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IP News



“Pinterest” Creates Prickly Intellectual Property Issues

By: Kathleen E. Finnerty, Esq.

Pinterest is the internet's hottest new social-media site, logging nearly [18 million](#) unique users in February. **Pinterest** is now the 16th-most visited website in the U.S., surpassing PayPal, AOL, CNN and ESPN. With the site's popularity has come increasing controversy over whether the site's users who “pin” pictures they like on the site's virtual bulletin boards are violating the copyright of the pictures' owners.

Pinterest is a pin board-styled social photo sharing website. The site's mission statement is to “connect everyone in the world through the ‘things’ they find interesting.” **Pinterest** users “pin” images found on the Internet to their “Pinboards”, or upload media from their computers. **Pinterest** describes itself as a “virtual pinboard” that allows a user to “organize and share all the beautiful things” the user finds on the web.

With this dramatic growth, and users' foray into the commercial realm as companies “Pin” various images as a promotional and social networking tool, comes risks and novel legal questions. From an intellectual property perspective, this **commercial use** creates potential risks for any company using **Pinterest** are in the areas of copyright, trademark and the right of privacy/right of publicity. As to copyrights, if a company creates a “pins” photographs that were taken by others, the company could infringe the copyright of the owner of the photographs or of copyrighted works depicted within the photographs.

Likewise, if the company “pins” an image that depicts a trademark or logo of another company, a claim for trademark infringement could be made. Finally, the company could also be liable for the unauthorized use of someone's image (whether a celebrity or private person) in connection with the company's use of **Pinterest**.

Companies should also be mindful of protecting their own intellectual property rights in the **Pinterest** realm. Images from company websites, marketing materials or other media may end up on another's Pinboard. **Pinterest** does have a means by which a company can block its images from being “pinned” by a **Pinterest** user, but if a company does not proactively invoke this tool, it could find that its images are being used in ways that damage the image of the company brand or in other intellectual property.

The quandary with **Pinterest** and other social media sites is that they have become very valuable and cost-effective means of marketing, yet, because of the informal nature of these sites and the ease by which they can be updated and used, and the viral nature of media on the internet, users often fail to take heed of the same laws and restrictions that apply to traditional advertising and promotion.

WHO USES PINTEREST:

[Alexis Ohanian \(Reddit\)](#);
[Paula Dean \(celebrity chef\)](#);
[Michael Kors \(fashion designer\)](#);
[Yoko Ono \(peace activist\)](#); [American Cancer Society](#); [Apple](#), [Barack Obama 2012 Campaign](#); [Finnerty Law Offices, Inc.](#); [Sony Electronics](#); [Southwest Airlines](#); [Tiffany & Co.](#); [Wall Street Journal](#)
[Whole Foods](#); and many more.

Companies concerned about the unauthorized use of their images should block such use on **Pinterest**. Any company considering setting up its own **Pinterest** Pinboard or encouraging its customers to use **Pinterest** for company promotions or contests must consider all of the potential intellectual property implications before doing so.

Much of the discussion centers around whether pinning pictures on **Pinterest** falls under the “fair use” exception to the general prohibition against copying. Google won a copyright suit filed against it for its use of copyrighted images in its search results, based on the fair-use exception. But the exception may not apply to **Pinterest** because Google uses thumbnails, while **Pinterest** copies full-sized images onto its servers.

This is uncharted legal territory. The questions swirling around **Pinterest** copyright issues are unlikely to be definitively answered until court rulings occur. Whether **Pinterest** will be the next Google or the next Napster remains to be seen. Please call (916)781.3466 (FINN) for further information.

copyright
INTELLECTUAL
PROPERTY