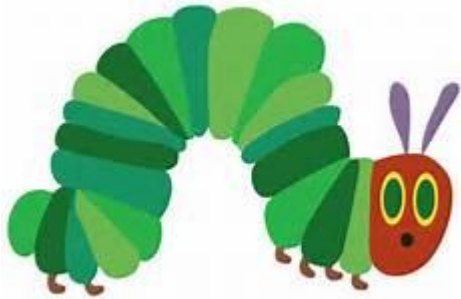


Copyright Not Wrong

Cake Licensing Issues for Cake Decorators

Retail
Bakers of
America

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Which of these can you draw or put on a decorated cake?

What we can't copy or re-create

Anything
copyrighted
or trademarked.

Without Permission

Symbols



What we can copy or use to create cakes:

- Anything copyrighted or trademarked *WITH PERMISSION*
- Buying a licensed character or edible image
- Getting a blanket or 1 time permission
- For a customer that has permission (franchise)

What we can copy or use to create cakes:

- Images in the public domain
- Free clip art
- Government images
- Your own personal designs
- Pictures that were taken by you or a customer
- Designs inspired by

Examples



Free Public Domain Picture
from the US Government



Free Public Domain Picture
from the US Government

Examples



Free Public Domain Picture
from Snappy Goat



Free Clip Art Image

Examples



Using a purchased licensed image



Free Clip Art Image

Legal Opinions

Q. Can you copy a Napkin, to follow the customers theme?

A. As with most answers, that depends. If the image on the napkin is a protected image, such as Mickey Mouse, the answer is no. If the image is in the public domain or generic, the answer is yes. If the image is simply a person's initials in a monogram using a stylized font, that is probably acceptable. If the image is the property of the customer, such as a company's logo, and the baker has the permission of the company, then that would be acceptable.

Legal Opinions

Q. What about all the cookie cutters of mouse ears, Star Wars logo, Paw Patrol shield, etc?

A. Copyright protects the expression of an idea but not the idea itself (easy to say, hard to understand). If the mouse ears are Mickey's mouse ears, the cookie cutters may be licensed for the use of the Disney trademark. However, retail cookie cutter "mouse ears" are probably licensed for home, not commercial use. However, Disney does not own the right to all mouse ears, only Mickey's. So, mouse ears that are not identifiable as Mickey's would be legal.

Legal Opinions

- Q. Any room for "artistic interpretation"? For example - Is the use of black round discs or cookies permissible on top of cupcake/cake if no mention of Mickey/Minnie is on rest of cupcake/cake?
- A. Mickey's ears are a Disney trademark as well as a copyright. This drawing is taken from the first registration of Mickey's ears.



Disney now has over a dozen registrations just for Mickey's ears. The standard for deciding if a trademark is infringing is not whether the copy is identical or has identifying words, but whether consumers are likely to be confused as to who owns the trademark. If the consumers are going to recognize the black round disks as Mickey's ears, it is infringing.

Legal Opinions

Q Is hand modeling characters for a cake copyright infringement as well.

A If consumers are likely to recognize the character, it is likely to be both copyright and trademark infringement. Hand modeling makes no difference.

Q Getting photos from the internet to print for an edible image or cutout.

A. You are taking a chance. If there is no copyright notice, they can still take you to court, but, if the court believe there was no intent to infringe, damages can be substantially reduced. Remember, even without damages, a lawsuit is likely to be VERY expensive. It is best to assume everything from the internet is copyrighted, even if not registered. Registration is not required to have copyright protection.

Questions?

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