

## Intellectual Property Rights Policy

Figment Media, LLC, through its website, [www.figment.cc](http://www.figment.cc) (the "Website") provides users ("Users") with the ability to create fictitious bands. We contractually prohibit Users from using the service to create or use any names, likenesses or images which infringe on third-party intellectual property rights (such as copyright, trademark, trade dress and right of publicity). We encourage intellectual property rights owners to contact us if they believe that a User of our service has infringed their rights. If you let us know that your rights are being infringed by one of our Users, we will, in our sole discretion, require that the User's content is removed and, if the User continues to infringe your rights (or infringes the rights of others) terminate the User's access to our services.

If you believe that your intellectual property rights have been infringed by a User of our service, please provide our Intellectual Property Rights Agent with a notification that contains the following information:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright or other rights that have been allegedly infringed;
2. Identification of the copyright, trademark or other rights that have been allegedly infringed;
3. The URL or User name as identified on our Website used in connection with the allegedly infringing material;
4. Your name, address, telephone number and email address;
5. A statement that you have a good-faith belief that use of the material in the manner complained of is not authorized by the rights owner, its agent or the law; and
6. A statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the owner of the copyright or other right that is allegedly infringed.

Our Intellectual Property Rights Agent is Aaron Boyajian, Esq. who may be reached by mail, email, telephone or fax as follows:

Figment Media, LLC  
c/o Goetz Fitzpatrick LLP  
One Penn Plaza, Ste. 4401  
Attn: Aaron Boyajian, Esq.

Email: [customerservice@figment.cc](mailto:customerservice@figment.cc)  
Telephone: (212) 695-8100  
Fax: (212) 629-4013

We also encourage our users to contact us if they suspect that another user is infringing the rights of a third party. Please utilize the same information set forth above regarding the procedure to notify us of a potential infringement by a user of our service.

## **Questionable Material & Prohibited Content Guidelines**

These guidelines were written to help you better understand the rules under which you may use the services offered on the Website. If you have any questions regarding the information contained on this page please contact [customerservice@figment.cc](mailto:customerservice@figment.cc).

Below are some general guidelines that you can use to govern your actions over the types of content which maybe prohibited on the Website (PLEASE BE ADVISED THAT THIS LIST IS FOR INFORMATIONAL PURPOSES ONLY).

### **General Guidelines for Prohibited Content**

- Content that may infringe on the rights of a third party.
- Items that make inappropriate use of Nazi symbols and glamorize the actions of Hitler.
- Use of marks that signify hate towards another group of people.
- Hate and/or racist terms.
- Inappropriate content or nudity that is not artistic in nature.
- Content that exploits images or the likeness of minors.
- Obscene and vulgar comments and offensive remarks that harass, threaten, defame or abuse others.
- Content that depicts violence, is obscene, abusive, fraudulent or threatening such as an image of a murder victim, morgue shots, promotion of suicide, etc.
- Content that glamorize the use of illegal substances and drugs such as a person injecting a vial of a substance in their body.
- Material that is generally offensive or in bad taste, as determined by Figment.

The list outlined above should NOT be construed as an exhaustive list of offensive material but rather as a general guideline for you to follow.

Figment will determine, in its sole and absolute discretion, whether your content is in compliance with the guidelines outlined on this page and the Figment content usage policy set forth in Figment's Terms and Conditions of Use. Any content that is determined to not be in compliance or is of questionable nature, it may be subject to removal, in accordance with Figment's Terms and Conditions of Use.

### **Copyright, Trademark and Intellectual Property Guidelines**

These guidelines are set forth to assist you in understanding Intellectual Property laws as they relate to your use of content through the services offered by Figment. The information contained on this page is for informative purposes only and should not be construed as legal advice. For specific advice regarding your use of content through Figment, please consult an attorney.

## **Copyright**

### **What is a Copyright?**

A copyright protects original work of authorship such as a picture, drawing, graphics, software program, written work, sculpture, song, or photograph. Copyright law prevents you from copying another's copyrighted work for any purpose; making things based on the copyrighted work; distributing copies of the copyrighted work; publicly performing the copyrighted work; displaying the copyrighted work; and in the case of sound recordings, transmitting the recording over the internet or in another media. In a nutshell, copyright law protects the expression of one's idea.

### **How long does copyright protection last?**

The term of a copyright for a particular work depends on several factors, including whether it has been published, and, if so, the date of first publication. As a general rule, for works created after Jan. 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years. For works first published prior to 1978, the term will vary depending on several factors. In general works created before 1922 are in the public domain. However, if a change has been made to a work taken from the public domain, the new work may be copyrightable and protected. To determine the length of copyright protection for a particular work, consult Chapter 3 of the Copyright Act (Title 17 of the United States Code).

## **Trademark**

### **What is a Trademark?**

A trademark is a word, name, symbol or other device that identifies the goods or services of a given person or company and distinguishes them from the goods or services of other persons or companies. Trademark law prevents you from using another's trademark (such as the name of a musical group or artist) on your merchandise, because such use will cause consumers to believe that the trademark owner has made, approved of, or endorsed your merchandise. In short, a trademark is someone's name/brand. For example, Coca-Cola® is a registered trademark.

### **What is a Service Mark?**

Any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify and distinguish their services from those manufactured or sold by others and to indicate the source of the services. For instance, "What Will Brown do for You? " is a Service Mark of UPS.

