

Font Files & Felonies

Given their lightweight file size and general usefulness, font files are sometimes passed around between co-workers, collaborators and clients with little regard for their legal use or licensing. Most designers recognize that this behaviour is not best practice, but there are a lot of questions about what constitutes proper use of font files and what specific activities are (and aren't) permitted.

First, the disclaimer: I'm not a lawyer and this is not to be taken as legal advice. If you have questions or need counsel, talk to an Intellectual Property or Copyright lawyer before making any decisions or taking any actions. This article is intended to help shed some light on a very confused (and often confusing) subject.

Can you sell a copy of a font to your client?

Did you make the font? If not: almost universally no.

Can you provide a copy of a font to your client so they can open files you've made using it?

Unless the font is Open Source, probably not, and even then you need to abide by the rules of the Open Source agreement, which often includes maintaining the name of the font as-is and providing a copy of the licence agreement with the font file. If you're dealing with vector files, providing a version with the text outlined is often a good alternative.

Can you embed your font in a PDF or similar electronic document?

If embedding is permitted, the end user license agreement will often specify a percentage cap of characters that you can embed (such as "No more than 40% of the font's characters can be embedded"), resulting in an "embedded subset" of the font in the document.

Can you send a copy of the font to your printer or service bureau?

Providing a copy of the font you've used in your design to a printer is not very much different then providing it to your client. If you have a single install licence or non-transferrable licence, it's just as illegal regardless of the recipients' profession or field. Most printers will ask for a print-ready PDF with fonts embedded, and few will mind if you outline your text first (assuming you don't ask them to make text changes before press of course!)

Vector Font files, from a legal perspective, are considered a type of specialized software and afforded the same protection that any software program is entitled to—making them largely governed by the end user license agreements (EULAs) that they are sold or distributed with.

It's the specifics of the EULA that really get down to the nitty-gritty of what you can and cannot do with a particular font, but fonts generally fall into one of three categories:

Commercial fonts

These are fonts made available for standard business use (generally for a fee), including incorporations into logos, use on packaging and promotion, etc. Of particular importance when obtaining your licence is the number of installations you are permitted (often it's just one install per licence, meaning if you have a desktop and a laptop you may need to purchase two licences just for yourself if you switch back and forth between machines).

Personal-use fonts

Many fonts that are perceived to be "free" on the internet are actually personal-useonly licensed fonts. This means you're able to use them for your non-business stuff as you like, but using them for commercial purposes—even for a non-for-profit organization or something similar—is prohibited. Often the foundry that created the font will have commercial licences available for a different fee structure.

In 2011, Buffalo-based foundry P22 brought a \$1.5 million lawsuit against NBC Universal for using its Personal-Use licensed font Cezanne on a variety of Harry Potter related materials. NBCU settled out of court.

Open Source fonts/GPL fonts

Fonts released as Open Source or General Public Licence are typically safe to use for most purposes, with the common exception that you cannot sell them on their own as a product, or, release derivative works under another type of license.

Again, each individual type foundry (and even specific font file) may have its own unique quirks in its EULA, so reading up on the acceptable uses of the one you've chosen is important before beginning a project with a new font.