



Myerson Dispute Resolution

Defendant's guide to
copyright disputes

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myerson

Welcome

Copyright protects against the copying and unauthorised use of another's work. It is important to understand what rights you have when you create original work and how you can stop this from being exploited without your consent. Copyright disputes can happen due to numerous different reasons. However, the fundamental issue of copyright infringement is whether the work being disputed was protected and whether the new work is breaching any protection due to similarity.

Why Myerson?

Our expert copyright infringement solicitors are here to listen and advise you. We have years of experience in dealing with complex copyright cases. After we have reviewed your matter, we will provide you with all the potential options available. There are many remedies available, all of which will be discussed with you so you can make an informed decision. Throughout the process, we will stand by your side, making sure that you are effectively protected and fighting for the right outcome.

We are proud to be ranked as 'Top Tier' in the prestigious international directory **The Legal 500** and commended by The Times 'Best Law Firms 2019'. So, you can be certain that you will be receiving the highest quality legal advice and that we can advise you on complex copyright issues.

Myerson is also the Manchester and Cheshire law firm member for the **MSI Global Alliance**, a top 20 ranked, leading, international association of independent professional firms. As the copyright matters, we deal with often involve an international element; we can call upon the expertise and knowledge of our fellow MSI members to ensure that our client's global interests are protected. You can find out more about our **Intellectual Property Team** by [clicking here](#).



How We Work.

Every case is different, and we are here to support you every step of the way.

Personal, Partner-Led Service. Our experienced solicitors get to know you and your business inside out, so we can best advise you. We know that dealing with litigation can be stressful, and we aim to take that stress away from you. We strive to become your trusted advisers, providing value and most of all, a genuine, personal service.

The Highest Level of Expertise. Combining commerciality, practicality and legal expertise enables us to deal with copyright disputes in the most effective way.

Trust. You are in safe hands. We help clients nationwide with complex copyright cases, acting for businesses who are both bringing and defending copyright claims. You can rest assured that our expert team knows its stuff!



Your Solicitors



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The solicitors that will be working with you are specialists.

All of the solicitors in our Intellectual Property Disputes Team are specialists and have a detailed understanding of copyright and how to handle business disputes involving copyright.

Your matter will be handled discreetly and efficiently and overseen by Tim Norman, a Senior Partner in the Commercial Litigation Team.

Your team of solicitors will provide practical advice and work with you to deal with your copyright dispute in the best way possible. This means you can concentrate on what's important, running your business.

You can find out more about our [Intellectual Property Disputes Team](#) by clicking here.



Copyright Disputes

What is copyright?

Copyright protects original literary, dramatic, musical and artistic works, including films, music and computer programs. It protects against the copying of another's work and the physical expression or representation of an idea, but it does not protect against independent development of the same idea.

Copyright ownership allows the owner to prevent the unauthorised use of the work, such as making copies or uploading the work to the internet. It is very important to appreciate that copyright law is intended to prevent copying but does not provide a monopoly; it does not matter if a similar or identical work already exists if it has not been copied.

Copyright automatically arises on the creation of the work and lasts for 70 years after the death of the author in relation to dramatic, artistic, literary and musical works. The creator of the work is usually the first owner of the copyright in it.

Types of copyright infringement?

There are two types of copyright infringement – primary copyright infringement and secondary copyright infringement.

Primary copyright infringement occurs when someone carries out certain acts regarding the work without the permission of the author.

These acts include:

- Copying the work;
- Issuing copies to the public;
- Renting or lending the work to the public;
- Performing, showing or playing the work in public;
- Communicating the work to the public;
- Making an adaptation of the work; and
- Importing infringing copies.

Infringement arises where one of the restricted acts mentioned above is committed in respect of the whole or a substantial part of the work, either directly or indirectly.

It is a question of fact in each case whether there has been an infringement. If someone copies the whole of a copyright work, clearly there will be an infringement. In most cases, however, the position is not so clear-cut, and the key test is whether a substantial part of the copyright work has been copied.

Infringement does not depend on the copier, having seen the original work or knowing that he/she was copying. There can still be infringement if the copier has information to the original copyright work regardless of whether the copier knew they were copying or intended to copy the work.

Secondary copyright infringement claims deal with those further down the supply chain. The following are infringing acts if carried out without the licence of the copyright owner to infringing copies of copyright works:

- Importing into the UK (other than for private and domestic use);
- Possessing or dealing;
- Providing means for making copies (including transfer by a telecommunications system);
- Permitting use of premises for an infringing performance; and
- Supplying apparatus for an infringing performance.

Unlike in cases of primary copyright infringement, there is no cause of action for secondary copyright infringement unless the defendant knows or has reason to believe that the material or a particular activity is infringing.

Defences available in a copyright infringement claim

There are certain circumstances in which you can make use of another person's copyright works, and these are set out in the Copyright Designs and Patents Act 1988 as follows:

- Using extracts of copyright work for non-commercial research or private study. You must be genuinely studying, and your use will only be permitted when it is "fair dealing". Copying the whole work is unlikely to be considered fair dealing.

