



Online Copyright for Writers

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INTRODUCTION

You can enroll in a law school and take several classes on copyright law without ever developing a full understanding of the topic. The nature of copyright issues is far-ranging, occasionally confusing, sometimes counterintuitive, often complex and sometimes mysterious—especially when applied to the "brave new world" of the Internet.

This ebook doesn't pretend to be the definitive explanation of copyright law or to give quality legal advice with respect to copyright issues. Instead, it hopes to offer an overview of the concept of copyright, an examination of how one can battle copyright infringement, and directions to webmasters and others about what they can and cannot do.

Copyright law is not a global constant. What may be prohibited in the Philippines may be the normal course of business in New Zealand. What Canadians see as a matter of absolute law may not seem to matter in Peru. Every nation has its own approach.

That not only complicates developing an understanding of the issue. It also complicates construction of an ebook on the topic.

For the purposes of this book, we use U.S. law as "jumping off" point. U.S. law is not globally applicable, but it is more established than that of other nations. Additionally, most readers of this ebook are likely to either be U.S. residents or to do a significant percentage of their business with American interests.

Those interested in Australian copyright regulations should consult

http://www.austlii.edu.au/au/legis/cth/consol_act/ca1968133/index.html

Those interested in the Canadian approach to copyright can review <http://ipo.gc.ca>

This ebook is organized into three general sections. In the first section, we will address the nature of copyrights and differentiate it from the related concept of plagiarism. In the second section, we will focus upon how one can deal with episodes of online copyright infringement. This will involve a consideration of the Digital Millennium Copyright Act (DMCA) and its use. The third section of the ebook will discuss means by which one can obtain quality materials for his or her websites without running afoul of copyright limitations and regulations.

We've also provided a series of Appendices offering valuable related information and forms that may be useful as you tackle online copyright issues online. Copyright matters aren't always clear. There isn't always a bright line distinction between what is "allowed" and what isn't. This ebook, however, should provide you with the tools necessary to stay on the right side of copyright regulations.

WHAT ARE COPYRIGHTS ALL ABOUT?

If you buy a new television, it's yours. You get to watch it. You can decide if and when others will watch it. It's your property. You don't have to let your neighbor stop by and take it over to his place. You don't have to worry that a co-worker will stop by in the evening and claim it as her own. It's yours. You have a property right that attaches to that television.

SECTION ONE: AN INTRODUCTION TO COPYRIGHT

That's easy enough to understand. The reasons for property right protection are equally easy to comprehend. Property rights are respected because they help keep society glued together. A world without property rights would be a dangerous and chaotic place. A lack of property right protection would also discourage development and innovation.

Why work to make better things if a bully can just take them from you?

It goes even deeper, though. Not only do we want to protect the rights to physical objects to discourage theft and mayhem, we also want those who do come up with great new products and ideas to be able to profit from them.

If you invent a better television, you should be allowed to profit from your plan. Your concepts may not be a physical item like the TV, but it is property and it is protected.

Copyright is a way of protecting some of those intellectual property rights. In the United States, copyright protection stems from Title XVII of the U.S. Code. The law provides creators of original intellectual works with protection against the theft of their words and ideas.

It also creates a series of exclusive rights for "authors" and allows them to decide how and where those ideas will be used.

A copyright is more than just a C with a circle around it. It is more than a way of saying, "don't copy this." It is a very important way of protecting authors from theft and a way to allow them to maintain control over their own property.

Copyright violations aren't a triviality. Those who violate copyrights share a great deal in common with the neighbor who steals a television set. They take property that doesn't belong to them and benefit from it while the rightful owner is deprived of their earned interest.

Copyright protection has a long history and is constantly in development. Law and interpretation is frequently altered to handle new developments in media and intellectual property.

The primary reason copyright receives so much attention today is the commercial nature of information. Society has shifted from an industrialized economy to a more information-driven one. Information and ideas are a valuable commodity and copyright serves to protect it.

The law says your neighbor can't steal your television. It also says he (or you, for that matter) can't steal the intellectual property of someone else.

The Constitutionally derived right exists for many reasons. A recent Congressional Resolution explains:

"The copyright clause serves two purposes. First, it gives authors an economic incentive to create new works. By establishing a

marketable right to the use of one's expression, copyright supplies the economic incentive to create and disseminate ideas.' *Harper & Row Publications, Inc. v. Nation Enters.*, 471 U.S. 539, 558 (1985).
Second, it promotes society's interest in the 'free flow of ideas, information and commerce.' *Sony Corp. v. Universal City Studios, Inc.*, 464 U.S. 417, 429 (1984)."

PLAGIARISM AND COPYRIGHT VIOLATION

The terms "plagiarism" and "copyright violation" are often used interchangeably. Although that may work well for most dinner table conversations, it's actually incredibly incorrect. Not all acts of plagiarism are copyright violations and the two concepts are actually quite distinct.



Copyright violation refers to the use of protected material without the appropriately expressed consent of the owner. If you take a poem I have written and to which I hold copyright and then place it on your website, you are violating my copyright. You are breaking the law.

Are you plagiarizing? Maybe. If you indicate that I am the author (attribution) you aren't really plagiarizing. You have certainly stolen my poem and you are in violation of copyright law, but you aren't passing it off as your own.

Plagiarism refers to stealing the work or ideas of another person for

your own use without properly attributing the source. Being a plagiarist can get you in trouble in academic and professional settings, but it isn't necessarily illegal.

Illegality only enters the picture at the point of a copyright violation.

Plagiarism is, primarily, an ethical issue. It involves whether it is right or wrong to copy or to steal the ideas of another and pretend as if it is your own.

Copyright, on the other hand, is a legal matter. It involves whether your use of someone else's work infringes their intellectual property rights.

All copyright violations aren't plagiarism. Not all plagiarism rises to the level of copyright violation. However, the two phenomena do overlap a great deal. In many cases, the plagiarist will be a copyright infringer. Quite often, the person violating a copyright will be in the process of plagiarizing.

Nonetheless, it does make sense to understand the difference between the two acts. If someone plagiarizes you, you may or may not have recourse. It will usually depend upon whether the act also constitutes an infringement of copyright.

WHO GETS THE COPYRIGHT?

Copyright protection kicks in immediately upon the creation of the work in question. If you write a new story, you instantly and automatically own the copyright to that story. The only person who

can ever claim copyright is the original author of a work.

