



PCC

Print
Center

Copyright Basics

A Brief Overview of Copyright Law & Best Practices

Written, Illustrated & Produced by:
The PCC Print Center

Greetings

Thank you for choosing the PCC Print Center for your print, design, and communication needs. We serve the PCC community and the greater Portland area. We are committed to the PCC mission and towards being good stewards of the taxpayer's dollars.

In doing this work, we must maintain a delicate balance between protecting the rights of copyright holders, fair use practices, and ensuring the taxpayer, PCC, and the students are not impacted by mistakes that can be avoided. In this booklet we will discuss the basics of copyright, best practices, and how you can respect and protect your own and someone else's intellectual properties.



Attention!!

These materials are not a comprehensive overview of copyright law. There are many factors that need to be examined to make a clear judgment; such as different US Codes, international law, litigation rulings, and active cases that create the constantly evolving legal landscape.

This is a reference guide to help identify Copyright concerns, offer best practices to avoid infringing on Copyrighted materials, as well as how to protect your own Intellectual Properties.

This booklet is not a replacement for legal council from a certified professional. Any serious questions should be discussed with a licensed intellectual properties lawyer.



For more resources, information, questions about PCC's copyright policy, or to report a copyright concern.

View the online guide or contact the Copyright Committee:

<https://guides.pcc.edu/copyright>

copyright@pcc.edu

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How Copyright Affects the Print Center

There may be a time when you come to the Print Center to have a few items copied for your classes or events. In your collection of items you have a few newspaper and magazine articles, a short story you found on an online literary magazine, and a few photographs or artwork you pulled from a Google image search. With much regret the Print Center tells you that they are unable to copy the items without a release from the copyright holders. We are not trying to make your job more difficult. We are trying to protect ourselves and the interests of the college.

The Print Center is considered a “for profit” venue, even if we are primarily funded by orders placed by the college community. Due to the nature of our business, we are not able to claim fair use for projects, even if the items are being used for “educational purposes”. As a student or teacher, you may not be personally impacted for making copies. However, if the Print Center makes the copies, we can be sued for infringement, and the whole college could be negatively impacted. This kind of lawsuit would be directly damaging to PCC’s reputation and to students we serve, by potentially diverting millions of dollars that could go toward student success.

**Here are three cases of infringement.
Brought against copy shops for making
unauthorized copies of content.**

**The copies were requested by educators,
to be used for educational purposes:**

University of Chicago Press v. BISI Inc. (2004)

Princeton University Press v. Michigan Document Services (1996)

Basic Books, Inc. v. Kinko’s (1991)

Overview

Quick Overview

- An item must have a modicum of originality to qualify for copyright protection.
- Facts, recipes, processes, and non-tangible ideas are not copyrightable.
- Items with a utility purpose are not able to be copyrighted; such as bike racks, typefaces (fonts), tools, and directories.
- Copyrights, Trademarks, and Patents are three different groups within Intellectual Properties laws. They cover different types of creations and have different requirements, laws, and term lengths. An item may not be protected under one grouping, but it could be under one of the others.
- Just because it is on the internet, does not mean that the item is public domain or creative commons.
- Textbooks and media are two of the most commonly pirated content on the market. If you find a copy of a textbook, movie, or song on the internet do not share or distribute that content unless you are absolutely positive it is creative commons or public domain.
- There is no such thing as a “poor man’s copyright”. Copyright is granted automatically for original works.
- Registry for a copyright is not mandatory. It is highly recommended if you have an infringement claim you wish to pursue, as it could possibly make your case stronger.
- Creations with a higher level of creative content receive stronger levels of protections. For example, an historical biography has less protections than a science fiction novel.
- Copyright infringement can result in court-ordered damages ranging from \$250 to \$150,000, plus attorney’s fees, for each act of infringement. If the infraction is considered criminal copyright infringement, it can result in fines and jail time.
- There are provisions in place that favor educational uses with US Code § 107: fair use (see *pg 37*) and the TEACH Act. However, these rights are not absolute and have limitations.

