



# ORTHODOX CHRISTIAN ATTORNEY NETWORK

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## Churches: Beware of Copyright Trolls

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### “I found the photo on the Internet, so it’s free to use, right??”

A well-meaning volunteer finds a photo of happy volunteers on the web to accompany the priest’s article on serving others. The article is posted on the church website to edify the faithful.

Three years later, the church receives a cease and desist letter from a law firm demanding \$1,500 for copyright infringement for use of the photo. Sound outrageous? Yes, but unfortunately this scenario is all too common today, including among Orthodox churches. What can churches and organizations do to protect themselves?

**Copyright Basics.** Copyright law protects the creators of original works, including photos and images. When someone creates an original work, they automatically own copyright in the work, with exclusive rights to control its use and distribution. Generally, no one is allowed to copy and use the work without the owner’s permission (subject to exceptions discussed below). This is true even of nonprofit organizations who use the works for non-commercial purposes.

**The Risk.** Church staff and volunteers are often unaware of copyright laws when obtaining images for parish use. Many assume that anything found online is free to use, especially when there’s no copyright notice. Unfortunately, this assumption is wrong and can be costly.

In days past, unauthorized uses of photos were hard to detect. But with today’s image search technology, it’s easy for copyright owners (and their lawyers) to scour the Internet for infringing uses of their images. When they discover one of their images on a church’s website, they may issue a cease and desist letter demanding removal of the image and payment of a settlement fee, which can range from a few hundred to several thousand dollars.

**Is this legitimate?** The aggressive tactics used, and the amounts demanded by some companies (affectionately known as “copyright trolls”), are often outrageous. But unfortunately the demands may be legitimate, if the party actually owns the copyright in the image at issue. Under the U.S. Copyright Act, a copyright owner is entitled to recover monetary damages attributable to the infringement. And if the infringed image was registered with the U.S. Copyright Office before infringement occurred, the owner can recover statutory damages between \$750 to \$30,000, even without proof of actual financial harm.

### Protect Your Church.

**1. Conduct a copyright audit:** All churches should review their websites to ensure that all images and other media are used with permission. If you do not have written evidence of permission, remove the media and replace it with licensed works as soon as possible. The same principles apply to print media, e.g. church bulletins, though printed items are not as easily found. But churches should of course comply with the law and use licensed works in print too.

**2. Use Only Licensed Images:** Stock photo companies provide licensed images, either on a per-photo basis or by monthly subscription. The rates vary from a few dollars per image to \$30 or more. (Note that “royalty-free” does not mean no cost. This typically means the user pays a one-time license fee instead of a monthly royalty fee.) Although this may seem like a burdensome expense, think of the fee as insurance against a lawsuit.

**3. Free Alternatives:** Instead of paying for licensed images, churches can:

- **Have a staff person or volunteer take photos.** But be sure to get written permission or better yet, an assignment of rights, from the volunteer to use the images.
- **Use a free stock image company.** Some photo websites grant free use of images (e.g., Pixabay.com). The quality is typically not as good, but it may be good enough. (But be sure to read the legal terms carefully on permissible uses.)
- **Ask permission.** If you find an image online you wish to use, you can contact and ask for permission from the copyright owner (but not merely a user of the image!). Some creators may grant permission for free or for a nominal fee, especially if the use is non-commercial or for a charitable organization like a church.
- **Use public domain images.** Once the copyright in a work expires, the work enters the “public domain” and anyone is allowed to use it without obtaining permission. Generally, the copyright of works created in the U.S. after 1977 lasts for the life of the author + 70 years. (Copyright terms of works prior to 1978 varies.) In 2024, works created before 1929 are no longer protected and may be freely used by anyone. As a rule of thumb, it’s generally safe to use U.S. works that are over 100 years old without permission.
- **Use AI-generated images.** The quality of images generated by artificial intelligence software is constantly improving, so churches may find AI generators to be an acceptable source of images. Currently, works generated by AI software are not protected by copyright because copyright is only granted to human-created works, though AI-related law is very much in flux.

**4. Understand Fair Use:** The “Fair Use” doctrine permits some use of copyrighted material without permission for limited purposes such as criticism, commentary, news reporting, scholarship, and research. However, fair use is a complex doctrine and hard to apply. Without a legal analysis, relying on fair use is quite risky. Most uses of images on websites do *not* qualify as fair use.

**5. Educate Your Team:** Ensure that everyone involved in managing your church's media understands copyright basics and the risks associated with using works without permission.

**A word about Orthodox icons.** Icons may be “windows into heaven,” but they are also subject to worldly copyright law. Iconographers have a legal right to protect their works (and make a living by charging for their work), so it’s up to them whether to permit uses of their icons by churches or others. Churches may feel they have a moral right to use icons, but legally they must request permission. Old icons that are in the public domain (as discussed above) may be used without permission. So, for example, an image of Andrei Rublev’s original 15th century Trinity icon is safe to use.

**Conclusion.** While the Internet offers a wealth of resources and inspiration, it's crucial for churches to navigate it responsibly and legally. The consequences of copyright infringement can be financially burdensome and could tarnish your church's reputation. By understanding and respecting copyright law, your church can continue sharing the message of Christ’s love effectively while avoiding the pitfalls of unintentional copyright violations.

*Dn. Ken Liu is the Executive Director of the Orthodox Christian Attorney Network and has practiced trademark and copyright law and nonprofit law with the firm of Gammon & Grange since 1998.*

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