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Ask a Lawyer Archive



Is It Copyright Infringement To Post An Image On My Website That Is Owned By A Third Party?

[Kristie Prinz](#)

Q. If I purchase an image for use on my website, post it, and then discover that the image is owned by a third party, am I liable for copyright infringement?

-- *Warren*

A.

If the photo you posted on your website was not purchased pursuant to a valid copyright license agreement, then the possibility exists that you could be held liable for copyright infringement.

Copyright law protects original works of authorship that are fixed in a tangible form of expression. Copyrightable works include the following:

- a. literary works;
- b. musical works, including any accompanying words;
- c. dramatic works, including any accompanying music;
- d. pantomimes and choreographic works;
- e. pictorial, graphic, and sculptural works;
- f. motion pictures and other audiovisual works;
- g. sound recordings; and
- h. architectural works.

Since photos constitute pictorial works, they are clearly protected by copyright law. Thus, as copyrightable works, they cannot be used by anyone other than the copyright owner, except pursuant to a valid copyright license agreement.

Assuming that you purchased the photo in question from a website that sells stock photos, then it is likely that you purchased the photo pursuant to some type of copyright license. The standard practice is to purchase such photos on either a "rights managed" or "royalty free" basis. In the case of a "royalty free"

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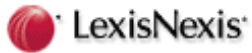
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image, you may use the image for any purpose without paying royalties. In the case of a "rights managed" image, you must obtain a specific license for a particular use from the owner of the copyright in the image.

Assuming you obtained the image in another manner, however, you would need to obtain a copyright license directly from the copyright owner before you would be able to legally use the image. Any use without a copyright license could potentially be held to constitute copyright infringement.

-- *Kristie Prinz*

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