Is it Protected or Not

Protected

- Must be tangible
- Modicum of originality
- Created by a human
- Literary works
- Musical works
Including accompanying words
- Dramatic works
Includes accompanying music
- Pantomimes & choreographic
Must have a tangible record
- Pictorial, graphic, & sculpted
- Motion pictures & audiovisual
- Sound recordings
- Architectural works

Not Protected

- Ideas
Non tangible
- Facts
- Procedures, processes, systems, method of operations
- Items created for a utility purpose
- Concepts, principles, & discoveries
Regardless of the form in which it is described, explained, illustrated, or embodied in such work
- Scenes a Faire
Items that are generic to specific genres- unoriginal

Idea vs. Expression

Ideas are not copyrightable. How an idea is expressed is. Here's a familiar story. The main character loves someone who doesn't know they exist, but the main character is loved by another. Because this idea is the basis of many stories, on its own, it cannot be copyrighted. To make it original, you must create an expression. Defining unique characters, their backstories, a story arc, and a unique world. This creates originality, so as long as it is not too similar to another author's work.

A Jury's Job is Not to Decide Talent

"A jury of one's peers", is an impartial group of citizens within a regional area shared with the defendant. It does not mean the jury must share a similar background to the defendant. It is not the court's job to attempt to determine what qualifies as "good" art, writing, etc... Doing so would be elitist and disqualify jury members without a higher economic status or educational background. Their job is only to determine originality and the fairness of the claims for work in question. Talent or lack thereof, does not decide originality.

Some things that may surprise you

If an item has fallen into the public domain, but has been republished in a collaborative or collective piece. The item itself may be in the public domain, but any footnotes, commentary, or additions accompanying the work could be under copyright. To be able to use the public domain content, you will need to find or edit the piece to only contain the public domain content.

ALWAYS READ YOUR CONTRACT DETAILS!

You could lose or be forced to share your rights to your work if you sign them away. Many self-publishing companies, record labels, employers, and social media platforms are known to include ownership clauses into their contracts and terms of use. This is completely legal, if you have signed the contract.

A photograph of an item in the public domain does not qualify the photograph for a copyright of its own. A photograph of something in the public domain would be considered a 'reproduction', and would not on its own qualify for copyright. However, if the camera angle, lighting, context, etc... create enough originality to transform the original work, those elements could be protected and copyrighted.

Most federal documents are in the public domain. However, this is not always true at state level. Many state departments utilize contracted work, which does not always mean that the contractor relinquishes their rights to the state.

Maps were among some of the first items to be protected by copyright law. To this day, few maps (even though factual) are public domain.

For more information about USGS public domain exclusions visit: www.usgs.gov/faqs/are-usgs-topographic-maps-copyrighted

Copyrights cannot be renewed after a set number of years. There is a time span for a license, then it falls into the public domain. Items created after 1978 have a duration of the author's life +70 years. Yes, even Mickey will one day be public domain.

Types of Copyright Free Content

Public Domain

Content that has fallen into the public domain has either served its allotted time under license, or the author of the content has given up their rights to the content to allow free public use.

Once something has fallen into or has been dedicated to the public domain, it cannot be reversed.

Copyright duration in the US, for works created after 1978, is the author's life + 70 years.

Creative Commons

This is content that has been created for the purpose of sharing with others. There are levels of permissions for this content.

Symbols you will see with creative commons:



Creative Commons



Public Domain



Zero: Dedicated to the public domain



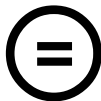
BY: Credit must be given to the creator



SA: Adaptations must be shared under the same terms



NC: Noncommercial uses only



ND: No derivatives or adaptations are permitted

Visit the creative commons information page for more information:
<https://creativecommons.org/>

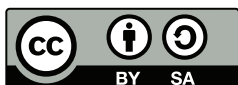
creative commons

License Types

From least to most restrictive



Distribute, remix, adapt, & build on.
Attribute must be given.
Commercial use okay.



Distribute, remix, adapt, & build on.
Attribute must be given. If modified,
materials must be shared under same
terms. Commercial use okay.



Distribute, remix, adapt, & build on.
Attribute must be given.
No Commercial use.



Distribute, remix, adapt, & build on.
Attribute must be given. If modified,
materials must be shared under same
terms. No Commercial use.



