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OLIVE & OLIVE
INTELLECTUAL PROPERTY LAW

Ownership & Negotiations

When it comes to copyright law, the general rule is that an original work belongs to the person who created it. Simple enough, right? But in the real world, it can get complicated fast.

For instance, what if two or more people contributed to creating the work? And what if one did most of the heavy lifting while the others only did a little bit? And if the creator is an employee, does that mean the employer owns all the rights? What if the creator is an independent contractor?

When multiple parties are in the mix, each may have competing interests and expectations. It can be difficult – or impossible – to sort it all out without legal help.

Joint Work, Collective Work, and Work for Hire

In copyright law, it is important to determine whether a creation is j*oint work*, *collective work*, or *work made for hire*. This is not always easy to do.

Generally speaking, a *joint work* is prepared by two or more individuals who intend that their separate contributions be merged into a single work. Each author has full ownership of the work (100 percent, not 50/50) and each may exercise all of the exclusive rights inherent in ownership.

A *collective work* is often a compilation – such as a periodical, anthology or encyclopedia – in which two or more authors make a separate and individual contribution to the collective whole. Each author retains full copyright ownership of their individual work.

Then there is work made for hire. This is generally work performed by an employee within the scope of his or her employment. Here, the owner of the copyright is the employer, not the employee.

To add yet another wrinkle, sometimes it is crucial to determine if the person who created the work was an employee or an independent contractor:

- An employee works under the supervision of the employer and is subject to tax, payroll and scheduling considerations. Work performed by an employee is typically *work made for hire*.
- An independent contractor is hired for a specific and limited task and has a degree of autonomy in doing that task. The independent contractor typically retains copyright in the work.

Sometimes, a written agreement expressly states that the work is to be considered a *work made for hire*. Conversely, the parties may agree that the work is to be done on an *independent contractor* basis.

We're Here to Help

It's wise to be proactive whenever more than one person plays a part in creating a piece of work. Put the important details in writing. Specify who will do what. Make it clear if the work is to be done on a *made for hire* or *independent contractor* basis.

Preventive steps up front can save time, money and hurt feelings later. Unfortunately, things aren't always nailed down in advance. Parties who were once friends – or at least friendly business collaborators – become bitter rivals.

That's where Olive & Olive enters the scene. We can provide time and money-saving advice to help settle copyright ownership disputes.

Negotiation is often the best path. In that case, you want a lawyer on your side of the table who knows the law inside and out. A lawyer who will fight for you. A lawyer who will get you the best possible outcome.

You want a lawyer from Olive & Olive, whose Intellectual Property Team has a decades-long track record of success in resolving copyright disputes for our clients.

And if litigation is necessary, there's no stronger advocate than Olive & Olive. We know how hard you've worked – and how much time and money you've invested – to create something awesome. Don't leave it all to chance. Call us today.

Got a question about copyright ownership? Want a skilled, strong advocate fighting for your rights? Contact the intellectual property team at Olive & Olive.