

Use of Illustration

*American Institute
of Graphic Arts*

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“Use of Illustration” is one topic in the AIGA business and ethics series, a range of publications dealing with ethical standards and practices for designers and their clients. New topics will be added to the series regularly.

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A Q U E N T

Use of Illustration

AIGA is interested in encouraging the use of original illustration in design solutions.

Illustration can provide a unique sensibility to certain projects. This brochure offers insight into professional practices and ethical considerations within the illustration community.

Illustration offers visual solutions to design challenges.

Illustration is able to transcend the limits of the written word. It is an art of opposites, an intricate dance between art and commerce that is created by people who find freedom in solving visual riddles and in filling dictated space with inventiveness, creativity and added value.

Each illustrator brings a different perspective, vision and idea to play that, when married with great design, becomes an original art form. Illustration brings spontaneity, freshness and a unique point of view to the design of content. It helps to communicate both simple and complex messages while enhancing a design through the unique vision and skill of the selected illustrator.

When a designer selects an illustrator to use, he or she is not only receiving the rights to reproduce the finished piece, but is also receiving the fruits of years of exploration and the development of an individual style. This individual style becomes the core of the product, the individual service offered and the asset that embodies the completed creative work. This intellectual and creative property is no different from other proprietary business products and services. It is developed—and protected—to enhance the value of the finished user.

Select an illustrator based on previous work.

There are countless ways to locate the perfect illustrator for a particular project. Many buyers turn to annuals, sourcebooks and the Internet, along with local illustration clubs, organizations and personal recommendations.

Typically, a buyer will either request a portfolio or review the work online. It is not appropriate to ask for original sketches for an assignment without compensating the illustrator (asking for “spec” or speculative work). The selection should be based on seeing previous work and discussing the assignment with the illustrator.

There are also archives available of pre-existing illustration commonly referred to as “stock” and “royalty-free” illustration. In many instances, it may not be possible to commission a unique illustration, so a designer may decide to license this existing art to illustrate a project.

It’s a safe assumption to state that a client is best protected—in terms of the quality of the work and assurances on the limited availability of the work—when illustrations are licensed directly from the illustrator or his or her authorized representative. The alternative is to license the work through a stock agency.

Within the illustration community, the most reputable stock agencies are considered those whose pricing and usage are handled by the creator, whose fees are fair and reasonable to creators and who recognizes the creator with credit lines for the illustration. There is some concern over agencies that fail to protect the client from acquiring an illustration without a clear measure of how broadly the image is already being used, from acquiring an image for which the rights are not available and from acquiring illustrations that misappropriate an original artist's style. In other words, it is important for the client to work with intermediaries who demonstrate the same respect for the integrity of illustration as intellectual property as the client would expect in the treatment of its own assets. This protects the value of both the illustrator's and the client's finished property.

Although convenient, stock does not always serve the creative process. Many believe it is an alternative best utilized when there are no other options.

Illustration sources

Annuals:

365: AIGA Year in Design
The Society of Illustrators
American Illustration
Communication Arts Illustration Annual
Print Magazine

Sourcebooks:

The Workbook
The American Showcase
The Alternative Pick
The Blackbook
The Directory of Illustration

Websites:

www.ispot.com
www.workbook.com

Price is directly related to use.

There are many considerations for pricing a piece of illustration. One common misperception is that fees are based on whether it is original or stock art. The fee for the use of illustration should be based on the use of an illustration and the exclusivity of its use, not on whether it is original or stock. The fee will vary based on how exclusive the use of the image is in the use that is contemplated for it, and whether the client wants rights for all uses for a set period of time (which is a licensing equivalent to purchasing the illustration).

Specification of the anticipated use must be clearly stated in a written agreement. A troubling ambiguity often exists, however, about whether an image licensed for use in a print medium is then included in the Internet version of the print piece. Unless the use was specified, the rights are not automatically granted. As in any agreement, it is important to clearly state all usage for purchase in detail; otherwise the rights not specifically purchased remain the property of the illustrator.