Copy & distribute.
No derivatives or adaptations.
Attribute must be given.
Commercial use okay.



Copy & distribute.
No derivatives or adaptations.
Attribute must be given.
No Commercial use.



Standard copyright

All rights reserved

Fair Use

Factor	Favoring	Opposing
Purpose & Character	Nonprofit, Educational Personal Use Research/News, Parody Attribution given	For profit Entertainment Publicly distributed, displayed, or performed
Nature of the Work	Published work, Factual, Important to educational objective. Transformative.	Unpublished work, Creative work; art, music, novels, plays, films, & fiction.
Amount & Substantiality	Small or insignificant portion of work is used. Appropriate for the educational purpose.	Large or significant portion of work is used. Portion used is central to or considered the “Heart of the Work”.
Effect on the Market	User lawfully owns a copy of the original work. One or fewer copies made, one-time use. No significant effect on the market. Licensing unavailable or limited.	Replaces the sale of a copyrighted work. Impacts the market. Reasonable licensing available. Multiple copies or repeated use. Making available online or other public location.

To determine fair use: your purpose should fall under all four of the favoring factors. If your use of the copyrighted item(s) fall under the opposing side, with one or more factors, there will be a higher probability the use will not be considered fair use.

For non-profit groups, educators, and libraries. Copyright can be a gray matter. There are provisions in place that can allow limited duplication and sharing rights for education. However, with profit venues, like print shops and bookstores, copyright is black and white. When profit is involved, it no longer qualifies as fair use. For education uses, it is best practice to request permission from an author if you intend to use and/or share copyrighted materials more than once. Repeated use becomes unfair use.

For a closer look at fair use and how to make the appropriate determinations, please visit the PCC Copyright Resources page: <https://guides.pcc.edu/copyright/fairuse>

Transformative Uses

Transformation, or how different the use of the work is in its new form compared to the original, is very important when considering copyright. Transformation is the main goal of fair use.

Fair use exists to give us the ability to take existing works and use them in new and better ways to further humanity's knowledge, culture, and understanding of the universe. Transformation is not simply throwing the content into a different media or format, but using the content in a way that creates a new, improved, or unique version *separate* from the original piece.

These defenses have been presented in court and have been found transformative enough to be considered fair use:

Creating databases to make information searchable

- Authors' Guild v Google (2015)
- Fox News v TVEYES, Inc. (2014)

Copying a computer program to make new programs

- Oracle v Google (2021)

Quoting and reprinting to report the news

- Religious Technology Center v Pagliarina (1995)
- Righthaven LLC v JAMA (2011)

Making books and materials available to people with disabilities

- Authors' Guild v Hathitrust (2013)

Making fun of culture, current events, and people as parodies

- Campbell v Acuff-Rose Music, Inc. (1994)
- Leibovitz v Paramount Pictures (1996)

Using old art to make new art*

- Cariou v Prince (2013)
- Andy Warhol Foundation v Goldsmith (2019)

Recording television at home to watch later

- Universal Studios v Sony Corp. (1984)

Documenting history in a world full of logos and cultural artifacts

Art cases are involved and for many of the cases the verdict is not favorable for the lesser known artist. Many outcomes are disputed in litigation for years afterward. Please consider the fairness of this when choosing to use another artist's work.

Notes:

Educational Uses

Copyright for Instructors

The Balancing Act

Having materials that are accessible for students while also respecting copyright can be a delicate balancing act. You want to be able to offer handouts in class, instead of requiring an expensive textbook, but creating custom content is very time consuming. As a teacher you do have fair use rights and the TEACH act, but these rights are not absolute and it doesn't mean that you can copy everything without the appropriate licensing.

Student Work: Copyright & FERPA

Did you know that many assignments students turn in could be protected under copyright? Reproducing, posting in a public area, or sharing a student's work without their consent is not only a violation of their authorship rights, but also a violation of their privacy. You must ask a student before you can use or share their work outside the class they are in. A student under 18 must also have parent/guardian approval. You should be open with your students if you intend to have their creations posted publicly, or if you intend to share it later. A student has the right to refuse the performance, posting, or sharing of their work with others outside of the class they are enrolled in.