Now, we promised to keep this look at copyrights as simple as possible, but as with any expansive topic, there are exceptions to the rule. This will be the first exception we discuss, but it is an important one. Sometimes, the original author may not be able to claim a copyright.

That happens when something is created as a "work for hire." If you hire someone to write something for you, that something is "work for hire" and you, as the buyer, are the copyright holder.

If you have an employee write your new brochure as part of his or her job duties, you still hold the copyright, even though the employee did the writing.

This exception is based on the notion that the author exchanged the right to claim the work in consideration of payment. Copyright, like many rights, can be voluntarily limited by valid contract.

If you and your neighbor work together to write a book about why stealing television sets is wrong, you will share the copyright to that book. Joint copyright is quite common.

They like to say that possession is nine-tenths of the law. That may or may not be true in some circles, but it certainly isn't true with respect to copyright issues. Owning a book, a picture, or any other copy of a work doesn't give one any copyright interest at all.

The law clearly places copyright protection with the original author and there is no assumption that possessing a copy of anything makes it

one's own property.

GETTING A COPYRIGHT

As mentioned, a copyright is created the second a product is finished and put into a tangible, fixed form. All you need to do to get a copyright is to create something. It happens without any outside effort or certification.

Once your work exists in a fixed and tangible form, a copyright "magically" appears without any additional effort. Works are "born" with a copyright, much like individuals are born with their Constitutionally protected rights (for the most part) intact.

You don't have to register to have a copyright. You don't need to mail the document in question to yourself. You don't need to publish. You don't even have to place a notice on your work.

Even though the law is crystal clear on that matter, many myths about the actions necessary to secure a copyright remain in circulation. Many people, even those who are certainly trying to be helpful, continue to parrot information about the things you need to do to obtain a copyright for your work.

Disregard them. You have a copyright as a "natural" byproduct of creation.

However, that doesn't mean that some of the techniques myth-spreaders advocates don't have advantages. Again, they aren't required to establish copyright. They do, however, create some

unique benefits.

We'll examine some of the issues commonly associated with obtaining a copyright in order to debunk common myths and to demonstrate why you don't NEED to do them to acquire a right, but may want to anyway...

WHAT IS COPYRIGHTED?

We've used the word "work" and "product." Examples have been illustrated using books, because they are what most people initially consider when exploring copyright issues. The idea of copyright, however, stretches well beyond books.

The law discusses "original works of authorship." What does that mean, exactly?

Well it certainly includes written works. Literature is protected. That's true whether it's a humorous article for a magazine, a sweeping novel, or a top-ten list posted on a website.

"Original works of authorship" also include musical pieces (including the lyrics), dramatic works like plays, movies and videos, audio recordings and visual expressions like paintings, drawings, photographs, graphics, and sculptures.

If you've read that list and think there are a few things that should receive protection but don't, there's no need to worry. The law defers to a broad interpretation of "original works of authorship." That means that many works that weren't specifically listed may fall under

expressed categories.

A choreographed dance, for instance, can be copyrighted. A blueprint for your new home could be copyrighted as a pictorial expression. If it's the kind of intellectual property that warrants protection, it will find a home under the umbrella of "original works of authorship."

Think about the reason for copyright protection. It is designed to protect one's interest in any piece of intellectual property, but is especially revered for its ability to protect one's economic interest in that property. Thus, if there is potential value to a work, the odds are in favor of it finding copyright protection.

There are, however, exceptions...

NOT EVERYTHING RECEIVES PROTECTION

Although the scope of copyright protection is very broad, it isn't infinite. There are certain works that just don't qualify for a copyright.

One of the requirements of U.S. copyright law is that the work must exist in a tangible, fixed form. This rules out some ideas. You may have invented a wonderful dance routine or a great impromptu comedy sketch, but unless they are noted in some way and described with specificity, you can't copyright them.

If a work is created using nothing but information that is readily available to all people and that lacks the injection of originality, it will also fall short of copyright protection. Sorry, your idea to copyright the tape measure just won't fly.

Procedures and methods don't receive protection, either. Does that mean that just anyone can steal your Aunt Jenny's recipe for bean soup? Not necessarily.

The ingredient list and the basic process of creation won't be protected, but if she's written it down, given it a pithy name, and has described the process of making the soup in her own words, that will be protected. Sure, someone could take the recipe, re-write the instructions, etc., but there would be some protection in place for some of her hard work.

You can't copyright short slogans, names or titles, either. That's why a recent reported effort by Donald Trump to copyright the expression, "You're fired" was doomed before it started.

Some things are just too common and too much a part of the collective consciousness to be claimed as a property eligible for copyright protection.

One of the best examples of this stemmed from the efforts of a directory publishers attempt to develop a phone book to compete with the one offered by a local telephone service provider.

The provider refused to give the other publication a list of its customers and their phone numbers, claiming the information belonged to them. Undaunted, the competing company simply purchased a copy of the telephone service providers directory and culled the information from it.

The matter ended in front of the Supreme Court. The Court

determined that the actions of the competing directory publication did not represent an infringement of copyright.

It maintained that originality was a key to warranting copyright protection and that a mere statement of facts (in this case, names and numbers) didn't represent information worthy of copyright protection.

Similar cases have ended with identical conclusions. Einstein couldn't copyright a mathematical formula. The phone company couldn't claim a copyright to the Johnson's phone number. Your Aunt Jenny can't claim a copyright to the ingredient list that makes up her bean soup.

Most works do receive protection, but not everything fits under the wide umbrella of copyright protection.

DO YOU NEED TO PUBLISH?

Some people will tell you that publication is an essential part of creating a copyright. Under earlier formulations of the law, publication did play a major role in creation of a copyright, but that is no longer the case.

Nonetheless, publication is still an important part of the copyright mix. All works published in the United States are "subject to mandatory deposit with the Library of Congress" and publication can have an impact on the duration of copyright protection for works whose author's are not identified. It can also have some impact on some of the rights related to copyright ownership.

In our discussion of copyright lengths, you will notice that the date of

publication can play a role in the creation of a copyright's term. In some litigation, the act of publication may be used to defeat claims of innocent infringement on the part of a copyright violator.

Don't worry, though. You don't need a book, an ISBN number, a copy of your text at the Library of Congress or to even put it up on your Blog to have copyright protection.

Publication can be a good idea, but it is not the sine qua non of copyright some would lead you to believe.

DO YOU NEED TO GIVE NOTICE?

Before the law was rewritten, it was necessary to place a copyright notice on works in order to insure protection. That's no longer the case. Protection adheres to an original work whether you put copyright statements on it or not.

