



Good Salon Guide Fact Sheet Intellectual Property - Protect your Rights

We have received several calls recently from salon owners concerned that a member of staff had left and was using their images at another salon, or that images produced by the salon had been used without their permission by someone else.

If you have ever paid for any photographic work or images to be produced, are you aware of who owns them and how you can protect yourself should a member of staff use them themselves, perhaps even after they have left?

To protect yourself in situations like these you need to be aware of Intellectual Property and Copyright and what they mean to you.

On the 1st October 2014, a new law came into force that relates to Intellectual Property that is created by a designer who is commissioned to do a piece of work for you. Previously, where a design (including photography) was commissioned, its legal owner was the person who asked for it to be created, not the designer. The Act will reverse this and provides that, subject to any contractual agreement, the legal owner of a design is the designer/photographer and not the commissioner. Where a design is used without permission, the legal owner can enforce their Intellectual Property rights.

Intellectual Property is something unique that you physically create - an idea alone is not intellectual property. For example, an idea for a book, photo shoot or style is not intellectual property, but the words you have written or the images themselves are. Images you have paid to have produced are intellectual property, and remain the rights of the photographer unless stated in your contractual agreement.

In the case of artistic creation, including photographic works, the author or creator of the work is also the first owner of any copyright in it. If you have paid for the photographic work and have the correct agreement drawn up, then it is you that owns it rather than the employee who was paid to create it as part of their work. This is particularly important should you get into a dispute with an ex-employee.

Intellectual Property can have more than one owner, belong to people or businesses or be sold or transferred. You own Intellectual Property if you created it (and it meets the requirements for copyright, a patent or a design) or you bought Intellectual Property rights from the creator or a previous owner.

Protecting your Intellectual Property makes it easier to take legal action against anyone who steals or copies it. Make sure you know exactly what you have produced and when you produced it, and keep a written record of this information.

Copyright, patents, designs and trademarks are all types of Intellectual Property protection, and your Intellectual Property is either protected automatically from theft or copying, or you can register it to protect it.

But what can you do if someone uses your Intellectual Property without permission?

It can be really difficult to know exactly what to do if you believe someone is using your Intellectual Property without your permission, and in many cases the best course of action may be to speak to a lawyer. However, this can be expensive so often a letter written to the new employer, as well as to the ex-employee, explaining clearly that they have no legal right to use your images, that you hold the legal title to them and that they should cease using them immediately can have the desired effect.

If they then chose to ignore you, a well written letter from a lawyer can often work wonders. Alternatively the Intellectual Property Office - www.ipo.gov.uk or <http://www.patentsoffice.ie/> has a great deal of information on what steps you can take to protect your property.

Always remember that when a design is commissioned, have a term in the contract that says your salon owns the Intellectual Property rights. You may have to pay extra for this, but there won't be any restrictions on how it can be used.

We hope that this fact sheet has been helpful. If you'd like any further information on this topic, please don't hesitate to contact us.