**February 2023   – Issue 15 - THE LATEST NEWS IN COPYRIGHT FOR AUSTRALIAN SCHOOLS AND TAFE**

**UPDATE: Responding to copyright infringement notices**

Welcome back to Term 1 in 2023! We hope you had a restful holiday break and are ready for the exciting challenges ahead in the coming year.    
  
The NCU has become aware that schools may be receiving emails from companies (eg Copytrack, Pixsy) demanding they pay a fine for using a copyrighted image in an infringing way.   
  
We are generally seeing these claims arising in relation to images or photos schools are using in their materials (such as in a school newsletter, or on the school website).   
  
Often schools actually have a licence to use the image (for example under the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/), a Creative Commons licence or other licence or permission) and the company sending the infringement notice may not be aware of this.    
  
In this newsletter we will explain what to do if you receive a copyright infringement notice.      
  
**How do these companies operate?**  
  
Content creators, such as photographers and artists, can register with a company like Copytrack or Pixsy and authorise them to search the web on their behalf for infringing uses of their material.   
  
These companies use software to identify material on the internet that is potentially infringing the rights of those content creators. Without making further enquiries as to whether the user may actually have the right to use that material, the company might send an email demanding payment, advising that it represents the copyright owner and, in some instances, threatening to commence court proceedings if the receiver of the email does not pay the fine.   
  
Sometimes, a company may claim to represent a copyright owner who may not actually be the owner of the image or photo that is the subject of the alleged infringement.   
  
**Examples**  
   
Below are just some examples of these kinds of companies:

* Copytrack
* Pixsy
* Picrights
* Lapixa
* Emedialaw

**What can I do if I receive a letter or email alleging infringement?**  
  
1. Remove the material   
  
The school should take the material down immediately while the issue is being resolved (for example, remove the image or photo from the school website or take down the school newsletter that contains the image). The school should record the date and time at which the material was taken down. The school should also consider where else the material has been used by the school and take steps to immediately cease those uses.   
  
2. Contact the [National Copyright Unit](mailto:smartcopying@det.nsw.edu.au).  
  
3. Don’t respond to the email and contact us immediately with:

* a copy of the email;
* details about the image/photo that is the subject of the infringement claim;
* the date and time at which the material was taken down (from the website etc.); and
* any other relevant information. If you know the basis on which the school used the material you can include that (for example, that the image was used with permission from the copyright owner, under a licence like Creative Commons, or under an education exception or the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/)).

4. The NCU will assess all the relevant facts and information and advise on the next steps.  
  
**Important**  
  
Schools, departments and administering bodies should not panic if they receive an email or letter alleging copyright infringement. The NCU will provide advice and guidance on how to respond.   
  
**Remember to attribute Creative Commons images**  
  
It is important to attribute all Creative Commons images, so it is clear the material is being used with permission. Some schools have received these emails when they have not attributed [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) images. It is also a requirement under Creative Commons licences that the material be attributed. Schools simply need to follow **TASL**: Title, Author, Source and Licence. See [How to attribute Creative Commons licensed materials](https://smartcopying.edu.au/how-to-attribute-creative-commons-licensed-materials/).   
  
**Additional information**  
  
The purpose of this update is to provide a summary and general overview. It is not intended to be comprehensive nor does it constitute legal advice. If you need to know how the law applies in a particular situation, please seek specific advice from the [NCU](https://smartcopying.edu.au/contact-us/). For information about our [National Copyright Webinar Series](https://smartcopying.edu.au/national-copyright-seminar-series/) and [Copyright for Educators (C4E) course](https://smartcopying.edu.au/copyright-4-educators-course/), please visit the [Smartcopying website](https://www.smartcopying.edu.au/).