

Notes about copyright and the law.

Copyright and Ownership Issues. Copyright and ownership of Deliverable Content is a sensitive issue today with many misunderstandings and myths that have the potential to create confusion, animosity, and accidentally fraudulent business dealings. HyperOptic Productions adheres to United States Copyright Law, which is listed in the U.S. Code under Title 17, Section 201.

What the Law Says. Below is the exact text of Title 17, Section 201 of the United States Code as it applies to the Deliverable Content. Below each paragraph, and in *italics*, we explain what works are covered by that section and what it means to you as a valued client of HyperOptic Productions.

“§ 201 . Ownership of copyright

(a) **Initial Ownership.** – Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners [sic] of copyright in the work.”

*This covers any **single work** that was created by any designer, photographer, videographer, musician, poet, author, or any other artist where such work existed PRIOR to a potential client being exposed to the work. **Anything that existed PRIOR to this Agreement is owned fully by the existing copyright holder, which may be HyperOptic Productions.** If we are the copyright holder, then we have the option to license the work to you, or if applicable, transfer any or all of the copyrights to you, conditioned on full payment of a “Copyright Transfer Fee”.*

“(b) **Works Made for Hire.** – In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.”

*This covers any **single work** that was created by any designer, photographer, videographer, musician, poet, author or other artist, specifically under the paid direction of a client and for that client’s purposes, which may include a single photograph, illustration, drawing, or piece of music so commissioned. Works performed in this manner are considered “Work for Hire” commissions. All work that is done by full-time salaried employees for their employers naturally fall into this category.*

Any single work that you specifically commission HyperOptic Productions to make would fall into this category. For example, if you have hired HyperOptic Productions to produce a photograph of a product you sell, and you direct us to create a single photograph of that product, then you are the copyright owner of that photograph, NOT HyperOptic Productions, and your copyright is purchased by the fees we charge you for the photography.

“(c) **Contributions to Collective Works.** – Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.”

*This covers any work that is **a combination of single works**, and is therefore considered a “Collective Work”. This would be something like a catalog, a brochure, or a television advertisement... something that takes many separate elements to create. The Collective Work is the entire final product of the work done. Each single work that went into making the Collective Work is considered a “Separate Contribution”. For example: A Hollywood movie requires actors, a story, scripts, sets, film or video footage, musical score or soundtrack, special visual effects or sound effects. The entire movie you watch in the theater is the Collective Work, and one song from the soundtrack would be a Separate Contribution to that Collective Work. The production company owns the copyright to the movie, but the musician owns the copyright to the music unless he was paid to write a song specifically for the movie.*

HyperOptic Productions produces many kinds of Deliverable Content that are comprised of several Separate Contributions, such as a business card, a brochure, a flyer, sales video or television advertisement. These kinds of Deliverable Content are considered Collective Works. During the creation of such a Deliverable, HyperOptic Productions may license a Separate Contribution from a content provider such as a stock photography service or a single song from an existing library of music. The copyright on those Separate Contributions is held by the original creator, whether HyperOptic Productions or not. **HOWEVER**, if any Separate Contribution to be included in the Collective Work is specifically commissioned by you for the Collective Work, then that Separate Contribution is considered a “Work for Hire” for that Separate Contribution **ONLY**, and you would own it fully once you’ve paid in full for it. Any Separate Contributions that are licensed from another party are still considered the property of the original creator, who retains the copyrights to such Separate Contributions.

For example: If you hire us to produce a brochure that includes stock photography, as soon as you’ve paid in full, you own the full copyright of the brochure as delivered (the Collective Work), but you do NOT have full copyright of the stock photography (the Separate Contribution). If you hire us to produce a brochure, and direct us to take a photograph of your product, then you have full copyright of the brochure as delivered AND the photograph we created as a “Work for Hire” as soon as you’ve paid in full. In either case, you can update, edit, or modify the brochure in any way you want, but “...in the same series” means only as a brochure. A business card, flyer or poster are considered different “series”, per the United States Supreme Court Decision on “New York Times Co. v. Tasini” [(00-201) 533 U.S. 483 (2001) 206 F.3d 161, affirmed]. If, however, you were purchasing a corporate identity package which contains all of those items, the series of that Collective Work would be considered the entire corporate identity package, including elements comprising that package like business cards, brochures, etc.

[NOTE: This is NOT legal advice, and we are NOT lawyers! Consult an attorney if you have any legal questions.] ©2013 HyperOptic Productions