Notices have bearing on the copyright status of older works created prior to the current laws invocation, but it has no bearing on rights for newer works.

There is, however, some potential advantage of placing copyright notice on a work. It might put people on notice that you plan to protect your intellectual property. It might seem strange to put a sign on your television set that says, "This is mine. Do not steal it," but that kind of action in the form of a copyright notice can act as a deterrent to those who might steal your intellectual property.

There is a lot of misunderstanding about copyright and not everyone

is taking it upon himself or herself to read a guide like this one!

When people do steal copyrighted intellectual property, they can argue "innocent infringement," meaning that they didn't know the materials were copyrighted.

This can play a role in damage awards if litigation is necessary. If a work is clearly boasting a notice of copyright, the opportunity to mount a defense of that sort is diminished.

The most common form of notice is the familiar "©" symbol. One can also hand-circle the letter "c" or write out the word "copyright." That is then accompanied by the year of authorship and the name of the copyright owner.

There are different notice standards for different kinds of intellectual property. For instance, Recordings might use a circled "P" to indicate a "phonorecord."

So, if you want to make it clear that you claim a copyright to something, feel free to indicate that right on the work. Slap a circled "C," your name and a date on that poem. Write "Copyright 2007, John Doe, All Rights Reserved" on top of your Blog post if it makes you feel more secure.

Just realize that providing notice is not an absolute requirement for the creation of a copyright. You get the rights whether you proclaim them on the work or not.

IT'S OLD. IS IT STILL COPYRIGHTED?

Of all the myths circulating about copyright protection, it seems as though one's relating to publication/creation dates are among the most common. You'll see people claiming that anything not copyrighted after 1978 is "fair game." Others will claim a seventy-year period of protection. Some might claim one hundred and twenty years. All of them, however, are wrong.

Here's how it works.

A work that was put into a fixed and tangible form on or after January 1, 1978, is automatically copyrighted and that protection will extend until seventy years after the documented death of the author.

If the work in question was written as "work for hire," the protection extends for ninety-five years from the date of publication or until one hundred and twenty years from the date of creation, whichever is shorter.

If a work was created before January 1, 1978, the rules are a little different. Those works are considered automatically protected retroactively from the date of their creation and the length of protection is determined in the same fashion.

Changes in copyright legislation also stated, according to the U.S. Copyright Office that "for works published on or before December 31, 2002, the term of copyright will not expire before December 31, 2047."

Prior to the changes in the law, copyrights were put into place when a

work was published or registered. The first term of the right lasted for twenty-eight years and in the last year of the first term, one could opt to renew the copyright.

Subsequent changes to the law extended those renewal terms, making them eligible for protection for a total of ninety-five years.

To make matters even more complicated, the renewal process is now optional, even though the copyright remains intact. Thus, you cannot assume that an older work is already in the public domain. Smart users will work under the assumption that a copyright is intact unless they can clearly determine that it is not.

Older works, to be honest, don't have the potential commercial appeal of newer offerings. In today's information-driven economy, antiquated writing styles and old information don't tend to be profitable commodities (with the rare exception of "classic" texts and other works).

As such, there's usually no reason to utilize an older work without being certain of the copyright status. The risk of running into problems due to misuse of copyrighted materials far outweighs the probable benefits of relying upon a one hundred year-old text as a source of substantial profit.

POOR MAN'S COPYRIGHT

If you've looked into establishing copyrights before, you have probably encountered the idea of a "poor man's copyright" or a "self-mailing copyright." Regardless of rumors to the contrary, the idea that

this system affords any real protection is bankrupt.

The idea is appealing in its simplicity. You create a copyright-able work. You put it in an envelope. You mail it to yourself. You don't open the sealed envelope, which will bear the date stamp from the post office.

If anyone ever infringes your copyright, you can use the envelope to prove ownership by opening it in court.

This system may or may not have worked in the past, but it is certainly almost meaningless today. The "poor man's copyright" concept is fatally flawed on multiple levels.

First, today's governing law creates a copyright upon completion of the work. There is no registration requirement, which is usually held out as a justification for the do-it-yourself approach.

Second, the value of the technique would be undermined by anyone else claiming a copyright if they merely maintained they devised the work prior to the date stamped upon the envelope.

Third, evidentiary requirements may prevent introduction of the envelope in a legal setting, anyway. There are chain of custody issues, the possibility for fraud, and a variety of other problems with approaching an envelope with a document in it as a form of proof.

Even in an optimal situation, the "poor man's" technique would fall well short of being compelling evidence.

Yes, it could be something to weigh in favor of the copyright holder,

but its weight would be quite slight.

If you are sufficiently concerned about proving copyright to consider this strategy, it makes much more sense to dig up the extra cash and to officially register your work with the Copyright Office.

The "poor man's copyright" is unlikely to do much more for you than filling a desk drawer. Save the postage and put it toward a better use.

REGISTERING A COPYRIGHT

WHY REGISTER?

If you have a copyright the second your work is in a fixed, tangible form, why would you ever want to bother with a codified method of copyright registration?

Even though registration with the U.S. Copyright office isn't required to create a copyright, it does have some distinct advantages to the registering party.

First, registration of a copyright creates a public record of your rights claim. This can be invaluable should a dispute ever emerge over true authorship.

One can create legally recognized evidence of ownership by registering a copyright that may attach itself to the work as much as five years prior to publication.

A registered copyright may entitle one to greater damage awards in

the case of infringement litigation. Those who don't register copyrights are only able to recover an award of actual damages.

Registered holders may also pursue attorney's fees and statutory damages if someone infringes upon a copyright.

Registration also allows one to prevent the importation of infringing copies of a work via the U.S. Customs service.

Registration won't make sense in all cases. In many situations, it is unnecessary. In other circumstances, however, one may want to register their work with the copyright office in order to secure additional protections.

If you feel strongly about your intellectual property and can envision fighting tooth and nail for its protection, consider registration. The fact that being registered will "sweeten the pot" in potential litigation is reason enough. If you are ready to fight to the death for your copyright, you shouldn't do so while spending your way into bankruptcy.

If on the other hand you can't imagine pursuing legal action due to an act of copyright violation then you may want to keep the registration fee in your wallet.

HOW TO REGISTER

All you need to do to register a work with the copyright office is to place an application form, payment for the filing fee, and the required number of copies of the work in the mail to the Library of Congress.

