

## TECHNOLOGY

## GET YOUR FONTS IN ORDER

Sharing fonts. Buying pirated typefaces. Neglecting to ensure your printer has the proper type license. It's not just illegal—it's unfair to creative professionals just like you.

It's midnight, and your deadline is looming. Suddenly you realize you don't have the font you need to complete the job. Knowing the freelancer working next to you does have it, you ask him to send it to you. You install the font, meet your deadline and head home.

The next day your manager informs the team that the freelancer is no longer on the project. Turns out that it was unclear whether all the software—including the fonts—on his computer was acquired legally or not. Your "satisfied" client is about to receive 20,000 copies of a brochure you created using a bogus copy of their corporate font. Both your studio and the client are legally exposed.

Using fonts of dubious origin—and quality—can compromise not only your reputation but also the integrity of your computer and the legality of the documents you create. Pirated fonts can introduce viruses onto your computer, can affect the performance of your legitimate software and can perform unpredictably in documents. You wouldn't download a file from SPAM e-mail; likewise, you should steer clear of fonts whose lineage you can't vouch for.

Most of us know that fonts are the result of fellow designers' work. And yet fonts are used thoughtlessly in ways that violate their licenses and are treated as "easy loot" by modern-day software pirates. Why? The truth is: because both are so easy to do.

Most graphic designers don't deliberately steal fonts. But there are a number of ways that a designer can run afoul of ethics and the law when it comes to fonts—without even being aware of these pitfalls. He might be using fonts in a way that the owner doesn't want them to be used (by altering certain characters, for example). Or, he may have purchased his fonts from a site that sells them illegally. Both situations can get a font user in real legal trouble.

Now more than ever, it's important for you to know

what you can and can't do with the fonts that are made available to you—and how you and your company can stay out of trouble.

**FONTS ARE LICENSED, NOT BOUGHT**

When buying a font, a designer doesn't purchase the digital font data, but rather a license to use the data. Every legitimate font developer, founder, or reseller requires the customer to accept the terms of a license before using the font. Even fonts that are bundled with software applications come with a license. Unfortunately, few people take the time to read software licenses. Clicking "I Accept" seems like just one more "OK" on the way to installing the software. But skipping past the license agreement isn't a valid excuse for failing to live up to its terms.

Frank Martinez, a New York City-based intellectual property attorney who champions artists' rights, clarifies exactly what a license is: "It's an agreement between two or more parties regarding the ownership of property; a transfer of a (usually temporary or terminable) right to use that property; the methods and conditions under which the property can be used; and an express recitation of the payment for such use.

"In the world of font design," Martinez continues, "a font license agreement is a right to use the font software of a font developer or founder for a fee. In sum, a license is a contract to use the intellectual property of another."

The issue of intellectual property has drawn increasing attention from the design community, including AIGA. "Design professionals can only command compliance with their own intellectual property rights if they are conscientious in honoring the rights of others," says Richard Crefe, AIGA executive director. "AIGA, in collaboration with font developers, has taken a broad public stand on this issue."

## WHAT EXACTLY DID I AGREE TO?

The End User Licensing Agreement (EULA) grants permission to install a font on a certain number of workstations and printers. Typically, fonts are licensed for use on up to five computers. The licensed fonts can usually be output by any number of printers those five computers access; however, the fonts can usually be downloaded to the hard disk of only one printer.

Smaller foundries and independent type designers sometimes license fonts on a single-user or single-workstation basis. This limits use of the font to just the licensor's computer. However, virtually every single-user license extends this parameter to include both the users home and work computers.

Most standard EULAs allow fonts to be embedded in documents, such as PDFs, but only for viewing and printing—not for editing. Most don't allow fonts to be embedded in web documents. Many have restrictions regarding the embedding of fonts in commercial products such as online games or e-books. And many foundries prohibit modifications of their fonts.

Often, special licenses—to accommodate more users or to allow alterations—can be arranged with a font designer or foundry. When in doubt about how you'd like to use the font, contact the font creator and inquire about the legal parameters. The bottom line is: Read and abide by the rules of each foundry's EULA. If you don't, you may have to contend with the consequences of non-compliance.

