

Know your copyright

Australian printers are as much in the firing line for copyright lawsuits as their clients. To avoid being slapped with a fine for damages, the right terms of trade are your best defence, reports Tiffany Hoy

UNDER Australian copyright law, printing companies are responsible for authorising what goes to print – meaning it pays to be on the lookout for violations.

If staff approve dodgy material to go ahead, a print business owner can be liable for infringing conduct. And the more obvious the infringement, the less likely a case may go your way in court.

Charles Watson, general manager of legal services with the PIAA, tells *Australian Printer*, "Printers need to make sure they have appropriate contractual terms with their clients, so they can limit their exposure of liability.

"If you are a large-scale commercial printer, terms of trade are really important. Everyone should review this periodically and make sure they are asking the right questions, limiting their liability, and pushing the responsibility back onto the client.

"If the terms of trade a printer uses with a client are appropriate, they will be protected – that is, if you can say hand on heart in a courtroom that you did ask for and received something back from the client saying yes, we have the right to use this image."

Sharon Givoni of Sharon Givoni Consulting, a Melbourne-based intellectual property lawyer, says covering oneself against copyright liability is all about taking reasonable steps to prevent infringements.

This includes not only having sound terms and conditions in place, but bringing those conditions to the customer's attention – preferably at an early stage of the job, like in a quote.

She tells *Australian Printer*, "Many printing businesses do not realise that you can be liable for authorising an infringement of copyright if you have not taken adequate steps yourself to prevent that infringement, which means you need good terms and conditions with your customers."

Givoni says the terms and



Copyright: the printer's responsibility



SHARON GIVONI

conditions should include a warranty that the customer is either the owner of the copyright or is authorised to use the content.

But even a warranty like this cannot protect a printer if the copyright breach is staring you in the face. Watson says, "If someone walks in off the street and says, I want these Qantas brochures printed, it should spark in a staff member's head that something is not right.

"There is some exposure for printers who do not make adequate inquiries, so start asking questions – do you have the right to use these copyrighted materials? Do you have a contractual arrangement or relationship in place with the owner? Can you show that to me?"

Givoni warns, "The law does not allow you to say, I didn't know. It does not allow you to be innocent unless you are innocent. For a business, there are some minimal steps that you have to take."

"There should be procedures for staff to follow to ensure customers are put on notice of the company's terms and conditions.

"Staff should also be trained in copyright law and in the habit of not turning a blind eye to things – if they find an obvious infringement they should refuse to print the job before they have brought it to your attention as the business owner.

"Customers trust printers; they might think that if a printer approves a job it must be all right. But, if the customer is not sure about whether their material infringes on copyright or not, the printer's terms and conditions should advise them to get legal advice."

Watson adds that the PIAA

sometimes sees printers dealing with copyright issues with graphic designers they have hired as subcontractors – when the contract does not properly stipulate how the designer's work can be used.

He says, "The designer might turn around and say, 'Why is this on your website? I created it for a specific job and you cannot use it for anything else.'

"Graphic artists have put time and effort into their work and, unless a contract says otherwise, they own the material. They will want to retain that ownership, and may take action against someone who infringes their rights."

"Most designers are happy to have their work on a website as an advertisement, but you have to get permission first. If someone creates material for you, you must clarify who owns it and what you can do with it. The devil sits in the detail."

The plot is sure to thicken with the rise of 3D printers in the marketplace, says Watson, with new areas yet to be charted by copyright law. With 3D printers bringing design and manufacturing capabilities into the hands of many, brand owners may have to look out for a new wave of counterfeit goods.

For now, says Givoni, printers need to wake up to the potential risks of today's copyright breaches. She says, "There is a common perception that printers think they are not liable for copyright infringement – that it is someone else's problem. But it can be your problem in certain circumstances."

"However, the good news is that liability can be minimised with – when you think about it – some simple steps."