Out of Print Publications

Never assume that an out of print book is public domain. A publication may be out of print by a publisher, but an author could still have active rights to the work. You might be able to claim a couple copies as fair use. However, this does not mean that the content may be reprinted repeatedly, shared electronically, or to be sold to anyone without the author's permission. Before you make an out of print book your required reading, please consider that the author may still intend to republish their content at any time. If possible, it's always best practice to reach out to these authors, you may be surprised by their response.

ADA Accessibility

The US government has provided grants and programs for instructors and students to modify or reproduce copyrighted educational content for individuals with specific learning needs.

For information or assistance with these programs and grants, contact disabilities services: disabilities.services@pcc.edu

Copyright for Students:

Plagiarism vs Copyright Infringement

Copyright infringement is the violation of the rights that an author has for their creation. These are constitutional rights and are automatic upon the creation of a moderately original, tangible product. These protections control how their creation is reproduced, displayed, performed, or what derivatives can be created. Failure to respect these rights can result in fines, mandated destruction of your project/use, or possible jail time. It is impossible to determine fair use until you are in front of a judge. It is always best to create your own content if you are not intending to ask for the right to use someone else's creation.

Plagiarism is defined as taking an original work of another and presenting it as your own. This is an ethical concern rather than legal, as not all things plagiarized are copyrighted. Purposefully passing off anyone's work as your own without attributing the source is lying and is wrong. This can affect your future career and your reputation as a student. It also affects the original author and everyone you lied to. Attribute any and all sources you use. Never assume that no one will ever know. Because you will... Can you live with that?

Derivatives

Derivative works are expressive creations that include a major copyrightable element of a preexisting piece. An author has the right to control the derivatives of their original works.

The copyrightability of a derivative is completely based on the originality of the "modified" piece, and copyright law only covers the new content. The new content must contain sufficient new expression that clearly sets it apart from the original. Understand that not all fan art, fan fiction, remastered movies, or music using clips of audio are completely safe from copyright infringement suits, nor do they automatically qualify for their own copyright protections.* Remember, transformation is important.

Remember, the main goal for copyright is originality, creativity, and the advancement of culture. Consider how you are potentially affecting the original author and how you would feel if you were in their place.

Original characters with their back stories and characteristics, music scores with their lyrics, artwork, writing, and visual recordings are all protected under U.S.C. 106A (see pg 35) & VARA (Visual Artists Rights Act).

Resources:

Here are a few resources that offer access to public domain, creative commons, or other research/educational materials. These sites are for literature, music, art, and sound recordings.

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Use your discretion with online resources. They should be specifically identified as public domain or creative commons sources. Some items may only be available to be shared in their online format.

Some sites may require an account to access.

If a subscription is required, most college libraries already offer access, or simply need to be asked to add the item to be a benefit to the students.

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Library of Congress

<https://www.loc.gov/>

Internet Library

<https://archive.org/>

Smithsonian

<https://www.si.edu/openaccess>

National Gallery of Art

<https://www.nga.gov/education.html>

Public Domain Art Archives

<https://artvee.com/>

Gutenberg Project

<http://www.gutenberg.org/>

Public Domain Audio Books

<https://librivox.org/>

Public Domain Music Recordings and Sheet Music

<https://musopen.org/>

Solutions

- Create a digital format of your syllabus/assignments with links to the original website for videos, music, images, articles, and other readings.
- Request one or more copies to be on reserve at the Library.
- If you need access to specific copyrighted content for an individual with special needs. Contact disabilities services.
- If you have a lot of copyrighted materials for your classes, offer your students digital access routes to this content.

Sharing a single user license for an ebook is considered piracy. Please do not share pirated ebooks or content.

- If content requires a subscription, check to see if your library has an active membership to allow you access. If they do not have access already, you can request it.
- If you must use copyrighted content in your class materials with the intention to sell them in the bookstore. Don't waste anyone's time, including your own. Request permissions before designing a class around the content. You will need to provide the license to the print shop and the bookstore. Licenses may have quantity or time limits.

