



photo CHANTELL LUCAS, STOCKSNAP.IO

## A GUIDE TO ART LICENSING

Creating unique, individually inspired works of art or designs requires much time and focused attention from an artist. Art licensing is a loan of art, images, or designs from an artist to a manufacturer so that they can put it on their product for a certain time period, with certain restrictions on usage depending on contracted terms.

Any product which can be modified to include images on them, from collectibles to home decor to decals, can be involved in art licensing. This includes sunglasses, apparel, movies, greeting cards, reproduced prints, dinnerware, paper products, lunch boxes, t-shirts, shower curtains, calendars, billboards, websites, and et cetera.

### Licensing for artists

- Reinforce your own brand and form a business instead of selling originals, or selling designs outright.

- Build up residual income with multiple streams of income from a single piece of art.

- Earn royalties on products sold or a flat fee for the loan of the art.

- Retain ownership and copyright of your art.

- Share your art with more people with the distribution power of licensors.

- Get more publicity through joint marketing efforts with licensees.

- Receive regular income.

**Licensing for businesses and consumers**

You may be able to reduce in-house design costs and move your business up the value chain by developing effective art licensing plans. Uniqlo has licensed art from Disney and LINE to promote its apparel among the young.

Some small businesses that are considering licensing assume licensors prefer to work with larger, well-established licensees. What licensors are more concerned with though, is that potential licensees have a solid track record of making quality products. Small businesses interested in obtaining a license must be willing to submit to financial scrutiny, provide references,

describe their available sales force and retail accounts, and make sales projections.

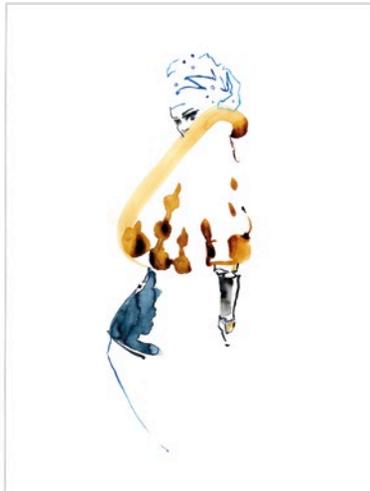
There is no hard and fast rule on how a licensing contract should be. At the end of the day, it is up to the mutual intention and agreement of the artist and the licensee company. It is highly advisable for both parties to consult a lawyer before entering into any art licensing contracts to make sure your rights and risks are protected.

One common mistake made by blog owners, website owners, web designers, graphic designers, media companies, charity organisations and anyone who posts content on the internet is the unknowing uploading

of photos saved from Google images without realising that many of these images are copyrighted property of the photographers who took them.

Copyright infringement can occur wilfully or 'accidentally', but copyright law prohibits both.

Since 2012, tens of thousands of individuals and organisations have received letters of demand from Getty Images Inc., a Seattle-based stock photo giant with an archive of 80 million still images, illustrations and more than 50,000 hours of stock film footage. In 2014, Getty filed several federal copyright-infringement lawsuits over images it claims have been used without its permission. ▶



OPPOSITE PAGE  
Photographs can be licensed to large stock photo corporations.

ABOVE  
The KORT printed art cards from Ikea credits Johanna Fernihough as the artist.

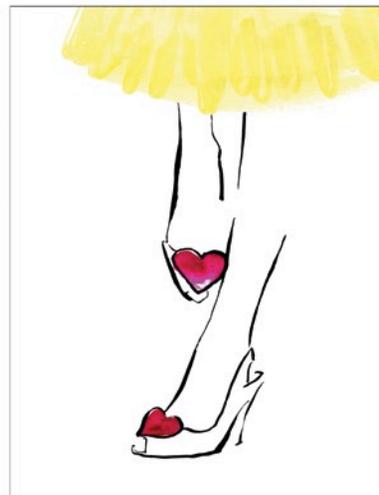


photo IKEA

Licensing is a great way for artists to share their work through the platforms of larger corporations. Pictured here is Julia Trigg's Twilling posters, which are sold as prints in Ikea.



## 10 CLAUSES FOR YOUR LICENSING AGREEMENT

1. Works of art by licensor.
2. Types of products the art will be reproduced on.
3. Written agreement to put by licensor's copyright notice on every product sold, any advertisement or brochure for products which bear by licensor's art.
4. The countries in which the products will be sold.
5. Written agreement to indemnify licensor from lawsuits that might arise from their business activities which relate to products carrying the art.
6. Duration for the licensee to bring to market products with licensor's art.
7. Termination date of the agreement.
8. Renewal terms and Cancellation clause.
9. Quantum of non-refundable advance payment to be made to licensor against future royalties, specific royalty percentages to be paid on a quarterly basis, and the requirement that each royalty check be accompanied by a clear statement of how licensee came up with the royalty amount.
10. Licensor's right to have licensee's books audited at licensor's own expense to make certain amounts paid is what is due.

