
Subject: Legalities of Selling Things Based on Historical Figures
Posted by [dragonsdesire](#) on Wed, 13 Mar 2013 04:59:10 GMT
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Hi there! I'm just wondering, what are the dangers and maybe things to avoid when creating products to sell to people? The very obvious one is of course not selling anything that was created by someone, like video game characters or things based on tv shows or movies. What about historical figures? Let's say, Abraham Lincoln or the Statue of Liberty? What about athletes?

Are there other important things that one should consider before creating products based on someone or something in order to sell while not being hounded by legal trouble? I imagine that for most people, asking for permission is the most important one, but what if they're already dead?

Thanks in advance

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [UniverseBecoming](#) on Wed, 13 Mar 2013 13:20:32 GMT
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You have to ask them by conducting a seance!

Jokes aside, in the US public domain comes 70 years after death. See here for more detailed information about that.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [BillBedford](#) on Wed, 13 Mar 2013 18:05:45 GMT
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IP rights belong to the creator not the person being depicted, with a few caveats.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [dragonsdesire](#) on Wed, 13 Mar 2013 19:37:09 GMT
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Thanks, especially for that informative link

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [UniverseBecoming](#) on Thu, 14 Mar 2013 02:17:08 GMT
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Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [Youknowwho4eva](#) on Thu, 14 Mar 2013 12:51:07 GMT
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I told Adam Carolla that I printed his head. He hasn't emailed me back so I take that as permission granted .

File Attachments

1) [20130216_202941.jpg](#), downloaded 336 times

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [svenvanderhart](#) on Thu, 14 Mar 2013 15:04:42 GMT
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There are no relatives left of Abraham Lincoln, so no worries at all there...

But seriously, I think on this scale the average person sells from his/her Shapeways shop, I don't think anybody gets upset if you use their face/building/whatever. Probably even flattered. Now if you mass-market the thing, that's different.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [dragonsdesire](#) on Thu, 14 Mar 2013 19:58:28 GMT
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Hmm thanks for the insights!

I think I'll just play it safe and only put my own creations up for sale publicly.

I just remembered we have a way of making certain items for sale private and they can only be accessed by using specific links. Maybe "special requests" from people involving famous things can go there

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [dcyale](#) on Fri, 22 Mar 2013 03:28:23 GMT
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A living person has certain rights in their own image, i.e. there may be problems with selling a model of a hollywood actor or other entertainer. Also, organizations like the WWF have on staff lawyers to protect their "brands," which means the various wrestling personalities.

This runs up against fair use standards, and it all gets complicated fast.

This is an area of the law that is a specialty- and general rules can be swallowed by the exceptions. So general answers may not apply to the specific situation you are looking at.

It is not an question that can be answered in a forum like this. It is another way that emerging technology is going to challenge legal principals that were not designed with it in mind.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [BillBedford](#) on Fri, 22 Mar 2013 10:35:36 GMT
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dcyale wrote on Fri, 22 March 2013 03:28A living person has certain rights in their own image, i.e. there may be problems with selling a model of a hollywood actor or other entertainer. Also, organizations like the WWF have on staff lawyers to protect their "brands," which means the various wrestling personalities.

You should really tell us what country you are talking about when you start to describe local laws, as opposed to the (almost) universal laws on copyright.

WWF? aren't they the cuddly panda people?

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [dcyale](#) on Fri, 22 Mar 2013 11:48:03 GMT
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That there can be differences between various countries, and international treaties, just goes further to prove that you can't get an answer to the question on a forum like this. I am not

discussing the details concerning the requirements of various laws, just pointing out that legal requirements may exist. It gets even more complicated because with shapeways your customers could be from anywhere. You are marketing internationally. It may be very difficult to even determine which laws govern a particular transaction, and your next sale could be to a different country and have different legal requirements.

You are right about the panda people, They got the initials WWF and the wrestlers had to take WWE, even though they called it the World Wrestling Foundation in the past. Another legal battle concerning copyrights and trademarks.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [SpaceGhost2K](#) on Fri, 29 Mar 2013 07:30:45 GMT
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I've done a little research into this.

Different countries have different rules. If you are convinced your product will never leave this country (not sure how you could do that), you could use the 70 year rule. But the UK rule is 100 years. If your product ended up in the UK, you could find yourself under copyright violation.

