



By Jerilee Auclair



## Got a decorator dilemma?

E-mail your question to Jerilee Auclair, owner of Black Eagle Designs and member of *Stitches'* editorial advisory board, at [jerilee@blackeagle designs.com](mailto:jerilee@blackeagle designs.com). Note: Jerilee isn't able to answer all questions personally; she'll request your permission to print your letter and her response in *Stitches*.

## Looking Forward

We aren't able to cover all the copyright/trademark questions in one column. Next month, we'll continue discussing this subject. We'll also address who owns the digitized file of a design, which is a very different issue than the question of who owns the artwork. Please e-mail me your questions, opinions and personal experiences in regards to copyright issues. See you next month!



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Read more about  
Jerilee Auclair

**T**his month, we're going to examine copyright issues. Several people have written to me asking lots of questions on this subject, including: how much you need to change a logo to make it a "new" logo; where you look to find out about copyrights/trademarks; who owns the digitized file and the artwork and more. First things first: I'm a digitizer, not an attorney; for rock-solid legal advice, consult with a qualified expert. What I offer here is what I've learned in my years in the industry, from reading numerous books and articles on the subject, and talking with the late Keith Caroselli of Balboa Threadworks.

First, let's talk about artwork. If someone pays to have their artwork created, they own it hook, line and sinker. It's a frustrating misconception that you can change artwork by some magical percentage and voila, it's new artwork. Not so. You can't change it by 20% – that's the most frequent number I hear – and suddenly you own the "new" artwork. Someone conceptualized the art, someone created it, and by creating it, the artwork is now inherently copyrighted.

But that won't stand up in a court of law. If you truly want to protect your artwork, which I'd strongly advise, you need to officially copyright the artwork. For instance, my husband copyrighted his logo. He registered it with the Copyright Office for a fee of \$35. Nearly a year later

he was sent the certificate to prove he owns the artwork. If he were to open up franchises for his business, he'd want to trademark it, service mark it or register it. The fee for the marks or registration is \$325 or more. Copyright is done through the Copyright Office ([www.copyright.gov](http://www.copyright.gov)). Trademarks, service marks and registers are done through the Patent and Trademark Office ([www.uspto.gov](http://www.uspto.gov)).

When you look at a logo, you may notice a small letter or two next to it on the right; for example, SM means service mark, TM means trademark, R with a circle around it means registered and C with a circle around it means copyrighted. Just because you don't see those letters next to a logo or artwork doesn't mean it's not recognized by the government as being owned by someone. I have the two Web sites mentioned above permanently bookmarked and refer to them as needed. If there's a question about anything I've been asked to digitize, I refer to these sites before doing anything.

There is such a thing as royalty-free artwork, which means it's public property; either no one owns it or

## Really the Rest of the Story

Last month, Barry Walton of UK-based Funderpants Embroidery asked me who owns a digitized design. He was asking because one of his customers found a less-expensive embroiderer, and was moving on. While I was writing this column, Barry sent me a message saying that the new embroiderer was demanding that he send over the design and also recommend what toppings and backings he should use. Barry decided not to turn over the design, lest his digitized file look shoddy due to the inexperience of the (literally) new embroiderer.

Since then, we've had another update. The defecting customer returned to Barry, since this cheaper embroiderer raised the price prior to doing the work, stating that he'd misquoted at a corporate price. The customer asked Barry to "run the shirts," but "to and behold, Barry had already replaced this customer with other, new ones."

This is how it goes – if you have some customers leave you for a cheaper competitor, you'll find others to fill the space if you offer quality work. When we have challenging customers, we often spend so much time on their projects that the customers we really need, and want, don't seem to find their way to us. Once the challenging folks move, you've cleared your head to find the customers you should be working with. Barry's situation epitomizes the beauty of how things can and often do go in cases just like his. And, this is absolutely the rest of the story.

the copyright has expired (they do expire 70 years past the death of the copyrighter). You can find a plethora of royalty-free artwork – check out [www.doverpublications.com](http://www.doverpublications.com). Even with Dover, if you want to put together a design pack, you need to contact its administrative offices after reading the inside cover of the company's publications. Some of Dover's books will allow you to use up to four designs without paying a license fee and others allow you to use up to 10. The last time I checked, the license fee was \$5 per design or letter if you're creating alphabets. Be aware that you only need to pay the licensing fee if you plan to sell the designs as a pack. You're free to use them to digitize and stitch on product endlessly. The fee only applies when you start selling the digitized designs. ■