If all three elements don't arrive together, registration will not be effectuated and the materials will be returned.

In some cases, sending copies of the work may be impractical or impossible (in the case of one-of-a-kind sculptures, for instance). In those cases, the Library of Congress has specific means by which registration may occur.

Registration fees are set at \$45 per work to be registered. They are, however, subject to change and the Copyright Office should be contacted to insure the right amount is sent.

A sample copy of a registration form is supplied in the Appendices to this ebook. However, that form should be considered a sample ONLY.

There are precise rules for appropriate completion of a registration form and the forms themselves are subject to change.

One should visit the Copyright Office at <http://www.copyright.gov/forms/> to obtain instructions and the latest forms.

There are a wide variety of forms for registering. It isn't a one-size-fits all proposition. You might need form VA, TX or any of an assortment of documents. Make sure to follow all directions carefully (the Copyright Office has strict demands in this regard) and to complete the proper paperwork when registering a copyright.

One can also "preregister" materials that have been pre-released in some fashion. This is valuable for works currently under production that have a planned commercial distribution.

There are very specific pre-registration requirements and the process is only applicable to certain classes of material for which a history of preregistration infringement has been established. In most cases, preregistration is unnecessary. Additionally, preregistration is not a substitute for full registration.

TRANSFERRING A COPYRIGHT

There are some rights you can voluntarily limit or relinquish upon execution of a valid contract. For instance, you can agree not to plant apple trees in your back yard at the request of a neighbor who hates apples in exchange for some consideration.

The neighbor pays you twenty bucks, you agree to lay off the apple trees and everyone is happy. You had a right to plant those trees on your property, but you opted to give up that right for the cash.

You can limit or transfer copyrights just like you can your rights to defer from planting apple trees.

In order to validly transfer exclusive rights to a work, the law requires a written agreement. That agreement must clearly state the nature of the rights to be transferred and must be signed by the copyright holder.

If one wants to transfer non-exclusive rights, they don't have to put together a written agreement at all. The lack of exclusivity renders the need for such documentation moot.

As we've discussed, copyright is a variation of a property right. Just as you could sell your television (and, thus, your attached property rights) to your neighbor, you can sell your copyright. You can also opt to leave your television set (or your copyright) to a designated party in your will. Because it is a personal property claim, a copyright is subject to the laws of the state of jurisdiction.

Thus, state laws may play a role in how a transaction of copyright should be effectuated and how the courts might deal with a copyright in a case in which one's personal property is at stake (for example, a divorce or probate matter).

There are specific forms supplied by the Copyright Office that can help with the transfer of copyrights. If you are involved in a copyright transfer matter, you may want to consult with the Office and/or with experienced experts on the topic.

OUTSIDE OF THE UNITED STATES

There are many myths surrounding the issue of copyright. One of the

most common is the idea that there is some sort of universally accepted international copyright protection.

As nice as it would be in our global economy to have some sort of clear international regime in place to govern copyrights and their violations, there is none. There is no international copyright protection.

Generally speaking, protection is governed by the country in which a copyright is claimed or in which a violation is alleged. Most countries do have copyright regulations in place, but their terms may vary considerably.

Some nations actively cooperate with the U.S. on copyright relations and the U.S. Copyright Office provides information about those agreements and methods for handling international copyright disputes.

As mentioned in the introduction to this ebook, there are resources available regarding copyright considerations in other countries. If you have an issue with potential infringement and are willing to do your homework, you may be able to come to grips with the intricacies of international copyright laws and how to apply them to your specific case.

More often than not, however, international copyright issues are too complicated (and often, too costly) for the average person to pursue. This is a particular problem in today's global economy when a competing website could steal materials from another one without any real fear of legal repercussions.

Widgets.com could steal from GoodWidgets.com without too much

concern, it might seem, if one site is ran from England and the other from Azerbaijan.

It is worth noting, however, that many web site hosts that aren't located in the U.S. are still willing to voluntarily enforce the provisions of the DMCA (which we'll soon discuss in greater detail). One should not, however, assume that a non-U.S. entity will ever bend to U.S. law. They don't need to do so and they probably won't absent an international agreement to the contrary.

Fortunately, many international agreements are in place. The Berne Convention, for instance, has more than one hundred signatories to the treaty who are obliged to provide copyright protections to authors.

The General Agreement on Trades and Tariffs (GATT) treaty also contains some copyright protection provisions.

These treaties have successfully allowed many authors to enforce their rights in other jurisdictions. However, when it comes to copyright, the key factors are often very detailed and differences in laws can result in outcomes one may not anticipate.

Additionally, even though various treaty regimes do assist in copyright protection, the rapidly changing nature of online communication has left some gaps in the system, complicating matters for online copyright holders.

SECTION TWO: FIGHTING AN ONLINE COPYRIGHT VIOLATION

OVERVIEW

So far, our conversation has centered upon understanding some of the basic tenets of copyrights and what they are.

It might seem like a long jump from the quiet halls of the Library of Congress where U.S. government employees process copyright registrations to the vastly expanding and dynamic "Wild West" of the Internet, but understanding those basics will be helpful as we examine issues related to the misappropriation of online content.



The idea of online plagiarism and copyright infringement probably didn't seem that important to many of the web's pioneers. The focus was on information dissemination and building a valuable communicative platform.

With time and improvement, however, the commercial value of online content has grown and copyright infringement is becoming a heated issue.

We're going to break down common issues involving online plagiarism, content theft and copyright infringement from the perspective of an author. This will give us a complete look at how one

might prevent copyright infringement.

FINDING INFRINGEMENTS

The copyright holders of individual works learn about misappropriation in a variety of ways.

They might get an email from a friend indicating that they saw some of their work on a different site.

They could receive a comment on their blog tipping them off to stolen material.

They might discover "inappropriate uses" of their site's RSS feed at a site like Feedburner.com.

They could uncover inappropriate use by using Google to search for key phrases from their original materials.

They might use a tool like Copyscape.com to see if anyone has been copying their efforts.

There are as many ways to uncover wrongdoings as you can imagine. Although plagiarists and copyright violators may have once been able to function in "the shadows" without being discovered, that is growing increasingly difficult as the web "opens up" and authors are better able to find their materials when stolen and misused.

Those who deal in the visual arts may have a tougher time discovering theft. Most of the tools and strategies mentioned above are applicable

only to online text and aren't useable for graphic images.

Searching image libraries and using the image search functions of search engines may reveal theft, but that is a hit-or-miss proposition.

