



Intellectual property rights graphic design case study

Intellectual property rights came into question in a graphics design dispute. A company who specialised in graphic design created a company logo, company literature and website for Mr S. According to the company they retained all the intellectual property rights as Mr S only purchased the end results and did not purchase the original artwork and design. According to Mr S, there was a conversation about this particular subject, where it was agreed with one of the designers that he had indeed purchased everything to include the intellectual property rights, unfortunately nothing in writing actually made the situation clear either way.

Eighteen months after the original work was undertaken Mr S saw the need for expansion and to bring on line new services, and therefore found a cheaper printer and website designer and requested the original artwork off the company, they refused, stating if he wanted the original artwork and design he needed to pay for it. Mr S refused to and somehow managed to replicate the original artwork and design without securing the permission of the company and made further literature and so forth, this new marketing saw a potential growth in his business. This all finally came to the attention of the company who demanded payment; this went on for months, which Mr S ignored, until finally he received court documents.

Mediation was very difficult to arrange as both parties felt they had a very strong case, the facts were the facts and the other side was clearly wrong. Finally mediation was arranged, the conversation suggesting that Mr S had paid for everything was with one of the designers who was new in post and had subsequently left, it transpired that Mr S had been given incorrect information, to which he felt the company were liable for, not him.

There was very little in evidence for either side confirming the actual true position, and therefore litigation risk for both was great. By speaking to Mr S and his lawyer alone, it transpired he had made a substantial profit over the past year, which he reluctantly confirmed was attributable to the company's designs.

Two options were presented, Mr S pay the fee for the original artwork and design as well as all the company's legal fees, or pay for the use of the original artwork and enter into a maintenance / licence contract with the company, as well as pay all their legal fees. The latter option would work out to be slightly cheaper.

Both parties wanted a viable commercial solution however it appeared that in this case a pre existing relationship could not be preserved. Mr S negotiated the price of the original artwork and agreed to pay all of the company's legal fees, by so doing he minimised his losses and what he potentially could end up paying if he went to court and lost.

Facts & figures

- **The mediation took 1 day compared to the 14 months this intellectual property dispute had already gone on.**
- **The mediation cost each party £650.00 each compared to the thousands they had already spent on legal fees and the thousands they would have had to spend had they continued with Court action.**