## RECEIVING STOLEN GOODS

Unfortunately, there are probably more illegal or "pirate" font distribution websites than there are legitimate font sites. These pirate sites often tout themselves as legitimate file-sharing sites and may even seem to shun the posting of copyrighted materials, But the truth is, they're run by people with no regard for the intellectual property rights of others. They get bundles of fonts—and sometimes even the complete offering—from a legitimate foundry and then sell illegal copies at a fraction of their true cost. Eradicating these pirate sites is like trying to control a virulent fungus: Even when they're shut down, they crop up again elsewhere, often under a new name.

Although the fonts might seem fine, if you purchase them from a pirate, you're receiving stolen goods. Most of us wouldn't consider buying a television off the back of a semi trailer. Buying from a font pirate is essentially the same thing.

The trouble is, although it's easy to know if you're being asked to purchase a stolen TV, the same doesn't hold true for pirated fonts. The website may look legitimate and the fonts might seem to be the real thing. But ask yourself: Does the price look too good to be true? If so, it probably is.

So how do you make sure that the fonts you buy are authentic and that you steer clear of pirate font sites? Simple. "Buy from well-known, reputable foundries," advises noted lettering artist and type designer Doyald Young. "And beware of any font bundles that sell for next to nothing."

It's a basic case of caveat emptor: Know what you're buying, and from whom. "Don't trust 'free' fonts—they

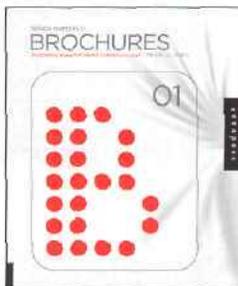
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you'd feel if  
someone copied  
your work and  
got paid for it.  
Wouldn't you call  
that theft?"*

ERIK SPIEKERMANN

cannot exist unless someone gets ripped off," says type designer Erik Spiekermann. "Get your fonts from a reputable foundry. Find out who the original designer is and who has a license to distribute the font by checking websites such as Myfonts.com, Fontshop.com or Honts.com."

## MANAGING FONTS AND LICENSES

Once you've purchased your font licenses from a legitimate source, take care of these valuable assets. You'll want to know where to find your fonts, how to access the exact one you want and how to keep yourself and your work legally protected. Font management will satisfy the first two needs. To satisfy the third, you'll need a font-license management tool.

Most heavy font users organize their fonts and regularly clean system font caches. To do so, many designers and studios use one of the market-standard font-management applications such as FontAgent Pro ([www.insidersoftware.com](http://www.insidersoftware.com)) or Suitcase Fusion ([www.extensis.com](http://www.extensis.com)). With these tools, users can create custom font sets and libraries, and activate, optimize, preview and print fonts. (For details on how to manage your fonts, visit [HOWdesign.com/fontmanagement](http://HOWdesign.com/fontmanagement).)

But with constant deadline pressure, it's easy to accumulate an abundance of fonts and to lose track of where they all came from. This means you might either be over-licensing or over-installing fonts. The former wastes your money; the latter exposes you legally to non-compliance. Enter font-license management.

Keeping track of the quantity and location of your font licenses will ensure that you're using legal fonts in a legal manner. This protects you, your studio and your clients. It also gives you peace of mind should you receive an audit request either from a foundry or from an attorney.

One font-license management solution is Monotype Imaging's Fontwise ([www.fontwise.com](http://www.fontwise.com)), which can perform an audit of fonts either on a single computer or on a server. The service provides not only the names and locations of all fonts, but also the licensing information. The resulting database updates dynamically and monitors font licenses in use. This ensures you have not just a snapshot at one point in time, but also an ongoing way to track font licensing usage, needs and compliance.

## BOTTOM-LINE CONSEQUENCES

Why should font-license compliance matter to a design studio or to a corporation? The head of IT at any company—large or small—will tell you about the software audits he's endured. And the CEO will attest to the impact that stricter compliance standards for financial reporting and intellectual property management have had on the company as the result of the 2002 federal Sarbanes-Oxley Act.