PCC Solutions & Help

PCC Copyright Committee

<https://guides.pcc.edu/copyright>

Open Educational Resources

<https://www.pcc.edu/library/oer/>

Disabilities Services

<https://www.pcc.edu/library/oer/>

External Low Cost Solutions

Dover Publications

<https://store.doverpublications.com/>

Lumen Learning

<https://lumenlearning.com/>

Open Textbook Library

<https://open.umn.edu/opentextbooks/>

OpenStax

<https://openstax.org/>

General Rules Recap

- Never assume something is public domain or Fair Use, just because it is on the internet.
- Always verify, cite, and attribute your sources.
- When in doubt write, draw, photograph, choreograph, record your own creations and materials.
- Don't be afraid to ask the author for permission.
- Fair use does not allow you absolute infringement immunity if you are a teacher or student.
- Straight facts are not copyrightable; news articles, maps, and many other factual items can be, always double check.
- The more creative a piece is, the more protection they have.
- An out of print book, does not mean it is public domain.
- Items created after 1978, have a copyright duration of the author's life +70 years.

Copyright is a robust and confusing subject

For assistance with determining fair use, questions about derivatives, solutions for content sharing, or to report a potential concern.

Please contact the Copyright Committee at:
copyright@pcc.edu

Put yourself in the author's position.

**Would you like someone to copy,
distribute, modify, or claim something
that you created without your permission?**

Notes:

Releases & Licensing

Releases & Licenses

A license is a set of permissions granted by a copyright holder allowing interested parties to use their intellectual properties. These permissions generally come with a preset of rules for the use of the copyrighted piece, product, or service.

A release is an agreement in which someone releases an individual from legal liability for a particular activity. Releases are often used to avoid lawsuits involving an individual's right to privacy or right of publicity. It may also protect against claims of defamation.

Terms & Conditions of a License

Licenses differ from person to person, product to product, and license to license. Owning a license does not equal 100-percent unlimited access, performance, or distribution of a copyrighted piece. Each license is accompanied by Terms of Use. These terms may have performance or display limits, distribution guidelines, or limited liabilities for the availability and access to the copyrighted product.

Here are some common licenses that have Terms of Use:

- Digital Media - games, movies, music
- Ebooks - textbooks, literature, magazines
- Computer Programs & Apps
- Creative Commons items

The main point, is that even though you have a license to use a product, it does not mean that you have full rights to make money off of that license, distribute copies of the product, publicly screen or perform the piece, or to modify the product without the author's permissions. Please read your Terms of Use.

Many digital licenses are distributed by third-parties using their own licensing agreements.

This means that if their license runs out or if the author chooses to no longer be hosted by the service, it could also deactivate your access. Because these licenses are not directly from the owner of the copyright, your rights are subject to the Terms of Use from the third-party, these do not grant absolute ownership. Unfortunately, these agreements do not usually favor the end user.

Sorry, no refunds.

Types of Licensing

Licensing agreements are not necessarily a list of items telling you what you can't do. A license outlines the conditions of your use of the content as the consumer, while detailing the protections to the rights of the copyright owner. You must understand that as a copyright holder, they alone have the right to control the distribution, modification, performance, and use of their protected creation.

Licensing agreements do not always require purchase, some authors are happy to allow the use of their creations, they just need to be asked first.

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Performance & Display - This covers the public display and performance of multimedia, art, music, cinema, plays, and choreography. If a copyrighted piece is being used outside of personal/private use, it is considered a public display. For example, playing music in a common area at a college, or screening a movie as an event that is open for the public.

Duplication & Distribution - If you have purchased a copy of a book, game, movie, song, etc... whether it is digital or physical. You have personal ownership rights to your copy. This means you can modify your copy, print portions for your own personal use, or sell and relinquish all rights to your copy to someone else. This does not mean that you can make multiple duplications of the item to sell or distribute to your classmates or friends. Digital versions have host server rights and may not allow the transfer of your license to other users. Proper transfer of a digital license would require the removal of the license from your user account. If you are duplicating and distributing outside of the agreed rights, this is considered piracy, and is illegal.

Commercial Uses - This is an agreement with the author to allow monetary gain for the distribution of their property. Many authors will allow commercial use, as long as they receive a percentage of the proceeds.

