

## Top Copyright and Trademark Infringement Mistakes Small Businesses Make (Part 1 of 3)

By Keli Johnson Swan

Managing a business is a complex task, and copyrights and trademarks are often at the bottom of a long list of concerns. However, a seemingly minor concern can quickly devolve into potential infringement that can cost a company thousands of dollars in penalties and legal fees, in addition to hundreds of business hours. This is the first of a 3-part series that discusses the top three copyright and trademark mistakes small businesses make.

A traditional reading of what constitutes copyright infringement under The Copyright Act may seem narrowly defined as the use or copying of copyrighted material without consent. A common example would be reproducing photographs, music, or movies without consent or properly crediting the author. 17 U.S.C. § 501. However, the Copyright Act affords far more protection to copyright owners that have a far-reaching impact on many business owners.

The top copyright infringement mistakes among businesses span from a failure to adhere to license agreements, misuses of a copyright, or improperly licensing the copyrighted materials. However, the first in this series is **streaming music or movies without a proper license**.

It is common to walk into a store or restaurant that is playing music from the radio, a subscription radio service, or discs or other media for the enjoyment of its customers. While an individual may enjoy listening to the radio for free, there is typically a commercial use restriction against playing the radio or other music streaming service in a business environment.

Similarly, many hospitals or doctors' offices offer television or movies in waiting rooms for patients. These offices may face copyright infringement allegations if the movies or TV subscription are not authorized for commercial use.

This is a critical issue for smaller, family-owned businesses, some of whom have ceased operations after facing growing penalties arising out of copyright infringement claims. Many music streaming services and television subscriptions offer a commercial license at a slightly higher rate than the licenses for individual use.

Businesses must evaluate whether a commercial license is available and appropriate, and familiarize themselves with all of the terms and restrictions of each license. If there is any doubt regarding copyright use, it is advisable to consult with legal counsel experienced in copyright and trademark infringement.



### About the author Keli Johnson Swan:

As an associate attorney at Scott & Scott, LLP, Keli is primarily focused on software licensing and copyright infringement matters. She advises clients in a variety of industries to ensure compliance with software licenses and develop strategies for maximizing the value of software licenses.

Get in touch: [kjohnson@scottandscottllp.com](mailto:kjohnson@scottandscottllp.com) | 800.596.6176

[Click here](#) for a complimentary subscription to Scott & Scott, LLP's *Technology Law* newsletter.