Every agreement should exist in writing.

Once the appropriate talent has been selected, negotiations begin taking into account the following criteria: rights, usage, schedule, exclusivity, complexity, extended rights and, in some cases, the reputation of the talent selected.

Written and signed documentation should be completed before work is begun (even on a rush project) to ensure that everyone has the same understanding. This document should outline in detail the usage, deadlines, level of corrections allowed before incurring additional charges, potential kill fees, payment details, form of delivery for final art, expenses, etc.

Typically there is one sketch submitted unless otherwise negotiated. If the project requires more than this standard, then this must be communicated and negotiated beforehand. Often "corrections" or small adjustments are made, but only to the original agreed-upon concept. These guidelines stand for computer-generated illustrations as well. Although the work is created in a different manner, the same considerations are adhered to.

"Changes" reflect new ideas that are brought into the sketch or finish stages. These are negotiated before the changes begin and are added as an addendum to the contract.

Original artwork belongs to the illustrator.

There are concerns that the buyer and illustrator must keep in mind to protect the value of the work, both within and outside the context of the contracted usage. These issues are understood within the industry and are adhered to by professionals on both ends of the creative exchange.

An artist's copyright is owned by the artist and is protected from the moment it is created by the 1976 Copyright Act. This protection covers the work for the artist's lifetime plus 70 years. If agreed to in writing, the copyright may be assigned elsewhere.

Original artwork belongs to the illustrator, regardless of the use rights that are licensed. Original artwork is provided temporarily to licensees for reproduction. Even the purchase of "exclusive rights" represents rights to reproduce the artwork only. The original illustration remains the property of the illustrator unless it is purchased explicitly and separately from the rights.

Original artwork cannot be changed without the creator's approval. Changes to an illustrator's work must be made by the illustrator, unless permission is secured from the illustrator first. It constitutes creating a derivative work from copyrighted material, which, intentionally or not, violates federal law and places the buyer at risk. Many are simply not aware of this law and unintentionally violate it, so please be aware.

It is important to work with professional integrity.

Dealing respectfully with another member of the graphic-arts profession goes far in ensuring a more stable business environment for practitioners and clients alike. It also supports one of the oldest and most basic tenets of our profession: the autonomy and freedom necessary to create our own professional independence.

Respect for the rights of illustrators is a matter of practice, ethics and law. It is the value of the intellectual property of a colleague—and within the body of the intended user—that is ultimately at stake in many of these concerns. To deal honorably with illustrators is to recognize the value of a colleague's work, to respect the practice of another creative professional and to uphold the integrity of the design profession.

Illustrators invest substantially in the research and development of their technique and style. This, in turn, is the basis of their business and reputation. To ask an illustrator to mimic the style of another illustrator is not considered ethical or, in some instances, even legal. There is a difference between finding illustrators who are influenced or inspired by other artists versus talent who directly infringe on copyrighted material. (In recent years, a number of illustrators have won copyright infringement lawsuits based on theft of an illustrator's intellectual property.)

Illustrations should not be used without gaining permission from the creator. Accessing and using illustrations from print, portfolios, the Internet or other materials—whether for mock-ups, comps or final designs—without first securing permission and establishing a basis for use rights is illegal and the most common law broken by clients, whether knowingly or unknowingly. (Refer to the 1976 Copyright Act for more details.)

Make sure you are acquiring illustration from an accountable and respectable source. For many within the illustration community, royalty-free illustration is considered a questionable practice. Royalty-free distributors do not generally license work from creators and do not always compensate creators adequately (or at all) for giving up rights to their work. Many collections have been gathered through unwilling and/or unknowing sources over the years and simply do not compensate the talent that created them. In other instances, royalty-free work is often produced by artists who have inadequate concern for the integrity of how the work is used, or who have no bargaining power to defend their rights in a competitive marketplace.