Creative Commons - As we discussed in the section about Creative Commons, there are varying levels to Creative Commons rights. Some authors may not allow modification or commercial use, others may be 100% public domain. It is important to understand what rights an author reserves with items in the Creative Commons. If something says non-commercial (NC), this means that the item cannot be used for monetary gain.

Understanding Releases

As a creator, whether it is photography, painting, or writing, you need to become familiar with releases and why they are important. Here are a few examples.

- If the main subject of the piece is an individual
- If you intend to create revenue stream with the finished piece
- If the finished piece may be controversial

Not everything involving another person, place, or thing requires a release. There are some instances where it would be unproductive and distracting to obtain a release from everyone involved.

- Photograph is taken in a public event where it is generally accepted that photos may be used for later publications.
- Event is a political or general assembly for the public.
- In public spaces where the focus is not on anyone in particular.



If there is no release created by an author for a piece there could be a number of outcomes. If an individual believes that their right of privacy has been violated, that the image or quote provided has somehow become damaging to their reputation, or that they were unaware that the piece would be used for monetary gain. The results could be an extensive court case with the potential of fines, settlements for royalties, or an order to destroy the master copy. Here are some cases where this has happened.

- Pink Floyd 'The Wall' v Islington Green School student choir
- Fairey 'Obama Hope' Poster v Associated Press (2009)

Some situations may arise where an individual cannot pursue legal means, instead they may choose to use social media.

- **Fairey 'We the People' series:**

The model agreed for the activist campaign, but was not aware that the pieces would become commercial. She expressed concern through social media about the use of her image for monetary gain rather than activism she had agreed to.

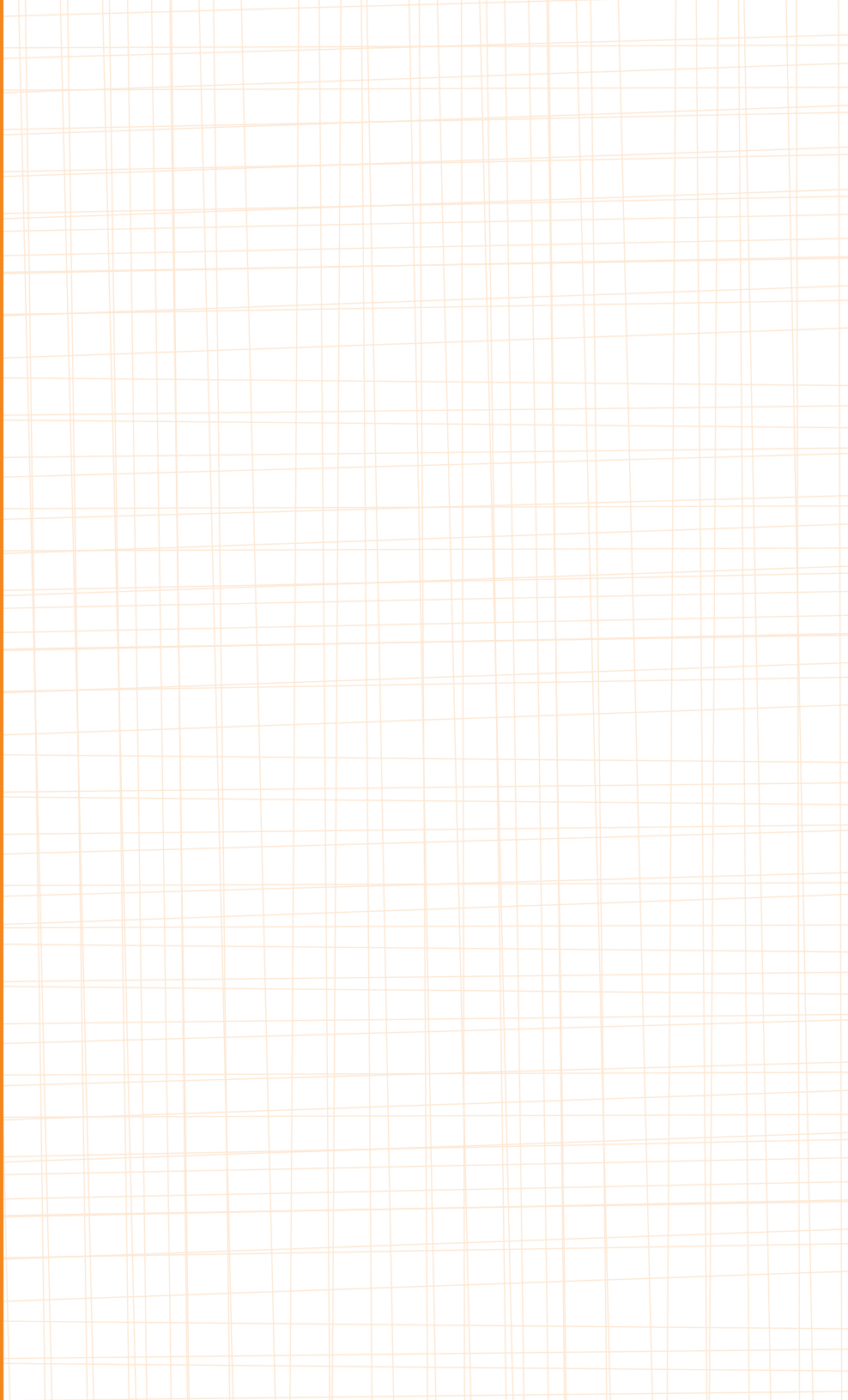
- **Charlie D'Amelio 'Renegade Dance' v Jalaiah Harmon:**

