uses.

A contributing problem is the ease with which digital photos can be copied online. Additionally, it is increasingly simple to detect unauthorized online use. Advanced algorithms used in today's Internet search engines make it easy to identify every unauthorized use of a photo online anywhere. Digital photos can also be copied from anywhere on the Internet using a snipping tool or by taking a screenshot and are quite tempting to those who want the perfect photo, but may not have given consideration to the intellectual property rights of the photo's owner.

A number of law firms seem to be at the forefront of pursuing these claims. These attorneys identify the sites where unauthorized photos appear, the registrants for those sites, and the addresses where the demand letters can be sent. If you receive one of these letters, the first step in addressing the claim is to secure proof of copyright ownership and the lawyer's authority to act on behalf of the copyright holder.

In addition to assisting public agencies with resolving the pending infringement claims, Lozano Smith is also working with clients to implement "best practices" to avoid future claims of copyright infringement. These best practices include, but are not limited to:

- Do not use any pictures that are "copied and pasted" from other Internet sites.
- Consider using only photos that are taken by someone associated with or hired by the agency department responsible for publication of the pictures.
- If you find that the picture you want to use is "subject to copyright," contact the copyright holder in advance and get permission or a license to use it.
- Train staff, or in the case of school districts, students as well, regarding these issues. Focus training particularly on web designers, public information officers and journalism teachers.
- Use the threat of copyright infringement as a "teaching opportunity" for students and staff to understand what is required to navigate the digital universe.

For more information about the legal requirements for use of copyrighted works or how to implement these and other best practices to avoid such



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