

Gaul Advertising, Inc.

Consultation in
marketing communications

Tom Glenn, Partner

485 Devon Park Drive, Suite 106

Wayne, PA 19087

610-225-0761 ext 14

FAX 610-225-0766

e-mail: tglenn@gauladvertising.com

www.gauladvertising.com

1/14/09

100% Rights of Use on Photography, Artwork and Files

Make sure before you begin any a relationship with an advertising agency or a marketing communications firm that it is clearly spelled out that all work that is produced and paid for belongs to you. There are exceptions to this such as special endorsements with celebrities, Screen Actors Guild talent, and certain model and talent fees. Be sure this arrangement and any specific issues are included in your contract, agreement, or purchase order.

Here are some specific areas for consideration:

PHOTOGRAPHY:

There are some photographers that have a usage charge. This simply means that any and every time you use their image that you have paid for, you have to pay an extra usage charge regardless. For example, limited rights usage means you would pay a fee for a photo used for a single purpose such as an ad. Each additional use such as a tradeshow, direct mail piece, packaging, website, etc. would result in an additional charge. Unlimited rights would be a one time higher cost, yet allowing you to use in all of the above mentioned elements without any additional charges. Our recommendation is to pay the higher one time fee initially which gives you usage in all marketing elements for years. Often, the charges for unlimited use are the same depending on the provider.

Make sure that any photographer that you work with directly or is used by your ad agency has an agreement giving you unlimited usage rights from the beginning. Also inquire about photos from a stock photo house that are available for a one time nominal charge or what is known as “royalty free” that avoid costly fees.

ARTWORK:

Some artwork that is produced through your marketing firm may be created by a subcontractor. This means that the marketing firm is paying for the work and may want to keep ownership of it. This should be clarified up front or as individual projects warrant. We strongly suggest that any unique artwork that is done specifically for you, remains in your ownership and is not to be used by any other client of your agency.

FILES:

Nearly all artwork today are done in a digital format. Some of our clients have experienced that when they wanted to transition to another marketing firm that the files did not belong to them. Unfortunately, this can be after the fact. It is important that if you paid for the work, the files belong to you. In fairness agencies have a right to charge for copying the files on CD or DVD, however this charge should be nominal.

In all cases above, if you feel that any of this work is unique, you should have legal counsel review and determine the possibility of Trademarks or Registrations.

Another area of concern is having model release forms signed to prevent any later recourse for remuneration. This simple document allows the subject in the photo and your company to agree up front on the arrangement. Your internal human resource department should be familiar with this and can provide guidance.

For more information contact:

Rich Slawter
Gaul Advertising, Inc.
610-225-0761
rslawter@gauladvertising.com