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The Fine Print!

Is your clinic marketing running the risk of plagiarism, copyright infringement or even a lawsuit? **Julia Kendrick** gives you her expert tips on how to avoid common pitfalls and keep your marketing squeaky clean.

They say a picture is worth a thousand words and, with the rise of social media, we've become used to a highly visual "Instagram" marketing style to promote all kinds of products and services. With the vast resources available on Google it's as simple as doing an image search, then copying and pasting straight onto your clinic website, blog, Twitter or marketing materials – right? Wrong. Image copyrights can present a real minefield, so here's how to ensure your marketing won't land you in a sticky legal situation!

COPYRIGHT INFRINGEMENT AND COMMON PITFALLS

When it comes to imagery and visual marketing, the two most common pitfalls are the improper use of copyrighted images on business tweets, blogs and websites, and the illegal reproduction of media coverage in print titles.

Copyright works by protecting the authors of original work, giving them the right to control the way their work is reproduced and to charge for permission to do so. Unlike trademarks and patents, copyright is automatic and doesn't require the filing of special paperwork. The copyright owner has a number of rights which include the right to reproduce the work, the right to derivatives of the work, the right to distribute and the right to display publicly.

Copyright infringement occurs when some or all of these rights are affected by someone other than the copyright holder (i.e. the person who has taken or created an original image) copying the "expression" of the work. This means that the copy is substantially similar to the original and breach of these rights may result in the removal of your blog post, removal of the entire blog or website, and even lawsuits.

There are limited circumstances where you can use the copyrighted work of others, which are defined under "Fair Use" legislation. This could include using the work for research and study, instruction, critique or review, news reporting and so on. However, this is more relevant for written work, rather than imagery so I would recommend focusing on the details below about keeping your image use compliant.

REPRODUCING MEDIA COVERAGE

Believe it or not, if you have secured some fantastic coverage in a newspaper or magazine, you cannot reproduce the full imagery or article on your website or social media channels, as this violates the original source copyright. To reproduce press coverage for marketing purposes, you need to purchase a one-off usage fee or annual licence from the Newspaper Licensing Agency (NLA). Rather than having to liaise with every individual publication for licenses and permissions, the NLA acts as a "one-stop shop" covering over 1,350 national, regional and foreign newspapers, over 2,000 magazines and 1,100 newspaper websites! Taking a photograph of the article is also a big no-no: if the coverage is in an online publication, you can usually include the link to the coverage on your website for free, but it is always worth a call to the publication or the NLA to make sure your planned image use is all aboveboard.



TOP 5 COPYRIGHT MYTHS²

1. **Everything on the internet is 'public domain' and free to use**
 - Just because it is publicly accessible does not mean that it is free to use. Copyrights may still apply. Make sure you check.
2. **Anything without a © is not protected**
 - Copyright applies whether there is a notice or not
3. **If I alter an image, I can claim it as my own**
 - Copying or adapting someone else's work is still a breach of their copyright. You can be inspired by others, but the safest bet is to either create your own unique image, pay for a stock photo licence or seek the permission of the rights owner (you should expect to pay a fee and/or royalties for this)
4. **It's OK if I don't make any money from copying an image or work**
 - No, anything without the permission of the copyright owner is still an infringement and could result in legal action (except under specific fair use terms)
5. **But they'll never find out...**
 - All the copyright holder has to do is use a pingback server or do a Google image search which will lead them right to your site... Not worth the risk!
 - In court, copyright actually requires a lower burden of proof as it is principally governed by civil, not criminal law. >

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Another way of showcasing your media coverage could be the "As Seen In" approach: by including the logo or header of the publication on your website or marketing channels (using the proper copyright permissions and attributions – see how below) and linking directly to the source website. Just bear in mind that this will be steering traffic away from your website or social media channels, which may not be ideal in the long run! >

HOW TO SEARCH FOR APPROVED IMAGERY

So how do you stay on the right side of the law when it comes to using other people's images? When searching, check for these symbols as they will indicate the level of copyright protection on the images:



Copyright: The holder reserves all rights provided by copyright law. You can use this if it is considered "Fair Use" or if you seek the copyright holder's permission.



Creative Commons: Creative commons licenses are public licenses that allow creators to have some control over how their material is used, while still offering it freely to the general public. Restrictions may include a simple attribution link or a stipulation against usage for commercial purposes. Always ensure you read the licenses carefully before using any images and include a clear attribution.



Public Domain: Creator has waived all rights. The material can be copied, modified, and distributed freely, even for commercial purposes.

First and foremost, if there is an image you are particularly keen on – just ask the copyright holder's permission. You will need to provide clear information on where and how you plan to use the image, but this is the easiest way to ensure you don't get any nasty surprises later on. If you're Googling for images to use in your marketing, the search box allows you to search by usage rights which is a good place to start.

Secondly, you can find creative commons images through image-sharing sites like Flickr (you need to select creative commons in the search box) or by searching the creative commons site itself, (search.creativecommons.org) which has a vast array of images across multiple sources. Alternatively, you can use a stock photography website like Getty, Shutterstock and iStock where individual images can be purchased for a small fee or use annual memberships for a fixed number of downloads. Again, read the provider's terms of use carefully and always ensure your images are properly attributed.

HOW TO PROPERLY ATTRIBUTE IMAGES

Whichever resource you use, one of the best ways to protect yourself against copyright violations is to include proper attribution to the image. At the very least, you need to include

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the original author and source – and if possible also include the original image title and embedded links to the author's profile page and the original source page. For creative commons images, you should also provide a link to the license deed.

An easy way to do this for online images is to include the original author, title and source in the image alt tag or title tag when uploading to your blog, tweet or website. The information will appear when the mouse is hovered over the image. You can also capture this in a caption or note at the bottom of the post or page.

IN SUMMARY

When it comes to using images to enhance your clinic marketing, the golden rules are simple:

1. **Ensure the images you use are legal** – this includes paying for licenses where appropriate
2. **Secure permission before publication** – either directly with the copyright owner or by purchasing a license through a stock image service
3. **Always include proper attribution** – include the author's name and link to their profile or the original image source. **AM**

REFERENCES

1. Newspaper Licensing Agency – What We Do. Available from www.nlamediaaccess.com/default.aspx?tabid=127 (accessed 11.07.16)
2. Adapted from the UK Copyright Service. Available from www.copyrightservice.co.uk/copyright/copyright_myths (Accessed 08.07.16)



Julia Kendrick is an award-winning PR with more than 12 years' experience. She specialises in helping aesthetic brands, clinics and practitioners harness the power of PR to take control of their reputation, tangibly grow their business and cut through the competition. Julia also works as part of the elite Aesthetic Business Network, a specialist team of experts hand-selected for their industry knowledge, passion and top-class delivery. She is a regular industry media contributor, congress presenter and trainer whose ethos is that excellence should come as standard.
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