

Copyright Infringement: Risks Are Increasing Online



CUTTING AND PASTING CONTENT FROM ONLINE SOURCES MAY BE ILLEGAL

The familiar process seems so innocuous – an interesting article comes to an employee’s attention through a daily email bulletin that directly addresses a management issue her team is currently handling. The employee hits the “forward” button to share the article with the team. This helpful gesture just exposed the company to a possible copyright infringement claim up to \$150,000 in damages alone, not to mention attorneys’ fees.

Such was the situation encountered by a small Wisconsin-based organization. A newsletter publisher learned that the company was redistributing articles without permission, and hired a high-powered New York intellectual property law firm. Negotiations escalated to demands for seven figures. Ultimately the matter was settled, but with a payment that was more than management ever dreamed of for such seemingly minor wrongdoing.

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ENFORCEMENT IS REAL

Groups such as the Business Software Alliance and the Software Information Industry Association brought attention to the issue of illegal software distribution through demands for damages, internal audits and remedies going forward to stop infringement. By now, most businesses have adopted strict software copyright-compliance policies, but not before many wrote checks for hundreds of thousands of dollars to remedy past infringement sins. Internal digital redistribution is a sleeping giant, much like unlicensed software was in the 1980s. The issue of online content

infringement now appears to be at that same early-enforcement stage. Enforcement efforts will increase over the next few years because the law is now well enough established, and publishers have a huge incentive to pursue these claims because of statutory damages.

Statutory damages may far exceed the actual cost of securing content licenses. Assume a business places 10 different copyrighted articles on its intranet for employees to read, and that the appropriate rights could have been purchased for \$10 per article. Absent statutory damages, actual damages may be \$100 or so. Under the statutory damages scheme, however, the damages would range from \$7,500 to as much as \$1.5 million. More importantly, criminal penalties also may be imposed.

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STEPS TO AVOID OR LIMIT LIABILITY

The good news is that simple, reasonably priced steps can help companies avoid this eye-popping liability.

- Implement compliance policies and educate employees about how to get permission first.
- If the article is on a publicly available website, use a “link” rather than making a copy.
- Have a designated research staff obtain licenses for individual articles and make sure that all employees follow the designated procedures. Or, implement an online tool, such as Valeo IP (valeoip.com), that will enable your employees to identify licensed content and permissible uses while viewing it online.
- If you use bulk photocopy licenses, such as Copyright Clearance Center, understand the limitations and know which publications are covered and for what uses.

STAY INFORMED

Regardless of the policies that your company implements today, it is critical that you stay informed about emerging technologies – and the way those technologies can create liabilities for your company.

Merchant & Gould
An Intellectual Property Law Firm

Daniel McDonald is a litigator, national speaker and writer on intellectual property issues relating to the Internet, damages and litigation. 612.332.5300 (www.merchant-gould.com)



**OBJECTS IN MIRROR ARE CLOSER
THAN THEY APPEAR**

Copyright compliance online might seem like a low risk concern. But without proper attention, it can create big legal issues for your company. For an enterprise-wide solution, look to Valeo IP.

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