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Series on Intellectual Property Issues: Part 28

What issues must I consider as a user of works protected by copyright?

For some enterprises, the use or exploitation of copyrighted works, sound recordings, broadcasts or performances may be a central part of their daily business activities. This is almost certainly the case for radio stations, publishing houses, libraries, shops or nightclubs. For others, it may be simply an occasional tool used for enhancing corporate publications, websites and other marketing devices. For others still, the use of copyright material may be confined to the use of their computer software. In all such cases, you may wish to consider the following issues:

Do I need a licence?

Probably the most important thing to know for an enterprise using or dealing in works protected by copyright or related rights is whether these activities require a licence. As a general rule, every commercial use or exploitation of these rights requires a licence or an assignment of the rights from the rightowner.

This ranges from the use of a famous song in a TV advertisement, to the sale and distribution of CDs and DVDs, and the use of software in a company's computers. When it comes to licensing, you should find out whether the rights are administered by a collective management organization or by the author or producer directly, and negotiate a licence agreement before you use or exploit the product. Remember that litigation over copyright infringement may be a very expensive affair, and it would be wise to think about these issues before you get yourself, and your company, into trouble. You may also wish to seek advice about the terms of your licensing agreement

before you sign.

Products such as packaged software are often licensed to you upon purchase. The terms and conditions of the licence are often contained in the package, which can be returned if you do not agree with them.

Is there a collective management society?

Collective management societies considerably simplify the process of obtaining licences for various works. Rather than dealing directly with each individual author or right-holder, collective management societies offer users a centralized source where rates and terms of use can be negotiated, and where authorizations can be easily and quickly obtained. In recent years, the creation of 'one-stop-shops', bringing together various collective management societies that can easily and quickly deliver authorizations, is considered to be a particularly useful development for multimedia productions that require a wide variety of authorizations. Dealing with collective management societies, wherever possible, can save you a lot of time and money. Details of the relevant collecting societies operating in your country can be obtained from the national copyright office.

Can I freely use works published on the Internet?

A common misconception is that works published on the Internet are in the public domain and may therefore be widely used by anybody without the authorization of the right-owner. Any works protected by copyright or related rights, ranging from musical compositions, to multimedia products, newspaper articles and audiovisual productions for which the time of protection has not expired, are protected regardless of whether they are published on paper or by other means, e.g. on the Internet. Generally, you should seek the authorization of the right-owner in each case, prior to use. Similarly, authorization is required if your enterprise is engaged in publishing or making copyright works, sound recordings, broadcasts or performances available through your Internet website.

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