

Audio books are my latest obsession. I listen to them everywhere: in the bathtub, in the car, at the grocery store. My most recent download is *The Beautiful Fall* by Alicia Drake. This story describes the decadence of the 1970's and chronicles the rise of Yves Saint Laurent and Karl Lagerfeld. In one passage, the author describes Karl Lagerfeld's method of research. A voracious reader, Lagerfeld purchased scads of fashion books and magazines daily. He was known for buying two copies of each book; one for his library and one to cut up and share with his entourage, including illustrator Antonio Lopez and his creative partner Juan Ramos.

It is not unusual for fashion designers to research and study the past collections of others in order to create a "new" collection. Likewise, it is quite common for creatives to gather together to parse out new ideas in groups. However, when inspiration can come from any and everywhere, it can be difficult to determine the origins of a singular creative idea.

Recall the legal battle between Ian Fleming and Kevin McClury. In this instance, Ian Fleming, the author of the spy novel series featuring "James Bond" invited Kevin McClury and Jack Wittingham to join him in the Bahamas. During the course of one evening over drinks, the trio discussed plot ideas for an underwater cinematic adventure. By morning, it was virtually impossible to determine who actually "authored" the story. The collaboration soon fell apart. Later, Ian Fleming decided to base his newest book, *Thunder Ball* on the plot discussed that fateful night. McClury was not amused and later sued Fleming for copyright infringement (among other things). McClury won. And Ian Fleming died of a heart attack soon thereafter.

The Fleming/McClury incident serves as a cautionary tale of what not to do when collaborating with others. There is a better approach. By drafting, executing and enforcing sound proprietary information agreements (or non disclosure agreements) creatives can help prevent their ideas from being misappropriated by others.

Any idea that is kept secret and gives it's owner a business advantage over competitors can be considered a "trade secret." Trade secrets can be protected under contract law, provided they are held in confidence. Before a creative discusses an idea or shares a vital document or electronic file with another, she can present the collaborator with a non-disclosure agreement that articulates the terms of the disclosure. Some of the common terms found in a non-disclosure agreement include a definition of what constitutes confidential information, a purpose statement describing the purpose of the agreement, a term of confidentiality (how long the confidential information should be protected) and a damage clause that lists penalties for unauthorized disclosure.

Still, it is important to note that non-disclosure agreements like all contracts, are only as effective as their drafters. Be sure to ask a licensed attorney to assist you in drafting a non-disclosure agreement to ensure that it contains all the necessary terms for enforcement. Also, before you present the agreement to your next collaborator, carefully consider whether the collaborator is indeed trustworthy. It is not advisable to share your creative ideas with anyone you do not trust unless you are willing and able to sue to enforce your rights.

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CAN YOU KEEP A SECRET?

BY MARIESSA TERRELL, ESQ.



Mariessa Terrell is President of the Board of Directors of the Washington Area Lawyers for the Arts (www.waladc.org). She is an intellectual property attorney, brander and founder of SBC Law Group with over 10 years experience providing intellectual property law services to fashion designers, defense contractors, non profits and start ups. Mariessa endeavors to make the trademark registration process simple and affordable by helping clients select marks that will be afforded the most protection, conducting comprehensive searches of potential trademarks and filing trademark applications with the US Patent and Trademark Office. Prior to starting her own firm, Mariessa worked as Trademark Examining Attorney with the United States Patent and Trademark Office and helped to register thousands of fashion brands including, Revlon, L'oreal, Estee Lauder, Balenciaga, Chanel, Dooney and Burke, Avon and countless others.

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