Finding the problem, unfortunately, is still often easier than solving it.

CALLING OUT THE THIEVES

If you find someone has misappropriated or plagiarized your content, you can seek resolution of the problem by contacting the offender.

In most cases, bringing your knowledge of the offense to the attention of the infringing party will be enough to put an end to the plagiarism.

It's usually fairly easy to find a means of contacting the Webmaster of an offending site. In most cases, an email address will be readily available on the site.

In other cases, one can utilize the services of a WhoIs site with which to find out information about the person who owns the domain and information necessary to make contact.

You can start with something as simple as a friendly email explaining the problem and firmly demanding correction. Surprisingly, this will often be enough to bring the misuses of your copyrighted material to an end.

In some situations, however, a pleasant exchange won't do the trick. Some of the parties involved in this kind of activity just won't be

receptive to making a change or won't take the matter seriously.

In these cases, a more serious cease and desist letter may be necessary. You can email such a letter and send it via traditional mail to a contact address, if available.

If you do send a letter, you will want to make absolutely certain that you are prepared to follow through with the plans you have outlined and that you are ready and able to take the actions indicated in the letter. Empty threats don't always work and if a bully calls your bluff, the chances of a successful resolution are slim to none.

A good letter will explain exactly which materials are at issue, a specific demand for removal, a deadline date for that removal, and an explanation of the actions that will be taken absent that deadline being met.

Again, contacting the infringing party and bringing the matter to their attention is usually enough to resolve the situation.

Those who intentionally stole your material didn't think they would be discovered and are not interested in engaging in a long argument. In other cases, the offenders may have been duped by a third party into believing the work was legitimate.

Others may be more ignorant of the law and ethics of these matters than they are intentionally dastardly.

There are, however, those with whom you won't be able to reason. They will assume they can get by without any real problem developing. In other cases, you just won't be able to get in touch with

anyone to resolve the problem.

In those situations, you will have to go beyond your cease and desist letter to take action.

DMCA TAKE DOWN

In 1998, the Digital Millennium Copyright Act became a U.S. law. This controversial legislation was designed to bring copyright law in line with developing technologies and to afford protection to rights in the Internet environment.

Though vast in scope, one particular area of DMCA is of special interest to those who are suffering from an online copyright infringement. It stems from the "Safe Harbor Provisions" in Section 512 of the law.

In basic terms, the DMCA provides hosts of websites with a form of immunity from lawsuits stemming from copyright infringements that occur on "their" sites.

A host actually stores the data that comprises a website. Most people do not host their own sites and rely upon a host company to do the job. You can think of it in terms of an apartment owner.

The owner of the building (the host) rents out apartments (server space for websites) to tenants (webmasters).

The DMCA allows the landlord to avoid being held responsible for what tenants are doing in their individual apartments so long as they

take appropriate action when notified of wrongdoing.

The Safe Harbor Provisions of the DMCA allow individuals to provide that notice to the host.

Thus, if you are being victimized by someone who is infringing upon your copyrights, you can advise the host of the problem and the host is then obligated to take down the offending content.

However, you can't just pick up the phone, call a host and demand that material be removed. Well, you can, but the host is under no obligation to listen to you.

The host will only be obligated to take action if you supply them with an appropriately structured DMCA "take down" complaint.

The law provides exactly what must be included in such a complaint. We've supplied a sample DMCA complaint in the Appendices of this text for additional guidance.

At a minimum, a valid DMCA complaint must contain the following:

- *Detailed description of the copyrighted work that was allegedly infringed upon, in the form of the original URL of the image, text, or page or other information that can specify the copyrighted work.*
- *Detailed identification of the material, with enough information to locate the material. This includes what actions were taken in finding the material to the direct link to the infringing web page.*

- *Information to allow the Xanga Abuse team to contact you directly (Email address is preferred.)*
- *A statement that you in good faith believe that use of the copyrighted material is not authorized by the copyright owner, its agent, or the law.*
- *A sworn statement, made under penalty of perjury, that the information given is accurate and that you are authorized to act on behalf of the copyright holder or owner of an exclusive right.*
- *An electronic signature (your full legal name) of a person authorized to act on behalf of the copyright holder or owner of an exclusive right that is allegedly infringed.*

Once you have created an appropriate DMCA complaint, it must be sent to the host.

Finding the host is usually not a difficult process. Although WhoIs data is unlikely to reveal the host (instead providing information about the registrar of the site), other tools like SamSpade can help.

If you can't determine the host, or are unable to get a satisfactory resolution from them, you may have some success by contacting the company through which the site was registered.

CRITICISMS OF THE DMCA TAKE DOWN

Some will argue that the DMCA Safe Harbor Provision puts too much power in the hands of individuals who lack oversight.

They argue that anyone can construct a DMCA take down complaint that will inspire a host to remove information from a website even if the claims made within that complaint are inaccurate or fabricated.

A recent example of this problem involves an individual who was frustrated by the appearance of his photograph on a variety of websites. Michael Crook appeared on a televised news program, discussing a controversial website he operated.

Many bloggers and others took a "screen capture" photo of Crook and placed it on their websites to illustrate stories about the controversy surrounding Crook and his sites.

Crook did not own a copyright to the photo. The photo was certainly the property of the news organization and Crook had no interest in it on that level.

Nonetheless, Crook began filing DMCA complaints with sites featuring the photo in an effort to remove them from the net.

Many of the host recipients, who are legally obligated to remove content delineated in a DMCA complaint, reluctantly took down the offending pages.

Crook is currently facing at least one potential lawsuit from sites that were incapacitated due to his request for a take down.

Critics maintain that Crook's behavior illustrates the fatal flaw of turning alleged victims into something akin to law enforcement agents.

Although there are provisions for argument, a take down does deprive site owners of their property and potential for profit.

Nonetheless, the case also illustrates the potential power of a DMCA complaint to get results. Even in rather questionable circumstances, hosts are willing to recognize and abide by the terms of a DMCA notice.

There is a defense against the inappropriate use of the blunt instrument known as the DMCA. If someone alleges an infringement, the accused party can file a counter-notification that may result in the host returning the information to the web.

Nonetheless, critics don't care for the reversal of presumption created by the Safe Harbor Provisions or the fact that it creates a posse of "citizen deputies" with a propensity for vigilante behavior.

IF THE TAKE DOWN FAILS

If you can't get a result via a take down notice, your only remaining options are to take the matter into a courtroom.