Charlie became famous by using the dance in a viral video. Due to current court rulings on choreography*, Jalaiah sought attribution as the creator of the dance moves through a social media campaign. She was eventually rewarded attribution as the creator of the dance.

Epic Games v. multiple parties - For the use of several famous dances within the game Fortnite, available for purchase, without attribution to the original dancers.

Notes:

Frequently Asked Questions



Copyright FAQs*

What is copyright?

Copyright is a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.

What does copyright protect?

Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.

How is a copyright different from a patent or a trademark?

Copyright protects original works of authorship, while a patent protects inventions or discoveries. Ideas and discoveries are not protected by the copyright law, although the way in which they are expressed may be. A trademark protects words, phrases, symbols, or designs identifying the source of the goods or services of one party and distinguishing them from those of others.

When is my work protected?

Your work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.

Do I have to register with the copyright office to be protected?

No. In general, registration is voluntary. Copyright exists from the moment the work is created. You will have to register, however, if you wish to bring a lawsuit for infringement of a U.S. work.

I have heard about a “poor man’s copyright.” What is it?

The practice of sending a copy of your own work to yourself is sometimes called a “poor man’s copyright.” There is no provision in the copyright law regarding any such type of protection, and it is not a substitute for registration.

Why should I register my work if copyright protection is automatic?

Registration is recommended for a number of reasons. Many choose to register their works because they wish to have the facts of their copyright on the public record and have a certificate of registration. Registered works may be eligible for statutory damages and attorney's fees in successful litigation. Finally, if registration occurs within five years of publication, it is considered prima facie evidence in a court of law.

Is my copyright good in other countries?

The United States has copyright relations with most countries throughout the world, and as a result of these agreements, we honor each other's citizens' copyrights. However, the United States does not have such copyright relationships with every country.

Who can claim a copyright?

Currently, US Code states that only humans can claim a copyright. This is currently being discussed by legal communities since AI and animal creations are becoming more common.

If there is no copyright notice, does that mean there is no copyright?

The absence of a copyright notice does not mean that there is no copyright. Copyright protection exists automatically from the moment of creation in a tangible fixed form, which is generally considered to include electronic form. A notice is not required to protect copyright.

When can I assume that there is no copyright protection for a work?

Work created by employees of the federal government as a part of their job is in the public domain, i.e., not protected by copyright. This is why you may use American Life Histories: Manuscripts from the Federal Writers' Project, 1936-1940, materials in American Memory without being concerned with infringing on someone's copyright (other legal concerns may be raised in the Restriction Statements). Remember to credit your sources, even for government materials. Please note this applies only to Federal Government, not always State, and only content created as part of their jobs, not work for hire.