"For the business owner, both improper use and licensing of fonts can be a threat to the survival of the business," Martinez says, "As software and the methods of distribution become more sophisticated, developers are more readily able to track and monitor the uses of their software. Multiple unlicensed copies of such software could result in liability. More important, businesses that sell creativity or incorporate the

## FONT USE GUIDELINES

- Don't trade or loan fonts.
- There's no such thing as "sharing" fonts. You've purchased a license or you haven't.
- Don't buy from pirate sites. If the site looks questionable or the price seems too good to be true, investigate.
- Purchase fonts from type designers and foundries you know.
- Pay full price for fonts. A single font generally doesn't sell for less than \$20, and a collection of them, depending on the size, can run hundreds or even thousands of dollars.
- Beware the font that doesn't come with a license agreement.
- When employing freelancers, be sure they use fonts you've licensed, not their own fonts.
- Your print vendors should have their own type libraries. Some EULAs allow you to include the font when sending a job to your printer, but only if he has a license for this same font.

creativity of others into their products or sendees must always be cognizant of a third party's creative rights."

Proper font licensing and usage isn't limited to the designer working on a given project; it extends to the printer and client, too. "Design firms should ensure

that they own a license for the font software that they use and that their usage is concordant with the license," Marline/ says. "And they should always ensure that their client's end uses are properly licensed. In the absence of a proper license, an advertising agency or design firm exposes their client to liability by reason of copyright infringement. And under such circumstances, the client will look to the agency or designer for indemnification. Such a scenario usually results in significant financial liability or even bankruptcy." "

### EFFORTS TO PREVENT PIRACY

Although an independent type designer might seek legal counsel when applying for patent and copyright protection for a new type design, it would be cost-prohibitive to engage a lawyer to subsequently protect this design. Large and medium-sized foundries typically have an attorney—or a legal department—dedicated to protecting the company's font software. It's not just about preventing piracy. The fundamental issue is maintaining control over a company's valuable assets: its intellectual property.

As fonts are more widely recognized as software, efforts are increasing to combat piracy and to educate users about the importance of protecting and managing these assets. Organizations like the Business Software Alliance are advocating for and enforcing the rights of font intellectual-property holders.

RSA, a global \atehdog group representing most major software companies, now includes font software

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in its mission. BSA monitors online auctions and peer-to-peer network sites, and removes the pirated fonts it finds. Fonts are also part of BSA's software asset management guidelines and educational campaigns. In addition, BSA receives reports alleging use of illegal software or over-licensing. Once BSA verifies a report, it can compel the company to audit its software assets—fonts included.

Tired of seeing their livelihood threatened and their rights ignored by scofflaws, a group of independent type designers, supported by a number of well-established foundries, has taken action. They recently formed a collective, the Font Designers' Rights Coalition (FDRCJ, with the mission of protecting their intellectual property, educating users and dissuading the online community from illegally sharing or trading their work.

AIGA is also working to promote respect for intellectual property rights, in conjunction with BSA. Every member of the organization receives a "Use of Fonts" brochure, part of the Design Business & Ethics Series. "This represents AIGA's statement of professional responsibilities, in particular concerning unauthorized use of fonts by designers and clients," Crete says. "AIGA has also started to advance this argument in China with the translation of the brochure into Mandarin and distribution to all 1,000 design schools in China."

What's at stake in all of these efforts? The livelihood of creative professionals just like you. "Thievery robs designers of deserved royalties and lessens the

incentive to design and produce a font that may be several years in the making," Young says. "I'm incensed when I remember my toil of days, late evenings and weekends—hundreds of hours—spent creating a design that will idly be ripped off. My work, my creativity, my experience have been stolen." ■■■

Allan Haley is director of words & fetters at Monotype Imaging, where he's responsible for *strategic planning and implementation* of everything related to type/ace designs. He also develops content for the company's type libraries and websites. Haley is chairman of the board of the Society of Typographic Artisans. He's written five books and hundreds of articles on type and graphic communication, al/an.haley@monotypeimaging.com

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## » ONLINE EXTRAS

For information about font-management systems, visit [HOWdesign.com/fontmanagement](http://HOWdesign.com/fontmanagement)

For additional links and resources about font licensing, typeface protection and organizations' efforts to guard against font piracy, visit [HOWdesign.com/fontinfo](http://HOWdesign.com/fontinfo)

For news and inspiration about typography, visit [HOWdesign.com/blog/typography](http://HOWdesign.com/blog/typography)

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