

Copyright Trolls: Scam or Not

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Social media presence and maintenance of websites are necessary components of any modern business, and many businesses typically have limited budgets for website design and marketing. In creating and maintaining websites, social media posts and other promotional content, businesses commonly search the internet for images, quotations, music, and formatting to complement their promotional message. The easy availability of images and music clips on the internet may lead to the false belief that such content is in the public domain. The reality is that such content is nearly always subject to copyright protection, and copyright trolls who are eager to pounce on unsuspecting infringers.

Copyright trolls have become adept at creating and registering content with the Copyright Office that evokes popular business concepts. These could include images of famous landmarks, famous people, a city's skyline, pictures of nature, or cute animal photos. Copyright trolls then use sophisticated reverse image search technology or other algorithms to identify infringers that have used the copyrighted materials without permission and demand a payment for the unauthorized use. Due to the threat of statutory damages, the payment demanded is usually far greater than the amount a user would have paid for a license obtained in advance.

Demands from copyright trolls should not be ignored. Though they may appear like a scam or phishing attempt, copyright owners do have legitimate claims under the existing laws. Ignoring the demands of a copyright troll will not make the problem go away and could actually lead to demands for higher payments. While it will likely be necessary to pay some amount to the legitimate owner of a copyright whose materials were used for a commercial purpose without permission, it may be possible to negotiate the amount of payment. If the use was minimal and the initial demand from the copyright owner is exorbitant, victims of copyright trolls should not be afraid to push back on an unreasonable demand. If the use was arguably a fair use, further pushback may be appropriate.

For questions about copyright use, contact one of our intellectual property attorneys before using an image found on the internet.