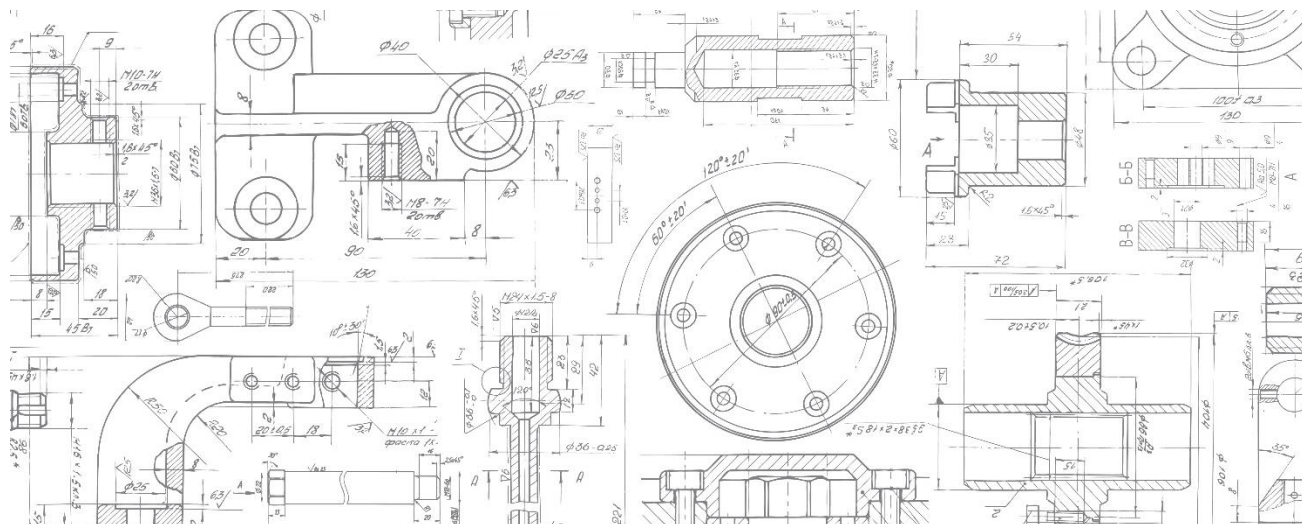
- Text and data mining which is the use of automated analytical techniques to analyse text and data for patterns, trends and other information. This usually requires copying the copyright work so it can be analysed and therefore researchers are permitted to make copies of any copyright material for computational analysis if the researcher has already read the copyright work.
- Copyright work can also be dealt with for the purposes of criticism, review or quotation. Fair dealing with a work for reporting current events is also allowed for any type of copyright work other than a photograph, but a sufficient acknowledgement will be required for this defence to be available. Photographs cannot be reproduced to report current events; this law is designed to prevent newspapers and magazines from reproducing photographs when reporting current events which have appeared in a competitor's publication.
- There are several exceptions which allow copyright works to be used for educational purposes, e.g. performing, playing or showing copyright works in a school or university and recording a TV programme or radio broadcast for non-commercial educational purposes in an educational establishment.
- There are two exceptions available to disabled people who have a physical or mental impairment which prevents them from accessing copyright-protected materials. The two exceptions are designed to assist disabled people in obtaining a copy of a copyright work in a format that helps them access the material, e.g. making a Braille, audio or large-print copies of books, newspapers or magazines, adding audio description to films and making subtitled films or broadcasts.
- A recording of a broadcast made in domestic premises for private and domestic use to enable it to be viewed or listened to at a more convenient time. However, please note, making a recording or broadcast for purposes other than to allow you and your family to watch it is likely to be illegal.
- Copyright material can also be used sparingly without the copyright owner's permission for the purposes of parody, caricature and pastiche, e.g. a comedian using a few lines from a film or song for a parody sketch, a cartoonist using a well-known artwork or illustration for a caricature and an artist using small fragments from a range of films to compose a larger pastiche work. Please note, however, this defence is only available to the extent it can be established there is "fair dealing" as defined above.


- Orphan works are creative works or performances – like a diary, photograph, film or piece of music – for which one or more of the right holders is either unknown or cannot be found. In such circumstances, organisations like libraries, museums and archives are permitted to digitise and place orphan works on their website for non-commercial use. Please note, however, this defence does not extend to include the use of standalone artistic works such as a photograph.

What happens if you breach copyright law?

There are various remedies available to copyright holders where copyright infringement is proven, including:

- Interlocutory relief – including Norwich Pharmacal orders, search orders, freezing orders and interim injunctions;
- Orders for delivery up;
- Seizure of infringing copies and other articles;
- Forfeiture;
- Final injunctions;
- Damages or an account of profits; and
- Recovery of costs.





Don't just take our word for it...

"Myerson Solicitors LLP has a really strong IP team which is growing."

"We have received excellent professional services from Myerson Solicitors to help resolve the dispute on the IPO on our former company name TechCleaners Limited. We ended up getting a better brand name <https://techdisinfect.co.uk>. They provided great advice and with their professional advice, we managed to resolve the dispute in no time with a great outcome overall. Myerson are highly recommended to anyone for their services on any legal matters".

"The Intellectual Property Disputes Team has a lot of experience of litigating unregistered IP rights. They are very strategic and extremely thorough. The team routinely advises on a broad range of disputes relating to trademarks, copyright, patents, confidential information, and data protection. They are also skilled at advising on design rights and reputation management issues and are regularly instructed by clients from the arts, media, textile, and clothing sectors in the UK and internationally. They are attracting work from a broad range of clients".

"The team has an excellent way of dealing with clients and managing cases generally, as well as good judgment – they know when to push, and when to take the victory".

"The team are phenomenally hard workers who produce first class written work, even from difficult clients".

"The firm has a huge range of satisfied clients from all over the country, despite not being the most high profile of firms, so they must be doing something right".

To view more Myerson reviews visit our Review Solicitors page by [clicking here](#).

You're in safe hands!

If you would like further information about how we can help you, or if you have any questions, please don't hesitate to contact a member of our Dispute Resolution Team today.

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Because
life is rarely
**black and
white.**



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