Let's be honest, though. In most cases, the expense of pursuing legal action will far outweigh the potential benefits of doing so. Only in egregious circumstances will a lawsuit be a reasonable action.

This is especially true when the infringing party lives in a foreign country that may or may not have copyright laws similar to those with whom we are accustomed.

TAKING IT TO COURT

If all else fails, you can file a copyright infringement lawsuit. As previously noted, this remedy has some drawbacks.

Litigation can be costly. In many cases, the likely value of the misappropriated material and any damages received will be less than the amount obtainable in a judgment.

You also have to deal with the very real problem of collecting a judgment. In many cases, the offending party will be unable to pay if you prevail, and collecting via wage attachment or other options may be inefficient and impractical.

If the case crosses into a foreign country, things become even more complicated. Enforcing a judgment against a foreign entity can be remarkably problematic.

Copyright infringement cases are governed by federal statute and case law and must be filed in a Federal District Court.

If you own a copyright and can successfully prove a violation, you may be able to win damages that approximate the profits lost from the infringement and the profit generated by the offender during the period of violation. You can also receive statutory damages that may

reach as much as \$150,000 per violation.

During the case itself, you may also be able to get a restraining order requiring the offending party to remove the material until the matter is resolved.

Fighting copyright infringement in the courts can make sense in the right situations. When the value of the content is significant and you can prove your case effectively, it may be sufficiently lucrative to pursue. A willingness to litigate may also signal that you take copyright infringement seriously, acting as a deterrent to other would-be thieves.

Pursuing a copyright infringement case does require a high level of specialized skill. Thus, anyone considering a case of this sort is advised to seek representation from appropriately qualified legal counsel. This is not a do-it-yourself project.

In most cases, litigation just doesn't make sense. However, it may be necessary when all other remedies are exhausted and a violating party refuses to take appropriate action.

Before instigating legal action, make sure you have clearly assessed the merits of your case with your attorney and that you are prepared to see the matter through. If you aren't ready to take that kind of action, it may make more sense to do your best to seek other remedies.

WHY YOU SHOULD RESPECT COPYRIGHTS

If you steal materials from someone else and use it at your website,

you might get away with it. It's possible that no one will notice.

Even if someone does notice, you will probably just receive an email asking for its removal. If you comply with that request, nothing else will happen to you.

Even if you ignore that letter, you will probably just have to suffer a temporary take down of the offending page until you make requisite adjustments.

You probably won't be sued.

So, considering just how unlikely it is to run into life-threatening trouble from infringing upon someone else's rights, why should you care?

Let's outline a few reasons why no one should intentionally act in a manner that infringes someone else's intellectual property rights.

Moral reasons. Most of us would agree that stealing is wrong. Regardless of our faiths and backgrounds, most of us accept the notion that stealing is immoral and is something we probably ought not to be doing. Infringing upon copyrights is a form of stealing.

It represents the theft of personal property in the form of an idea, writing or image. It represents stealing potential profit from the creator of the item in question by diluting its uniqueness and reifying a structure that allows for theft. If you infringe upon a copyright, you are stealing.

Social reasons. The idea that we should "do unto others" isn't merely

a moral consideration. It has real-world justifications.

So long as we respect the rights of one another, we can continue to function in a relatively well-organized and pleasant society. When property rights cease to matter, that certainly isn't the case. Respect for personal rights is the glue that holds society together.

Risk exists. Although the risk associated with the use of stolen materials may seem slight, it is present. Its consequences can be high, in relative terms, too.

Stealing someone else's copyrighted material may not land you in prison, but it can force you do deal with take down notices and other inefficiencies.

Additionally, if a lawsuit should be filed against you or other legal action taken, the consequences will undoubtedly outstrip the value of your misappropriation.

Basic risk analysis dictates avoiding copyright infringement. Even if the likelihood of a negative consequence seems slight, the potential impact is simply too great to risk.

There is also the very real risk that your identification as a copyright infringer could have horrible repercussions on your business and ability to socially engage others online.

It may not be a scarlet "A" across your chest, but getting the scarlet "circled C" on the chest of your avatar can be almost as bad.

In the end, we should recognize and respect the rights of others

because it is the right thing to do. That should be enough of a justification.

SECTION THREE: AVOIDING COPYRIGHT INFRINGEMENT

A SIMPLE RULE

Although copyright can be a complex issue, you can avoid running into most problems with respect to online endeavors by following an exceedingly simple rule.

Err on the side of copyright.

What that means is that if you have any question about whether you can use something without first receiving the expressed consent of the creator and copyright holder; don't use it without receiving permission.

The cost of being deferential to potential copyright considerations is minimal. The potential cost of running afoul of someone's claim is severe. It only makes sense to err on the side of copyright.

If you don't know if you can use it, assume you can't. Seek appropriate clearance or develop an alternative. There's no reason to play in gray areas when so many good options that don't risk violation exist.

It's a simple rule and following it will keep you out of trouble in

almost all cases.

FAIR USE

Fair use is one of the most important things to understand with respect to copyright issues. U.S. copyright law does not prohibit third parties from using portions of the copyrighted materials created by others outright.

There are cases in which it is wholly appropriate and legal to use excerpts of copyrighted materials. These cases are said to be under the fair use exemption.

The fair use doctrine is not a clear policy. Instead, it based on a wealth of evolving case law and remains a rather subjective matter.

Section 107 of the U.S. copyright law isolates four elements that are considered when a court decides if the use of copyrighted material is "fair."

- The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes
- The nature of the copyrighted work

- Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- The effect of the use upon the potential market for or value of the copyrighted work.

If you are considering using a portion of some copyrighted material on your web site, you have to carefully consider whether your plan falls within the fair use guidelines.

There is a wealth of opinion about each of the four elements and how they should be weighed and interpreted. Even though the process is inherently subjective, there is a variety of worksheets available that one can use in an effort to determine if a planned use is "fair" or not.

The University of Texas provides a great examination of issue at:

<http://www.utsystem.edu/OGC/IntellectualProperty/copypol2.htm#test>

Although the nature of what constitutes fair use might not always be 100% clear, most of us can develop a pretty good idea of whether our plans actually violate copyright or not.

Clearly, quoting an editorial in a newspaper as part of a larger essay on a topic and providing attribution is a lot different from taking a whole article and placing it on a website in hopes of generating profit from its use!

The best rule of thumb is to defer from using materials in a way that may not be fair use. Deference to copyright affords optimal

protection.