Be careful when looking up images online, as they may be copyrighted.

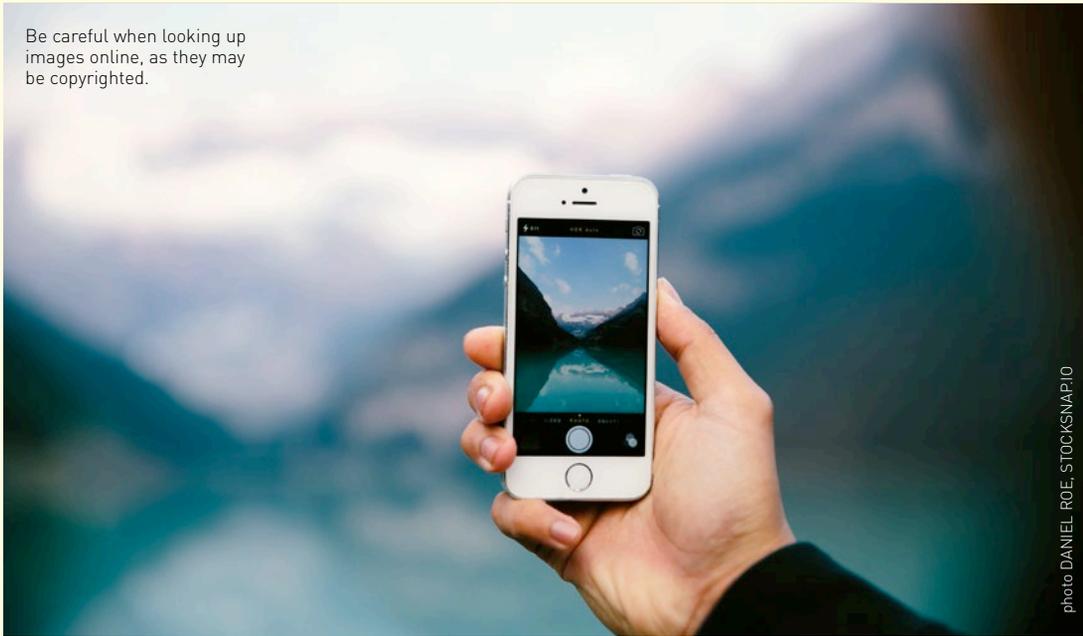


photo DANIEL ROE, STOCKSNAP.IO

## DO'S AND DON'TS FOR BUSINESSES

- DO use your own photography.
- DO subscribe to a stock photography library.
- DO check stock images licensing terms before using them.
- DO e-mail the owners for permission if unsure.
- DON'T use photos, images, or graphics with unknown origins, e.g. Google Images.

## TYPES OF STOCK IMAGES

### Royalty free

Pay a one-time fee to use the non-exclusive image multiple times for multiple purposes (with limitations).

### Public domain

Image is free to use for commercial or personal purposes as many times by as many people as desired without having to purchase a license. Some photos do require a model or property release.

### Rights-managed

Terms of use of the image are negotiated and clearly defined in a license agreement which includes usage purpose, duration of use, print run, territory and exclusivity.

In a statement, Getty said that they 'only seek payment from registered businesses that are using an artist's exclusive content to promote their own business'.

Corporations, large and small, can fall into the trap of art copyright infringement as in the case of Maya Hayuk vs Starbucks Corporation.

Ms Hayuk, a professional visual artist who has done work for Billabong, Microsoft, Sony, General Motors and Reebok, recently sued Starbucks for allegedly 'reproducing, distributing, and otherwise using significant portions of Hayuk's original copyrighted works of art without her permission or authority in an extensive worldwide advertising and marketing campaign'.\*

Hayuk had been in discussions with the coffee giant last October to add some colourful flourishes to promote 'Mini Frappuccinos'. Hayuk walked away from the deal, but Starbucks apparently got in-house artist Jordan Kay to create a 'look-alike'.

According to the New York Post, the campaign 'used the same abstract, radiating beams of black, white, yellow, magenta and azure that Hayuk had used in a series of five paintings'.

She is seeking \$750,000 in copyright penalties plus unspecified cash damages. The suit is currently ongoing in the Manhattan Federal Court.

Ironically, even Getty has violated copyright law "accidentally". In 2010, freelance photographer Daniel Morel posted 13 pictures of the Haitian earthquake on Twitter. AFP discovered the images and distributed some to Getty. The Washington Post, a client of Getty, then published four pictures on its official website.

AFP sued Morel seeking a judgment to lawfully use the photos following Morel's accusations that the company was using them improperly. Morel countersued AFP, Getty and The Washington Post for copyright infringement.

AFP argued that it could use the pictures because they were freely available on Twitter. However, the learned judge disagreed as Twitter's service terms do not allow a license for using images for commercial use and slapped AFP and Getty with a \$1.22 million fine which they are appealing. Morel settled with the Post in October last year. ●

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