

COPYRIGHT: KNOW THE BASICS

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The Basic Basics

The Purpose of Copyright



According to the U.S. Constitution: To promote the progress of science and useful arts.

According to some big companies: To give media companies total control over content, forever and always.

Copyright was devised in a time when making copies was expensive. Now copies can be free, and the system is broken.

FBI



WARNING

Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion pictures, video tapes or video discs.

Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in prison and/or a \$250,000 fine.

FBI WARNING



Copyright owners, and not the FBI, include these warnings of severe civil and criminal penalties to scare you. In real life, you've probably already committed dozens if not hundreds of copyright violations. Has the FBI busted you yet? No.

In fact, you can legally reproduce copyrighted materials, without permission, in cases of Fair Use. And you're allowed to make one backup copy of this entire DVD if you purchased it. Legally. Did they tell you any of that? Of course not.

EXERCISE YOUR COPY RIGHTS

What is copyright?



Copyright is a bundle of rights:

- The right to reproduce the work
- The right to distribute the work
- The right to prepare derivative works
- The right to perform the work
- The right to display the work
- The right to license any of the above to third parties

Mommy, where does copyright come from?



Copyright exists from the moment of creation, and lasts for the life of the author plus 70 years (life plus 50 in Canada).

You used to need a little c in a circle, and to register your work with the copyright office, but you don't anymore.

Copyright just happens.

Requirements for protection



- An original work of authorship
- Creativity (just a dash)
- Fixed in a tangible medium of expression

What copyright protects



Copyright protects...

- Writing
- Choreography
- Music
- Visual art
- Film
- Architectural works

Copyright doesn't protect...

- Ideas
- Facts
- Titles
- Data
- Useful articles (that's patent)

Who is the copyright holder?



- The creator is usually the initial copyright holder.
- If two or more people jointly create a work, they are joint copyright holders, with equal rights.
- With some exceptions, work created as a part of a person's employment is a "work made for hire" and the copyright belongs to the employer.

Quick review...



- Protection is automatic once a work is fixed
- Very little creative originality is necessary
- Registration is not necessary
- “Works made for hire” vest copyright with the institution/organization, not the author
 - FYI: colleges & universities usually do not claim copyright in faculty works
- Joint authors each have equal, full copyright



Author Rights

Giving away copyright?!



- Copyright can be transferred only in writing
- Licensing allows specific rights to be retained:
 - Authors keep copyright and license other rights (e.g., first publication)
 - Publishers take copyright and license rights back (e.g., reproduction, derivatives)
- Addenda can be added to publication agreements to open the door for negotiating rights retention

Bundled vs. Unbundled



- Rights publishers traditionally **want**:
 - Reproduction, distribution, derivatives...ALL!!
- Rights publishers actually **need**:
 - Right of first publication...that's it, really
- Specific rights can be bundled or unbundled by licenses (e.g., Creative Commons) or addenda (e.g., SPARC) or negotiation
- Open Access publishers usually do not require full transfer of copyright

“If...then” – the secrets of reuse

- By the author
 - If full rights retained, then limitless (within confines of law, that is)
 - If some rights retained, then within limits of negotiated rights
 - If no rights retained, then fair use only
- By others
 - If published open access, then freely accessible – and possibly more
 - If published under a Creative Commons license, then within limits defined by the license
 - If published traditionally, then fair use only

Fair Use



There is no easy formula for determining fair use, but there are four factors to consider:

- 1) The nature of the work (factual, creative)
- 2) The purpose of the use (educational, for-profit)
- 3) Amount of the work being used
- 4) The potential impact of the use on the market for the original.

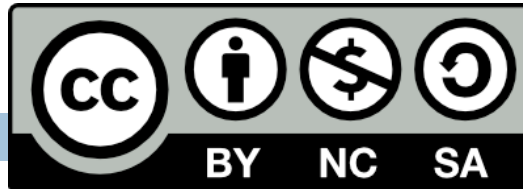
Take home points



- We all own copyright until we sign it away
- Contracts are negotiable, including publishing contracts
- Think ahead to how *you might* want to use your work
- Experimentation via CC licenses, attaching addenda or negotiating isn't scary and doesn't negate peer-review prestige



Rights Agreement Exercise



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