WRITTEN MATERIALS: GOVERNMENT DOCUMENTS

Works produced by the U.S. government don't receive copyright protection. If you want to use government documents as web content, you can do so without fearing any claims of infringement.

There is, however, a caveat to that rule. Some government documents may contain a copyright notice that indicates certain portions of specific documents cannot be used in this manner.

For instance, you might find a report from the Department of Labor that would work well with your job search site but you'd be unable to use it "as is" if it indicated a copyright was claimed by a specific author for portions (or all) of the report.

Government documents can be a great source of content (and information) but care must be taken to ascertain with certainty that no rights are reserved.

Additionally, potential users of government documents for web content should consider the fact that most government publications are not written in a manner that makes them a particularly enjoyable or interesting read.

They tend to be long on information and short on readability! Reliance upon government documents for web content can create more yawning visitors than happy ones.

There is a time and a place for everything, though. Sometimes, a great government report or a special document will be just what you need to make your website complete. In those cases, make sure there aren't any specifically delineated reserved rights and feel free to use the government document.

You can find government documents online by using any of the major search engines. Google makes it remarkably easy. They have a special federal government search function. You can also go into advanced search options on the main Google search page and adjust the results to showing only those documents that originate from a ".gov" domain.

Beware, however, of using ".gov" materials that don't come from the federal government. The law requires the federal government to relinquish copyrights in most cases, but state laws don't always follow suit.

If that article you just found came from a ".gov" site for the State of Kansas, for instance, you might not be able to use it without infringing upon copyright. Not all government documents are available for use without clearance.

HIRING A PROFESSIONAL

If you need written content, you may want to hire a professional writer to produce it. You can create a work for hire arrangement that will give you all rights to the material, making you the copyright holder.

Rates will vary based upon the quality of the writer, the nature of the project and a variety of other factors. In many cases, buying content from a professional ghostwriter can be an optimal solution.

PUBLIC DOMAIN

Public domain materials can be a great source of material, if used correctly.

The term "public domain" refers to documents that are no longer (if they were ever) protected by copyright. Sometimes they lack copyright because of their date or because of a past failure to renew. In other cases, they have intentionally been left without copyright or were created by an entity (like the U.S. federal government) who, by law, does not maintain a copyright on its output.

Many people wrongly believe that materials that still enjoy protection are in the public domain. You need only to revisit the portion of this ebook related to the terms of copyrights and their length to understand why! There is a great deal of confusion, especially surrounding works created prior to 1978.

Thus, before one relies upon public domain material, they must make sure the content in question really is in the public domain.

The University of North Carolina supplies a handy chart to assist in that determination. It can be found here:

www.unc.edu/~unc/ncgpublic-d.htm

The following sites claim to offer materials that are in the public domain. One should undertake necessary due diligence, however, before using any of the materials.

promo.net/pgindex.html

the-tech.mit.edu/Shakespeareworks.html

www.bartleby.com/

digital.library.upenn.edu/books

www.ccel.org/

www.recmusic.org/lieder/

www.pacificnet.net/~johnr/aesop/

people.redhat.com/johnsonmbooks.html

www.hti.umich.edu/p/pd-modeng/

www.tuxedo.org/~esr/jargon/jargon.html

<http://library.byu.edu/~rdheurodocs>

Project Gutenberg may also be a great source for public domain materials:

www.gutenberg.org/wiki/Main_Page

PRIVATE LABEL RIGHTS CONTENT

Private label rights content is a relatively recent development that may serve as a wonderful alternative to inappropriate content use.

Private label materials are written texts to which the buyer obtains non-exclusive rights. Along with those non-exclusive rights, the buyer is also entitled to edit the materials as he or she sees fit and to make changes as desired. The buyer can claim authorship of the work, much like a work for hire arrangement.

Because the private label rights written works are sold to a group of buyers, the price per individual purchaser is usually quite low. It is possible to obtain hundreds of pages of related content on a variety of topics for only pennies on the dollar, relative to the cost of hiring a writer to do the work from scratch.

The full nature of the "PLR" movement and its potential is beyond the scope of this ebook. If you are looking for a good source of written work that doesn't risk copyright infringement, PLR content deserves consideration.

DO IT YOURSELF

Depending upon your skills and the equipment or software you have available, you may be able to create your own images. This is a great alternative to violating copyright.

IMAGES

We hear more about stealing written content than we do about art, but that is not because graphics theft is uncommon online. It's mainly because it isn't detected as often.

That is beginning to change, however, as graphics artists are becoming more aware of the problem and aids in detection are being developed.

A graphics file is not unlike a written work. It is a product in a tangible and fixed form that receives the same kind of copyright protection as a novel in a bookstore. Misappropriating an image is just as bad as misappropriating written content.

Many uneducated webmasters and designers will find graphics for their sites simply by doing an image search at a major search engine. You might be writing an ebook about how to prevent your neighbor from stealing your television.

When you discover the need for a few more images, you might turn to Google and search for pictures of "television sets."

You can quickly choose the ones you like, download them and put them to use.

However, you can't do it legally.

Those photos, by and large, have a copyright holder. Your use of them constitutes a theft of their intellectual property.

So, what alternatives are there if you are in search of graphics and don't want to violate copyright laws?

ROYALTY-FREE STOCK IMAGES

A variety of websites makes stock photos and graphics available at reasonable prices. These sites will sell the same photos non-exclusively to any interested buyers, allowing them to supply the material inexpensively.

The variety of images available is sufficient to meet most webmaster's needs without putting a tremendous strain on anyone's wallet.

Some popular stock photo sites of this sort include:

www.istockphoto.com/

www.turbophoto.com/

www.corbis.com/

www.adobe.com/products/creativesuite/adobe-stock-photos/

www.fotosearch.com/

photos.com/

www.comstock.com/

www.acclaimimages.com/

www.bigstockphoto.com/

www.photostogo.com/

www.everystockphoto.com/

www.alamy.com/

canstockphoto.com/

www.inmagine.com/

www.tssphoto.com/

www.jupiterimages.com/

www.stockphoto.net/

www.inmagine.com/

www.PixoiPhotos.com/

www.alwaysstock.com/

www.photosights.net/

COMPLETELY FREE IMAGES

Other sites offer a variety of royalty-free stock images at absolutely no cost. These sites generally rely upon the contributions of amateur photographers and the donations of photos from professionals who just didn't have a need for particular pictures or graphics.

