

Copyright in the digital age

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Though the concept of intellectual property has been around since the early 18th century, current copyright laws are struggling to catch up with digital. So, with the EU rolling out legislation that could affect how we use everything from memes to emojis, how – asks [Evangelos Kyveris](#) – can you make sure you're using online content correctly and protecting your innovations?

So, what is copyright?

In a nutshell, copyright is a form of intellectual property (IP) that protects the use of an original and tangible work. This means that ideas must take a physical form (for example, as a painting or a recorded song) before they can be copyrighted. Copyright generally covers literary, dramatic, musical or artistic works (including images and photographs), as well as things like sound recordings, films and broadcasts.

It's also become an increasingly inextricable part of our day-to-day life online, resulting in the need for a shift in the IP landscape.

Let's talk about memes

Whether we use them to express how we feel or simply to illustrate a point, creative digital assets like memes, GIFs and emojis have become a language in their own right. Given that they're so prevalent, you might wonder how they could possibly be subjected to copyright law. However, under the approved wording of Article 13 of the EU's Directive on [Copyright in the Digital Single Market](#), a 'meme ban' could be in the offing.

Article 13, as it stands, will force internet platforms such as Facebook, YouTube and Twitter (amongst others) to install 'appropriate and proportionate content-recognition technologies' to screen and block user-generated content

which is flagged as subject to copyright. If kept in place, the new directive will effectively ban the existing process of creating and uploading memes, which is driven by the ability to edit a pre-existing image.

And emojis?

Though the abstract ideas and emotions behind them – like 'happy' and 'sad' – can't be copyrighted, emojis themselves are considered 'pictorial, graphic and sculptural works' and, consequently, qualify for protection. In fact, many companies have been granted copyright for their unique versions of emojis, with some, such as Google and Twitter, opting to openly license them.

Navigating the copyright world – and getting it right

Though the effects of the EU's directive haven't been felt, being aware of the current online copyright legislation will keep you out of hot water – and protect your digital assets. Be careful not to upload content which infringes upon an existing copyright without the permission of the person who created it.

If you create and provide original content yourself, make sure you take proactive steps so that it can't be appropriated, such as:

- Putting in place website terms of use that prohibit the unauthorised copying of your content;
- Placing a copyright notice or obliterating mark over your material to make it unusable by another party; and
- Tiling or layering the underlying html code – and disabling right-clicks on images.

If you do discover an online infringement, you can take the following steps – though it's always wise to seek legal advice at the same time:

- Contact the person responsible and ask that your material is immediately removed;
- If you can't reach them, make a complaint to the website operator or the Internet Service Provider (ISP) hosting the site;
- If all informal contact fails, send the ISP a formal notice of infringement requesting the ISP block access to the website in question; and
- Should the ISP fail to do so, seek an injunction.

The key takeaway is that by getting up to speed on current copyright law and reviewing how you handle both your own and others' creative content, you'll be better prepared to adapt to any changes in the law if – or when – they come into effect.

In short

Copyright is a form of IP that protects the use of an original creative work in physical form.

Proposed changes to copyright law under [Article 13 of the EU's Directive on Copyright in the Digital Single Market](#) could also see digital assets like emojis and memes being made subject to copyright.

Take care to refresh your knowledge of current copyright legislation around online content – remaining protected yourself.

If you have a copyright question, contact Evangelos today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