### **What can be trademarked?**

Word(s), word(s) plus design, trade dress, packaging, sound, slogans, smell, service mark, geographic marks, collective marks, certification marks, and family marks.

### **What is Trade Dress?**

Trade dress can function as a trademark and is used to identify the goods of a party in the marketplace. For example, trade dress can be the shape of an Aunt Jemima bottle.

### **What are Trademark rights?**

An owner of a trademark/service mark has the right to use that trademark/service mark and to prevent others from benefiting from the trademark/service mark's good reputation and recognition in the marketplace.

### **What is the difference between a Trademark and a Registered Trademark?**

The ® symbol represents that a trademark is actually registered with the U.S. Patent and Trademark Office. The ® symbol may only be used in association with a trademark that is registered with the U.S. Patent and Trademark Office. If the trademark/service mark is followed by a TM or SM symbol the goods/services provider is using the mark as a trademark, although the mark may not be registered with the U.S. Patent and Trademark Office.

## **Right of Publicity**

### **What is Right of Publicity?**

The Right of Publicity makes it unlawful to use another's identity for commercial advantage without permission. A person's "identity" includes, for example, his look, voice, name, nickname, professional name, and other distinctive characteristics. For example, the Right of Publicity prohibits you using the picture of a celebrity without authorization.

## **Right of Privacy**

### **What is Right of Privacy?**

Generally, the right of privacy protects the intrusion into one's private affairs, disclosure of one's embarrassing private facts, and publicly placing one in a false light in the public eye.

## **Examples of Prohibited Content**

In accordance with intellectual property laws, Figment has certain rules in place regarding the types of information that use for with respect to the services offered by Figment. These rules and restrictions include, but are not limited to:

- NO use of names, logos, pictures or other intellectual property of musical groups or musical artists. For example, you cannot make use the name or likeness of Guns N' Roses because you are a Guns N' Roses fan or because you downloaded their image from an internet website. You also cannot modify the name or other intellectual property of a musical group and avoid infringement, (e.g., using White Strypes instead of White Stripes).

•NO use of names, logos, pictures, or other intellectual property of sports teams, colleges/universities, clubs, or organizations such as the Boston Red Sox, New York University, or The Boy Scouts. Modifications may not avoid infringement.

•NO photos, logos, caricatures, or other artwork depicting celebrities, such as Paris Hilton or Brad Pitt, or other third parties. Even though you took the photograph of a celebrity does not give you the right to use that photograph on the Website, even if you digitally manipulate the photograph.

•NO use of trademarks, names, or logos of companies. For example, you cannot use the name of a company such as Apple, a company logo such as the Apple "apple" trademark, or brand name such as Titleist, or a modified version of a trademark, (e.g., "This is His Country").

•NO pictures or photographs of products. Even if you own a product, trademark laws may still prohibit you from using a picture of it. For example, you cannot take a picture of your Dora the Explorer doll and use that as a logo for your band.

### **Frequently Asked Questions**

**If it does not have a copyright notice, it is ok to use.**

**USUALLY NOT.** Almost all works are protected by copyright, even if they do not have a copyright notice. Therefore, you should assume that you need to obtain permission to use any material that you did not create.

**It's on the internet, so it is ok to use it.**

**FALSE.** Simply because an image is found on the internet does not mean that it is in the public domain. Unless the author of the work has explicitly stated that his work is "public domain" or that the copyright has expired because the work is very old, then you must assume it is not. Further, a person who posts an image on the internet and claims that you are free to use it may not have had the right to post the image in the first place. Therefore, your use of the image may violate the rights of the actual copyright owner.

**I based my artwork on the artwork of a third party, so that is ok.**

**FALSE.** Works that are derived from a previous work of another violate the rights of the owner of the previous work. Therefore, if you are creating an image that is based on the work of someone else, you need to obtain permission from the original creator prior to your use of your work.

**It's parody, so it is ok.**

**MAYBE.** Parody may qualify as fair use only if it draws upon the original composition to make humorous or ironic commentary about that same composition. Whether something falls within the fair use parody exception depends on whether the parody reasonably could be perceived as commenting on the original or criticizing it, to some degree. Generally parody, like fair use, is a difficult and murky concept and you should consult with an attorney before using copyrighted or trademark material in connection with the Figment service.

**I am using Clip Art, so it is ok.**

**USUALLY NOT.** Most clip art, photo collections, or graphic programs contain a license agreement. The license agreement sets forth the specific uses for the clip art. In most instances the license does not grant you the right to use the clip art for the sale of merchandise. You should consult the license agreement and your attorney to determine whether you can use the clip art images on the Website.

**The First Amendment protects my freedom of speech, so I can use whatever images I want. FALSE.** Freedom of speech is a constitutional protection that guarantees that the government will not oppress your right to self-expression. It does not give you the right to use intellectual property of another to sell or distribute merchandise.

**Can I use images of a celebrity since you allow images of famous political figures?**

**NO.** There is an exception to the Right of Publicity for political figures, which does not extend to celebrities.

### **More Information**

For additional information on Copyrights, please visit the United States Copyright Office Library of Congress at <http://www.copyright.gov>. For additional information on Trademarks, please visit the United States Patent and Trademark Office at <http://www.uspto.gov>. For general questions about Intellectual Property Rights, please visit the Nolo Law Center at <http://www.nolo.com>. You can find the federal laws regarding Copyright (U.S.C. Title 17) and Trademark (U.S.C. Title 15) at <http://www.access.gpo.gov/uscode/uscmmain.html>.