The licensing terms for these images will vary. Some of them can be used for any purpose without any notification. Others may be limited to non-commercial uses. Some may simply necessitate notification of use.

These can be a great source of wonderful graphics and photographs for your website without carrying any risk of copyright infringement.

Here are some great resources:

www.sxc.hu/index.phtml/

www.morguefile.com/archive/

www.stockvault.net/gallery/

www.adigitaldreamer.com/gallery/index.php/

www.openphoto.net/

www.freestockphotos.com/

www.imageafter.com/

www.freephotobank.com/

yotophoto.com/

www.geekphilosopher.comMainPagephotos.htm/

www.freenaturephotos.com/

www.stock.briony.ccsiteindex.php/

www.office.microsoft.comclipartdefault.aspx/

www.orangetrash.d2.hu/

www.photolib.noaa.gov/

www.mediaphoto.com.brindex.php?leng=eng/

www.gallery.hd.orgindex.jsp/

www.gallery.yahoo.com/

www.photolibrary.fema.gov/

www.visipix.com/

photobox.ru/

www.photocase.de

www.pixelperfectdigital.com

www.freefoto.com

www.zuadobank.com

www.dubtastic.comresources.html

www.steeldolphin.com

www.bciusa.com

www.visipix.com

www.photo.net

www.webshots.com

www.deviantart.com

www.shutterstock.comgallery.mhtml

HIRING A PROFESSIONAL

If you need something very particular, your best bet is to hire a professional to create it for you. Arranged as work for hire, this will allow you to own all copyright to the material.

Prices will vary based upon your needs, but it may be more affordable than what you might think.

APPENDIX: COPYRIGHT INFORMATION RESOURCES

If you need more information about copyright and how to either handle or avoid problems related to copyright infringement, there are varieties of resources you may consult.

Universities are particularly concerned about copyright issues. That isn't just because the matter can be rather esoteric and academic. University staff and faculty make more photocopies of copyrighted works than virtually any other group. Copyrighted materials often turn up in classrooms. Distance learning broadcasts can run afoul of copyright regulations. As such, universities make a strong effort to keep their personnel properly informed.

Here are a few strong university-operated sites filled with valuable copyright-related information:

www.lib.umich.edu/taubman/copyright.html

www.palomar.edu/atcopyright/module1part3.htm

www.rice.edu/about/copyright.html

www.lib.byu.edu/departscopyright/tutorial/intropage1.htm

www.mclibrary.duke.edu/pubsupport/copyright

APPENDIX: SAMPLE FORMS

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APPENDIX: SAMPLE COPYRIGHT REGISTRATION FORM RE:

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Form RE
For Renewal of a Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER _____

EFFECTIVE DATE OF RENEWAL REGISTRATION _____

Month _____ Day _____ Year _____

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET (FORM RE/CON).

1 RENEWAL CLAIMANT(S), ADDRESS(ES), AND STATEMENT OF CLAIM ▼ (See Instructions)

a	Name
	Address
	Claiming as (Use appropriate statement from instructions)
b	Name
	Address
	Claiming as
	Name

Please visit [Http://www.copyright.gov](http://www.copyright.gov) for a full PDF of this document

APPENDIX: SAMPLE COPYRIGHT REGISTRATION FORM TX:

Copyright Office fees are subject to change.
For current fees, check the Copyright Office
website at www.copyright.gov, write the Copy-
right Office, or call (202) 707-3000.

Form TX
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER _____

TX _____ TXU _____

EFFECTIVE DATE OF REGISTRATION _____

Month _____ Day _____ Year _____

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼ _____

PREVIOUS OR ALTERNATIVE TITLES ▼ _____

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the
collective work in which the contribution appeared. Title of Collective Work ▼ _____

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2 a NAME OF AUTHOR ▼ _____

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a
"work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country _____
City of Residence _____

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK _____
If the answer to either
of these questions is

Please visit [Http://www.copyright.gov](http://www.copyright.gov) for a full PDF of this document

APPENDIX: SAMPLE COPYRIGHT REGISTRATION FORM CA:

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Form CA
For Supplementary Registration
UNITED STATES COPYRIGHT OFFICE
REGISTRATION NUMBER _____

TX TXU PA PAU VA VAU SR SRU RE
EFFECTIVE DATE OF SUPPLEMENTARY REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

A	
Title of Work ▼	
Registration Number of the Basic Registration ▼	Year of Basic Registration ▼
Name(s) of Author(s) ▼	Name(s) of Copyright Claimant(s) ▼
B	
Location and Nature of Incorrect Information in Basic Registration ▼	
Line Number	Line Heading or Description
Incorrect Information as It Appears in Basic Registration ▼	

Please visit [Http://www.copyright.gov](http://www.copyright.gov) for a full PDF of this document

APPENDIX: Links to Forms from the U.S. Copyright Office

Form TX (with instructions)

Used for registering the copyright of non-dramatic literary works

<http://www.copyright.gov/forms/formtxi.pdf>

Form RE (with instructions)

Used for renewing a registered copyright

<http://www.copyright.gov/forms/formrei.pdf>

Form CA (with instructions)

Used for making corrections or providing additional information about a registered copyright

<http://www.copyright.gov/forms/formcawi.pdf>

APPENDIX: FAIR USE

From the U.S. Copyright Office:

One of the rights accorded to the owner of copyright is the right to reproduce or to authorize others to reproduce the work in copies or phonorecords. This right is subject to certain limitations found in sections 107 through 118 of the Copyright Act ([title 17, U. S. Code](#)).

One of the more important limitations is the doctrine of "fair use." Although fair use was not mentioned in the previous copyright law, the doctrine has developed through a substantial number of court decisions over the years. This doctrine has been codified in section 107 of the copyright law.

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered "fair," such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair:

The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;

The nature of the copyrighted work;

Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

The effect of the use upon the potential market for or value of the copyrighted work.

The distinction between "fair use" and infringement may be unclear and not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The 1961 *Report of the Register of Copyrights on the General*

Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as fair use: "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported."

Copyright protects the particular way an author has expressed himself; it does not extend to any ideas, systems, or factual information conveyed in the work.

The safest course is always to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.

When it is impracticable to obtain permission, use of copyrighted material should be avoided unless the doctrine of "fair use" would clearly apply to the situation.

The Copyright Office can neither determine if a certain use may be considered "fair" nor advise on possible copyright violations. If there is any doubt, it is advisable to consult an attorney.

FL-102, Revised January 2007

Thank you for Reading

THE END