My example: I'm writing a story that uses Bram Stoker and Dracula as characters. Dracula is famously out of copyright because Stoker accidentally put it into the public domain (his family continues to fight it). However, Universal made a movie in 1931, and they own the copyright to the movie, or, their artistic interpretation of Dracula. As long as my Dracula only references the original literature, I'm fine, but if I reference something in the movie that is not in the novel, I could be in trouble.

Likewise, actors and celebrities make a living off their likeness, so even if they can't copyright their likeness, only they are allowed to profit from it or approve its use (like to endorse a product or a charity). However, public officials are exempt from this as I understand it. (There is a difference between public officials and public figures, too). You can make Obama stuff till you're blue in the face. Or Abe Lincoln stuff. In fact, you could conceivably create a stylized image of Abe Lincoln, and anyone who used your stylized version would be in violation of copyright. But you can't copyright a realistic image of Lincoln. The artist who created the tiny Keanu Reeves and Ryan Gosling would probably not get sued, but they might get a cease-and-desist letter, asking them not to sell them anymore. Silence is NOT consent.

Another example: There is a Van Gogh painting of a branch with blossoms on it. That is obviously public domain. However, one person took the image, took the one-inch border around the picture, and duplicated it twice, effectively making the image 4 inches larger in both directions with an "artistically modified" image being created in the process. If you happen to use their version

accidentally instead of the original, they can sue you. (Look in the upper left hand corner, then you'll know what to look for in the rest of the picture.)

<http://3.bp.blogspot.com/-RlebNjZvs2Q/UUC-1MsN9LI/AAAAAAAAAPuU/XETd9dnZLKg/s1600/blossoming-almond-tree-by-vincent-van-go-gh.jpg>

The Statue of Liberty and the Eiffel Tower are in the public domain, and images of them are copyright free. However, the city of Paris got tired of not making any money from the thousands of photos taken of the tower every year. They hired an artist to create a light display that hangs on the tower. Photos of the tower by day are fine. Photos of the tower at night are actually photos of the lights on the tower, and that is copyrighted. Bastards.

Back to Dracula and Stoker. Drac is public domain everywhere, and Stoker's likeness was public domain once it was 70 years old - but, because I didn't want to get in trouble in the UK, I had to wait until the 100th anniversary of his death, which was April 20, 2012. Just to be safe. I also had to leave out another author and his character from my story because, while the story is public domain here in the US, it's still under copyright for a few years in the UK. I could wait it out or do without the author/character, so I dropped him.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [Innovo](#) on Fri, 29 Mar 2013 09:41:00 GMT
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@SpaceGhost2K

Thanks for the info, it will be useful for my 3D History Micro-Paintings line.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [BillBedford](#) on Fri, 29 Mar 2013 10:30:52 GMT
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SpaceGhost2K wrote on Fri, 29 March 2013 07:30 I've done a little research into this.

Different countries have different rules. If you are convinced your product will never leave this country (not sure how you could do that), you could use the 70 year rule. But the UK rule is 100 years. If your product ended up in the UK, you could find yourself under copyright violation.

There were so many errors in this posting it is difficult to know where to start.

Copyright in the UK lasts for 70 years after the death of the author. Since Bram Stoker died in 1912 all his literary works came out of copyright at the end of 1982

Copyright of any image of a person rests with the photographer or painter who produced the image. This will last until 70 years after the death of that person. If the image was produced by a corporation, e.g. a press photograph taken by someone who is employed by a newspaper, then copyright lasts for 70 years after the photograph was first published. That is, an unattributed photo in a newspaper dated before the end of 1942, will be out of copyright.

The UK legislation is all on line here so you really have no excuse for getting it wrong.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [stonysmith](#) on Fri, 29 Mar 2013 17:15:15 GMT
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Interesting note from the British law:

Quote:If the work is computer-generated the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the work was made.

I wonder what they mean by "computer generated". Obviously the physical 3d prints are "computer generated". Are the STL models also "computer generated"? Does just being digital mean that I lose 20 years of copyright?

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [Innovo](#) on Fri, 29 Mar 2013 19:27:17 GMT
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stonysmith wrote on Fri, 29 March 2013 17:15 Interesting note from the British law:

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mean that I lose 20 years of copyright?

That's an interesting point since, if you think about it, everything today is "computer generated". Books for example are "computer generated" in word processors. How about images taken by digital photography?

