

Warner Music Group

Why Was Your Auction Removed?

If you have received a notification from eBay that you must withdraw your product from auction and WARNER MUSIC GROUP is referenced in the notice, it is because we believe the items you are auctioning infringe the rights of our clients. You may not realize this, but it is not legal to sell or (even re-sell) unauthorized music that has not been properly licensed from the artist(s) or the appropriate record company.

Our clients, listed below, have requested that we notify (through eBay's VeRO Plus program) those folks at eBay who are infringing their rights:

- Asylum Records
- Atlantic Records Group (Bad Boy Records, Elektra Records, and Lava Records are now a part of Atlantic Records Group)
- East West
- Maverick Recording Company
- Nonesuch Records, a division of Warner Communications Inc.
- Rhino Entertainment
- Roadrunner Records
- Rykodisc
- Warner Bros. Records, Inc.
- Warner/Chappell Music, Inc.
- Warner Music Group
- Warner Music Latina Inc.
- Wildstar
- Word Entertainment

Here are some pointers that may help you in the future:

(1) If the packaging looks unprofessional (perhaps a color photocopy), chances are it's not legal.

(2) CD-Rs and mp3 files ripped from various Internet web and ftp sites (this includes the apcfiles on IRC) are definitely a big no no.

(3) Often times a bootleg will include live performances, rehearsals, outtakes and the record label will not seem official.

If you know the artist is signed to Warner Bros. Records, Inc., for instance, and the label information on the package says otherwise: it's most likely a bootleg. Thanks for your cooperation. Bootlegs have an adverse effect on not only the record labels, but also the artists whose rights are infringed.

IMPORTANT INFORMATION

ADVANCE CDs: Generally, selling or distributing sound recordings before the official release date is prohibited by the record company releasing the album. If you are unsure whether an item is authorized for sale, please contact the appropriate label.

UNAUTHORIZED RELEASES: A good number of Bootleg and Pirate recordings are factory pressed (non CD-R) and may appear to be legitimate releases. Many of these recordings are billed as "rare" or "imports" and originate from outside the United States.

If you are confused about what is and is not a bootleg, search on the Internet [using any number of excellent search engines, like google.com]. You will find that there are many collector's sites that can clarify for you if your product is a bootleg, a pirate, a counterfeit or if it is authorized by the record company.

An excellent resource for identifying legal music product is All Music Guide www.allmusicguide.com.

Frequently Asked Questions

If I alter a copyrighted and licensed image, am I violating anyone's copyright?

Yes, absolutely. A copyright owner has five exclusive rights in the copyrighted work:

1. **Reproduction Right.** The reproduction right is the right to copy, duplicate, transcribe, or imitate the work in fixed form.
2. **Modification Right.** The modification right (also known as the derivative works right) is the right to modify the work to create a new work. A new work that is based on a preexisting work is known as a "derivative work."
3. **Distribution Right.** The distribution right is the right to distribute copies of the work to the public by sale, rental, lease, or lending.
4. **Public Performance Right.** The public performance right is the right to recite, play, dance, act, or show the work at public place or to transmit it to the public. In the case of a motion picture or other audiovisual work, showing the work's images in sequence is considered "performance."
5. **Public Display Right.** The public display right is the right to show a copy of the work directly or by means of a film, slide, or television image at a public place or to transmit it to the public. In the case of a motion picture or other audiovisual work, showing the work's images out of sequence is considered "display."

Infringement

Anyone who violates any of the exclusive rights of a copyright owner is an infringer.

Can I use a picture I found on the Internet? Isn't it in the public domain?

Just because an image is made publicly available, this does not mean it is not in copyright - almost everything on the Internet will still be within copyright. There is no requirement to declare copyright, so the absence of a symbol or copyright notice does not mean a work is free to reuse. You should also be careful when an image is declared to be copyright-free or within the public domain. It may be that the person making the image available is mistaken, or that it is free for use within their country but not within the UK and most major territories.

What if I take an existing image and alter it so much that it is barely recognizable: do I still need to get permission?

Copyright will be infringed where a "substantial" part of the work is reproduced in a material form. "Substantial" is not defined in the Copyright Act, but case law and best practice interpretation suggests it relates to the both the quality and quantity of the amount copied. It is likely to take into account similarities between the two works. Where the work you create can be recognizably derived from another image, it would be sensible to get permission.

In addition to infringing copyright, altering someone else's work might constitute an infringement of the creator's moral rights, specifically the right of a creator not to have their work subjected to derogatory treatment.

**What if I redraw the image or add other elements to the original design - is this OK?
Does my new creation have its own copyright?**

As with the previous question this could constitute an infringement of copyright or moral rights if it is clear that your work is based on another. If your copying is permissible (e.g. the work is out of copyright or licensed for use), then you would own the copyright in any original elements you have added.

What about Fair Use?

The "fair use" of a copyrighted work, including use for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. Copyright owners are, by law, deemed to consent to fair use of their works by others.

The Copyright Act does not define fair use. Instead, whether a use is fair use is determined by balancing these factors:

- The purpose and character of the use.
- The nature of the copyrighted work.
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- The effect of the use on the potential market for, or value of, the copyrighted work.

If you would like to read our in-depth FAQ about copyright law, please visit:
www.grayzone.com