

Operation Copyright: Protecting Yourself is Possible

District 13 Fall 2016 Conference – 11/5/16

Copyrights:

WHAT DO COPYRIGHTS PROVIDE?

- exclusive legal right to reproduce, publish, sell, or distribute an original creative work or to make a derivative work.
- A work is original if it was not copied from some preexisting work.
- A work can be original without being novel or unique.
- To be protected a work must be fixed in a tangible medium of expression.

WHAT CAN BE COPYRIGHTED?

Literary and artistic works such as:

Books	Software
Blogs	Sculptures
Newsletters	Photographs
Movies	Images
Music	Websites

WHAT CANNOT BE COPYRIGHTED?

- Ideas
- Factual information conveyed in a work
- Meaning of artistic or literary work
- Phrases
- Titles (e.g., books, articles, movies)
- Systems (e.g., processes, methods)

COPYRIGHT LICENSES

Assignment of certain rights

- Time
- Exclusive / Non-exclusive
- Specific Use or Intent
 - Website eye-candy
 - Support your message
 - Sell copies

Creative Commons License

- CreativeCommons.org
- Choose your license - creativecommons.org/choose (click on the blue license for details)
- Best practices for attribution - wiki.creativecommons.org/wiki/Best_practices_for_attribution

CREATIVE COMMONS LICENSE

The diagram illustrates the following Creative Commons license combinations:

- Attribution 4.0 International: CC BY
- Attribution-ShareAlike 4.0 International: CC BY SA
- Attribution-NonCommercial 4.0 International: CC BY NC
- Attribution-NoDerivatives 4.0 International: CC BY ND
- Attribution-NonCommercial-ShareAlike 4.0 International: CC BY NC SA
- Attribution-NonCommercial-NoDerivatives 4.0 International: CC BY NC ND

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Fair Use:

FAIR USE

The use of the work for:

Teaching	Criticism
Scholarship	Research
Comment	News reporting

FAIR USE CONT

- Use as little of the work as necessary. How much is okay?
 - No hard and fast rule.
 - Determined on a case-by-case basis.
- Commercial vs. noncommercial use.
- **Key consideration:** Will the use cause the copyright owner to make fewer sales?



FAIR USE CONT

- Transformed the original?
 - New expression
 - New meaning
- Was value added?
 - New information
 - New aesthetics
 - New insights
 - New understandings

www.flickr.com/photos/annayanev/

EXAMPLES OF FAIR USE

- Political ads
- Small excerpts in a review or criticism for purposes of illustration or comment
- Parody that incorporates some elements of the work being lampooned (like SNL)
- Quotations from a speech, address, or position paper in a news report
- Limited, credited copying by student for academic work

- More Information on Fair Use - www.copyright.gov/fair-use/more-info.html
- U.S. Copyright Office Fair Use Index - www.copyright.gov/fair-use
- Section 107 of the Copyright Act - www.copyright.gov/title17/92chap1.html#107

De Minimus:

- Small amount of material copied
- Court doesn't even conduct a fair use analysis

Copyright Trolls

****Image Checkup**

Perform My Image Checkup By: _____

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Platforms that have Creative Commons Licensed Content:

- Wikipedia
- Flickr
- Vimeo

Photos, Images, and more (royalty free, free to use, purchase)

- Wikimedia Commons - commons.wikimedia.org/wiki/Main_Page
- Flickr - www.flickr.com
- Bigstock - www.bigstockphoto.com/
- Shutterstock - www.shutterstock.com/

Music Sites (royalty free, creative commons, low cost)

- Incompetech - incompetech.com
- FMA (Free Music Archives) - freemusicarchive.org/

Copyright © Notice & Registration

COPYRIGHT© NOTICE	COPYRIGHT REGISTRATION
<ul style="list-style-type: none">➤ Not required➤ Informs people you are taking your rights seriously➤ Informs people you are willing to protect them	<p>When?</p> <ul style="list-style-type: none">➤ As soon as possible! Ideally, as soon as the work is in tangible form before you publish or at least within 3 months of publication. But . . . you can register any time. <p>How?</p> <ul style="list-style-type: none">➤ Online at www.copyright.gov/forms. Follow links to e-forms and postal forms.➤ To e-file, upload one copy of work with form; to send via snail mail, submit form plus two hard copies.

Copyright Resources

- United States Copyright Office - www.copyright.gov
- Register a Copyright - www.copyright.gov/eco
- Kathleen Kuznicki, Esq, Patent Attorney - lynchlaw-group.com/attorney/kathleen-kuznicki

Examples of Copyright Statements

- © YYYY FirstName LastName (or Company Name)
- © YYYY FirstName LastName All Rights Reserved
- © YYYY FirstName LastName All Rights Reserved Content cannot be copied or distributed without written permission.
- © YYYY FirstName LastName Content can be distributed freely as long as the content is unaltered and the document is kept intact and no fee is charged for its use. Please send a note to email@email.com about how and where it will be used.
- © YYYY FirstName LastName - This document may be reproduced for educational purposes only; copyright must be noted.

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More on Copyrights

ASSIGNMENT OF COPYRIGHTS

- Licensing or Ownership
- In writing
- Should assign using the phrase
 - All Title, Rights, and Interest
- Expect to pay more for the assignment
 - Graphic designer giving up their rights to use again or to make a derivative work

RESPOND TO INFRINGEMENT

- "Cease and desist"
 - You or your lawyer send
- Beyond that – Business Decision

Trademarks - A word, phrase, symbol, and/or design that identifies and distinguishes the source of goods and services.

- usually represent names of businesses and their associated logos
- can include taglines, slogans, product shapes, sounds, smells, and colors

TRADEMARK

- ® informs people you have federally registered
- ™ informs people you have begun identifying goods and services with your mark.

USE OF OTHERS' TRADEMARKS

- Identify product
- Parody
- Refrain from Appearance of
 - Endorsement
 - Affiliation

**STANDARD FOR REJECTION OR INFRINGEMENT
(LIKELIHOOD OF CONFUSION)**

- Are other marks similar in appearance, sound, or meaning?
- Are the goods or services similar? Do they compete?
- Are goods or services are so closely related that they're marketed in a similar manner?
- Is there intent to trick consumers in order to "cash in" on someone else's goodwill?
- How expensive is the product? How sophisticated are consumers? How careful are they when purchasing?
- Do customer bases overlap?
- Has there been any actual confusion?

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