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [svenvanderhart](#) on Fri, 29 Mar 2013 20:05:21 GMT
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Clearly a law made by someone with no artistic background, as a computer is just as much a tool as a brush. It's not automatised computer generated. There is still the same human being behind it. But here I think we will all agree with that.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [roofoo](#) on Fri, 29 Mar 2013 21:15:57 GMT
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This whole thing makes me wonder, how is stuff like Sad Keanu legal when he's still alive? That's like one of the most popular models on here, you know the seller is making a ton of cash off of Keanu Reeves' likeness.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [BillBedford](#) on Fri, 29 Mar 2013 23:22:56 GMT
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roofoo wrote on Fri, 29 March 2013 21:15 This whole thing makes me wonder, how is stuff like Sad Keanu legal when he's still alive? That's like one of the most popular models on here, you know the seller is making a ton of cash off of Keanu Reeves' likeness.

And?

Copyright rests with the makers, and unless they fall foul of a patent or trademark they are free to distribute their work as they see fit.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [roofoo](#) on Fri, 29 Mar 2013 23:46:36 GMT
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http://en.wikipedia.org/wiki/Personality_rights
<http://www.law.cornell.edu/wex/publicity>
<http://www.nolo.com/legal-encyclopedia/the-right-publicity.html>

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [BillBedford](#) on Sat, 30 Mar 2013 17:43:09 GMT
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Quote:This whole thing makes me wonder, how is stuff like Sad Keanu legal when he's still alive? That's like one of the most popular models on here, you know the seller is making a ton of cash off of Keanu Reeves' likeness.

Either:

a/ The maker had permission to market this piece.

b/ Reeve and his agents didn't think it was politic to send out the equivalent of a Ceases and Desist letter.

c/ The maker has not done anything that was unlawful, he almost certainly not done anything that is illegal in most places.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [Innovo](#) on Sat, 30 Mar 2013 18:56:53 GMT
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BillBedford wrote on Sat, 30 March 2013 17:43Quote:This whole thing makes me wonder, how is stuff like Sad Keanu legal when he's still alive? That's like one of the most popular models on here, you know the seller is making a ton of cash off of Keanu Reeves' likeness.

Either:

a/ The maker had permission to market this piece.

b/ Reeve and his agents didn't think it was politic to send out the equivalent of a Ceases and

Desist letter.

c/ The maker has not done anything that was unlawful, he almost certainly not done anything that is illegal in most places.

I think we can reasonably agree (as intelligent people here) that what happens with A LOT of VERY popular models on Shapeways would be option B. The fact that the agents/actors/IP holders don't know/care about these obvious legal breaches does not absolve those who benefit nor does it preclude any further negative action against the provider.

My sense is that this will be a problem in the future and Shapeways has the most at stake.

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [stop4stuff](#) on Sat, 30 Mar 2013 19:10:58 GMT
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Spanners in the works

Hypothetically, I am a celebrity who has spent money crafting my looks via plastic surgery, does my likeness come under 'Design Rights' rules?

I use my computer as a tool to create virtual models on screen, when I save that model, is that model not computer generated? (I certainly don't have the time or know-how to create the file manually in a text editor)

Paul

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [mkroeker](#) on Sat, 30 Mar 2013 20:39:56 GMT
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Shapeways has made it clear that they honor DMCA takedown requests. And the reason they do not take a more active role in investigating "dubious" content is probably that they do not want to be held responsible - i.e. they can claim "save haven" status. So any repercussions from Sad Keanu et al. should be

limited to the designer (save for lost revenue at shapeways - but I doubt that memes and "fan art" make up more than a low percentage of model sales).

And regarding the shorter copyright time frame for "computer-generated work", my understanding is that this applies only to fully automatic renderings without artistic input or intervention, e.g. an X/Y graph derived from a set of data points. (generated by computer in circumstances such that there is no human author of the work appears to be the wording in s. 178 of the UK Copyright, Designs and Patents Act of 1988 that Bill Bedford quoted, and a 1992 amendment further qualifies that author of a literary, dramatic, musical or artistic work or computer program which is computer-generated, means the person by whom the arrangements necessary for the creation of the work were undertaken)

Subject: Re: Legalities of Selling Things Based on Historical Figures
Posted by [Keymaker](#) on Sat, 30 Mar 2013 23:21:56 GMT
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I remember (from school) that computer generated art is anything that has no psychological equivalent. It exist only in digital word, in 0 and 1.
If you write a book with computer and keep it as e-book than it is computer generated art. If you print it than it is both. Classic book with classic copyright with digital alternative.

So i think that 3D prints would have same protection as has statues made of marble (or anything else)

But i could be wrong