In addition, much of this work is imitative, since the creative professional is being asked to create and sell images without sustained accountability, and some of the work may cross the line of plagiarism. Although there are appropriate sources and uses of royalty-free work, it is the exception and otherwise may have some risk associated with its use. When there is no accountability for the history of usage, you are lowering the value of the design.

Illustration is a value-added commodity, while royalty-free and stock serve a more decorative function. If you take an illustration out of its intended use and use it to simply fill space, you have lessened the value of the final product.

An illustrator can serve as a creative consultant.

The possibility of unbound creativity in an unexplored multi-media graphic age is endless. It is commonly known that imagery is the newest commodity in the current economy. Who better to recognize quality and develop the potential of this commodity than the creators of the imagery? Illustrators are being retained as creative consultants for virtually every stage of conceptual work. At one time, art directors developed sketches of their ideas and hired artists to execute their ideas. Today, illustrators often assume the role as consultants to art directors and clients in developing the concepts for communicating content, as well as executing the ideas.

This involvement of an illustrator from concept to execution on a project takes full advantage of an artist's creativity and experience in integrating illustration into the intended outcomes. Additional roles include, but are not limited to, animator, storyboard artist, production designer, logo designer, character developer, illustrative journalist, Internet artist and mock-up/comp artist, among many others.

About AIGA

AIGA (American Institute of Graphic Arts) is the oldest and largest membership association for professionals engaged in the discipline, practice and culture of visual communications and graphic design. AIGA was founded in 1914 and now represents 16,000 designers through national activities and local programs developed by more than 40 chapters and 80 student groups.

AIGA is authoritative in promoting and communicating standards for ethical conduct and professional expertise and in collecting and analyzing data about the profession. It is stimulating in its provocative programming on critical issues facing design and in celebration of both effective and innovative design—a source of inspiration for many members. AIGA is open to new ideas, new professional disciplines and the ever-evolving nature of design.

Members of AIGA include professional designers, educators and students engaged in type and book design, editorial design, communications and corporate design, posters, interface and web design, and new media and motion graphics design. AIGA serves as a hub of information and activity within the design community using conferences, competitions, exhibitions, publications, educational activities and its web space. While many activities are open to both the public and members, AIGA also enables many focused conversations among designers about the issues facing the profession and society.

The role of AIGA's local chapters is both integral and complementary to the organization's national role. Chapters provide AIGA members with local forums for meeting, exchanging ideas and information and creating traveling programs of national import to designers and the public. In addition, chapters play a primary role in the growth, expanding service base and creative vitality of AIGA.

AIGA is a national not-for-profit educational organization incorporated under Section 501 (c)(3) of the Internal Revenue Code in the State of New York

A Q U E N T

Aquent is proud to be Presenting Sponsor of the AIGA business and ethics series. Aquent works with AIGA to help independent designers serve business with integrity.

Aquent connects design professionals with their clients' project work and permanent positions in 57 cities in 12 countries. Companies work with Aquent when they need to hire pre-screened and qualified creative talent on a project, freelance or permanent basis. By working with Aquent agents with industry expertise and an exclusive Online Portfolio System, clients find the creative talent they need.

As the Official Talent Agency of AIGA, Aquent supports designers in their pursuit of professional success through generous financial support of AIGA activities, including the Design Ethics Series. Aquent was also the first company to offer benefits to freelancers and is a strong advocate for appropriate levels of compensation for design professionals and respect for their contribution to effective business solutions.

To locate an Aquent office near you, call 877-2AQUENT/800-622-8367 (in North America) or visit www.aquent.com.

"Use of Illustration" is one topic in the AIGA business and ethics series, a range of publications dealing with ethical standards and practices for designers and their clients. New topics will be added to the series regularly. Additional copies can be downloaded from www.aiga.org. For more information on solving communications design problems or hiring a professional designer, visit www.aiga.org.

To join AIGA or to review the purpose and benefits of AIGA, visit www.aiga.org.

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