The Law on Fonts and Typefaces: Frequently Asked Questions

Ross | March 23rd, 2011

The right typeface is often the key to a great logo, graphic or web design. But there's much confusion and misinformation about typefaces, fonts and the law.

Many people do not understand the law governing the use of typefaces and fonts. Others incorrectly assume that they can freely use any typeface or font for any project.

When you purchase a commercial font, you are purchasing a license to use the font software. Your rights and obligations are defined in the End User License Agreement (EULA). Those agreements will vary among fonts and among font makers – so read them very carefully to understand what you can and cannot do with the fonts you're licensing. For example, some agreements will restrict the number of computers on which you can install a font.

How is a font different from a typeface?

Technically, a "font" is a computer file or program (when used digitally) that informs your printer or display how a letter or character is supposed to be shown. A "typeface" is a set of letters, numbers and other symbols whose forms are related by repeating certain design elements that are consistently applied (sometimes called glyphs), used to compose text or other combination of characters.

Although many people would call "Helvetica" a font, it's actually a typeface. The software that tells your display or printer to show a letter in "Helvetica" is the font.

What is copyright?

Copyright is a form of legal protection provided to those who create original works. Under the 1976 Copyright Act (United States), the copyright owner has the exclusive right to reproduce, adapt, distribute, publicly perform and publicly display the work. Any or all of these rights can be licensed, sold or donated to another party. One does not need to register a work with the U.S. Copyright Office for it to be automatically protected by copyright law (registration does have benefits – but we won't be covering those in this article). For more about copyright law, you can read Small Business Legal Issues: Copyright Basics.

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Does copyright law protect typefaces and fonts?

Generally, copyright law in the U.S. **does not** protect typefaces. Fonts may be protected as long as the font qualifies as computer software or a program (and in fact, most fonts are programs or software). Bitmapped fonts are considered to be computerized representations of a typeface (and are not protected by copyright law). On the other hand, scalable fonts (because they are incorporated as part of a program or software) are protected by copyright.

This means that copyright law (at least in the U.S.) protects only the font software, not the artistic design of the typeface.

You should remember that copyright law, and more specifically, as it relates to typefaces and fonts, varies by country. For example, the U.S. may be the only country in the western world not to recognize intellectual property rights in typeface design. The U.S. Copyright Office has unequivocally determined that fonts are not subject to protection as artistic works under the 1976 Copyright Act.

In contrast, Germany recognized in 1981 that typeface designs can be protected by copyright as original works. England also allows typeface designs to be protected by copyright (since 1989).

Doesn't the U.S. have to follow the copyright law of other countries under international treaties?

Yes and No. All of the major copyright treaties and agreements to which the U.S. is a party (such as the Berne Convention) operate under a common principle (called "national treatment") which holds that a country must treat foreigners and locals equally. That means, among other things, that the U.S. is not obligated to provide greater protection to works from other countries than it provides to works produced in the U.S.

Does this mean you can copy typefaces without worrying about copyright law?

Some argue that you can copy a font (by recreating it yourself) and as long as you don't copy the computer program, you're not violating the law (in the U.S.). How might you do this? Among other ways, you can lawfully print every glyph on a printer, scan the image and then trace each image on your computer (none of this would involve copying the software or program representing the fonts).

This gets a bit muddied when you consider that fonts are often tweaked and used as part of a larger design. For example, a typeface may be customized and used as part of a logo design. While the typeface itself is not subject to copyright protection in the U.S., the logo design itself might be protected as an artistic piece, taking into account the arrangement of letters, use of space, organizations, colors, and other creative aspects of the design. A good example of this is the Coca Cola typeface – the typeface is protected because it is the logo.

Does patent law protect typefaces?

Sometimes. Typeface designs can be patented but typically are not. Moreover, even those typeface designs that have been patented were patented some time ago and nearly all of the design patents have expired.

Does trademark law protect typefaces?

Trademark law protects only the name of a typeface, but not the design of the typeface.

Can you use "free" fonts without worrying about the law?

Maybe. Although many free fonts allow unrestricted use (including use for commercial projects), "free" fonts can sometimes be fonts that are illegally copied. Be careful and make sure that the fonts you are using come from a trusted source and that you understand your rights and obligations.

Can you license a font to a client?

Typically, your right to sub-license a font is governed by the EULA. You cannot send the client a font unless the EULA specifically permits you to do so. This means that if the client will need the font, they will be required to purchase a license to use it.

Most logo designers avoid problems related to font licensing by converting their logotype to outlines (in a program like Adobe Illustrator) and sending the client a vectorized outline (but not the font).

Three Questions To Ask When Using Fonts In Your Designs

1. Are you legally allowed to use the font? Many fonts are sold commercially and cannot be used by people who do not purchase those fonts from proper vendors.

2. Is your intended use permissible? Some font licensing agreements may restrict ways that you can use the font. Review the agreements carefully when in doubt.

3. Can you sell and/or send a copy of the font to your client? Typically, at least for commercial fonts, the answer is NO. Your client will be required to purchase the font. One way to avoid this is to outline the font (as described above) and provide the client a vectorized outline.

Do you have other questions about fonts and typefaces and the law or useful tips based on your own practice? I'd love to hear from you in the comments.

image credit (Helvetica movie poster): imjustcreative

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