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COPYRIGHT – woops?!?

What's this all about?

Recent legal rulings have clarified (and muddied) when you can

- a) include copyright content as '*incidental*'
- b) include content as not being an '*artistic work*'

The Intellectual Property Organisation has, however, recently provided a modicum of guidance.

Why should I care?

a) if your photo includes '*incidentally*' / by chance a copyright object (eg. a Claris Cliff teapot), you need to clear the Third Party Rights UNLESS that teapot forms only a small element of the image and is not a substantive part of the subject of the image.

The same goes for music playing in the background of a scene in a bar: a vox pop news interview might include the music as incidental inclusion, without clearing Third Party Rights. A similar scene recorded on a closed set must clear the additional rights.

b) if the above tea pot might be deemed to contain no "*artistic craftsmanship*" (ie. neither requiring special skill in its production, nor conceivable as a work of art), then no Third Party Rights need be cleared in a photograph of it. The IPO suggests that a mass-produced items casts doubt on its artistic craftsmanship.

Conclusion

Considerations of what constitutes either 'incidental use' or an 'artistic work' are fraught with subjectivity and neither the courts nor case law provide conclusive guidance, so Clients need to proceed with caution in both matters. In the UK, copyright in industrially-produced work is in any case limited to 25 years, rather than the standard life of author plus 70 years. Zoid continues to provide Clients with such advice whenever the need arises.

Richard Philpott - ZOOID PICTURES LIMITED

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Demonstrating Due Diligence

Legacy & Integrity

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Illustration and © Pitfalls

Digital Economy, Copyright and You

When Rights go Wrong

When the Right image is Wrong

Let's all do the 'Copyright Hub'?

Exploring the musical jungle

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Parody – it's a Rights larf!

Text – Spelling out clearances

Please call me on +44 20 7267 9990 if you would like to discuss any of the above

Richard Philpott



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