

USE OF ILLUSTRATION



AIGA supports the use of original illustration in design solutions. Illustration can provide a unique sensibility to certain projects. This chapter offers insight into professional practices and ethical considerations within the illustration community.

Illustration offers visual solutions to design challenges.

Illustration can 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 recognize 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 Alternative Pick
The Blackbook
The Directory of Illustration

Websites:
www.theispot.com
www.workbook.com
www.directoryofillustration.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 usage 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.

For additional up-to-date information about the copyright law, please visit www.copyright.gov/title17.

It is important to work with professional integrity.

Dealing respectfully with another member of the design 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—as well as your client's investment—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 web 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 the digital 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, the professional association for design, is the oldest and largest membership association for design professionals engaged in the discipline, practice and culture of designing. AIGA's mission is to advance designing as a professional craft, strategic tool and vital cultural force.

Founded in 1914, AIGA is the preeminent professional association for communication designers, broadly defined. In the past decade, designers have increasingly been involved in creating value for clients (whether public or business) through applying design thinking to complex problems, even when the outcomes may be more strategic, multidimensional and conceptual than what most would consider traditional communication design. AIGA now represents more than 22,000 designers of all disciplines through national activities and local programs developed by 64 chapters and more than 240 student groups.

AIGA supports the interests of professionals, educators and students who are engaged in the process of designing. The association is committed to stimulating thinking about design, demonstrating the value of design, and empowering success for designers throughout the arc of their careers.

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