

MacKenzie-Childs has been creating high-quality whimsical home décor items, including original, hand-painted ceramic and enamel dinnerware and hand-painted furniture since 1983.

MacKenzie-Childs does not authorize the use of its name, trademarks, or copyrighted patterns and designs by others, or the commercial use of its genuine products in a manner that is likely to cause consumer confusion as to source, sponsorship, endorsement, affiliation, or association.

MacKenzie-Childs has a legal responsibility to enforce its trademarks and other intellectual property rights. As a member of the eBay VeRO Program, we provide this page to educate eBay users about auctions that infringe our trademarks and other intellectual property rights.

We own trademarks registrations for our name and logo, for several of our patterns and pattern names, and for our signature design, Courtly Check. We realize the inspiring nature of our whimsical patterns. Unfortunately, if we allow people to copy our Courtly Check pattern or use our brand names for their own products, we run a serious risk that the trademarks will be weakened and that customers will be confused about the source of such products or that customers will believe incorrectly that such unauthorized goods are endorsed or sponsored by MacKenzie-Childs.

We also own copyrights in many of our patterns, including, for example, Courtly Check, Royal Check, Sterling Check, Flower Market, and many others, and in many of our original product shapes. It is these (and other) original patterns, created by artisans, that have made MacKenzie-Childs products loved by so many. As any artist would surely understand, we must protect our original designs.

Because protecting our creative works is so important, we must be diligent in removing infringing works from eBay. (Please note that there are no authorized MacKenzie-Childs resellers on eBay.) We, of course, understand that eBay owners who have their auctions removed might have questions and want to better understand how to avoid infringing works in the future, so we created this page and the Frequently Asked Questions section below.

1: Why was my auction taken down?

A: Most likely, your auction infringed MacKenzie-Childs trademarks or copyrights.

2: If my auction contained infringing content or goods, why did eBay let me make an infringing listing?

A: It is impractical to pre-screen all listings submitted to eBay. As a result, many products that violate the intellectual property rights of businesses are listed and are only detected after the auction is posted. Therefore, being able to list an item does not mean that the auction is legal or complies with the eBay VeRO policy.

3: How does MacKenzie-Childs determine that the goods in my auction were infringing intellectual property rights?

A: Unfortunately, we do not disclose the specific ways in which we identify counterfeit or unauthorized items (as this information could be used to avoid the detection of infringing items).

4: Why didn't MacKenzie-Childs contact me directly to ask me to take down the infringing items?

A: Due to the high number of infringing items, it is impractical to contact each and every seller. Instead, we follow the procedures supplied by the eBay VeRO program and created this page to help people creating auctions understand why their listings were removed.

5: Why does MacKenzie-Childs care if I sell a single piece of unauthorized merchandise?

A: As described above, MacKenzie-Childs works hard to maintain its reputation for providing high-quality, original pieces of art. Each of these uses, if not addressed, weakens the trademarks that we have worked hard to create and protect.

6: If I use words like "original" and "inspired," can I keep my listing?

A: No. Disclaimers regarding the authenticity of the products do not eliminate trademark or copyright violations. If your work is substantially like any of our copyrighted items or our trademarks, you are still violating our rights. You are also violating the eBay listing rules.

For example, if you create a hand-painted item that looks like Courtly Check or another of our whimsical patterns, you violate our rights, even if your listing does not use words such as "COURTLY," "COURTLY CHECK," "MACKENZIE," and/or "MACKENZIE-CHILDS" but does include words like "MY," "INSPIRED," "HAND PAINTED," and/or "ORIGINAL."

7: Can I use the words MACKENZIE-CHILDS or a pattern name like COURTLY CHECK in the title or listing of my item if I make clear that the item is not made by you?

A: No. Enticing buyers using a famous trademark, known as "initial interest confusion" is a form of trademark infringement, even though customers may ultimately know the goods offered for sale in the auction do not originate from MacKenzie-Childs. Also, even if the buyer realizes the item is a knock-off, other people who later see the item (in the buyer's home, for example), do not know, so people will likely think that the non-MacKenzie-Childs quality items that they see in people's homes were made by MacKenzie-Childs – damaging our well-earned reputation.

8: Why can't I use MACKENZIE-CHILDS in my title or listing when my auction features my homemade item coupled with or made with a legitimate MacKenzie-Childs product (such as a napkin, card, bag, or ribbon)?

A: This is not allowed because it tricks consumers into looking at the main item in the listing (often an item that violates one or more of our copyrights) by using a MacKenzie-Childs trademark. This is another form of "initial interest confusion."

If you are truly interested in selling a genuine MacKenzie-Childs item, it must not be coupled with your own products as bundling the items together creates an impression that your products are authorized, endorsed, or sponsored by MacKenzie-Childs.

9: I am using genuine MacKenzie-Childs ribbon and/or napkins in my products why was my listing taken down for infringement?

A: Using MacKenzie-Childs' ribbon or MacKenzie-Childs napkins on items that you are offering for sale is objectionable because such use is likely to cause consumers to believe that your products are associated with or endorsed by MacKenzie-Childs, which is not true. This type of likelihood of confusion is actionable under Section 43(a) of the Lanham Act.

10: Why was my auction taken down? There are lots of people doing the same thing, and many are even more clearly infringing!

A: We work hard to ensure that auctions offering infringing goods are removed from eBay. However, given the nature of eBay, it is almost impossible to identify and remove all infringing auctions.

11: What happens if I just re-post my auction?

A: If you repost infringing material and we report the item again. It could be subject to additional actions on the part of eBay. Please note that if your account is suspended by eBay, MacKenzie-Childs has no influence over this decision and cannot assist in getting your account reinstated.

If you have any questions after reviewing the above, please contact the email address provided in your notice of takedown, or copyright@mackenzie-childs.com.