Does copyright give the owner an absolute monopoly?

Although copyright is an exclusive right - a sort of restricted monopoly - it is limited in various respects. Authors control only rights specified under the copyright law and may not control other uses. Copyright is also limited by duration and, under American law, by fair use. As to duration, copyrights do eventually expire. Where possible, the Restriction Statement accompanying each collection notes that copyright protection has expired. In general, copyrights last for the life of the author, plus 70 years. In some works, however, the rules for calculating duration are complex. You should read the U.S. Copyright Office's circular 'Duration of Copyright' to learn more about calculating duration of copyright in general.

Notes:

US Codes

17 U.S.C. § 102**Subject of copyright: In General**

A. Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

Works of authorship include the following categories:

1. Literary works
2. Musical works, including any accompanying words
3. Dramatic works, including any accompanying music
4. Pantomimes and choreographic works
5. Pictorial, graphic, and sculpted works
6. Motion pictures and other audiovisual works
7. Sound recordings
8. Architectural works

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. § 106**Exclusive rights in copyrighted works**

Subject to sections 107 – 122, the owner of the copyright under this title has the exclusive rights to do and to authorize any of the following:

1. To reproduce the copyrighted works based upon the copyrighted work;
2. To preparer derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

17 U.S.C. § 106A**Rights of certain authors to attribution and integrity**

A. **Rights of Attribution and Integrity** – Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art –

1. Shall have the right-
 - a. To claim authorship of that work, and
 - b. To prevent the use of his or her name as the author of any work of visual art which he or she did not create;
2. Shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, manipulation, or other modification of the work which would be prejudicial to his or her honor or reputation; and
3. Subject to the limitations set forth in section 113(d), shall have the right-
 - c. To prevent any intentional distortion, manipulation, or other modification of that work which would be prejudicial to his or her honor or reputation and any intentional distortion, manipulation, or modification of that work is a violation of that right, and
 - d. To prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

B. **Scope and Exercise of Rights.** – Only the author of a work of visual art has the rights conferred by subsection (A) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are co-owners of the rights conferred by subsection (A) in that work.

C. **Exceptions.** –

1. The modification of a work of visual art which is not a result of the passage of time or the inherent nature of the materials is not a distortion, mutilation, or other modification described in subsection (A.3.a).
2. The modification of a work of visual art which is the result of conservation, or of the public presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (A.3), unless the modification is caused by gross negligence.

D. The rights described in paragraphs (1) & (2) of subsection (A) shall not apply to any reproduction, depiction, portrayal, or other use

of a work in, upon, or in any connection with any item described in subparagraph A or B or the definition of "work of visual art" in section 101, and any such reproduction, depiction, mutilation, or other modification described in paragraph (3) of subsection (A).

E. Duration of Rights. –

1. With respect to works of visual art created on or after the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (A) shall endure for a term consisting of the life of the author.
2. With respect to works of visual art created before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, but title has not, as of such effective date, been transferred from the author, the rights conferred by subsection (A) shall coextensive with, and shall expire at the same time as, the rights conferred by section 106.
3. In the case of a joint work prepared by two or more authors, the rights conferred by subsection (A) shall endure for a term consisting of the life of the last surviving author.
4. All terms of the rights conferred by subsection a) run to the end of the calendar year in which they would otherwise expire.

F. Transfer and Waiver. –

1. The rights conferred by subsection (A) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.
2. Ownership of the rights conferred by subsection (A) with respect to a work of visual art is distinct from the ownership of any copy of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (A). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (A) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright of that work.

17 U.S.C. § 107**Limitations on exclusive rights: Fair Use**

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

17 U.S.C. § 201**Ownership of Copyright**

A. Initial Ownership- Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a "joint work" are co-owners of copyright in the work.

B. Works Made for Hire- In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for the purpose of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

C. Contributions to Collective Works- Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In absence of an express transfer of the copyright or any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of the collective work, and any later collective work in the same series.

D. Transfer Ownership-

1. The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of the law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

2. Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

E. Involuntary Transfer- When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title, except as provided under title 11.

Glossary

Terms and Definitions

Attribution - The act of giving credit for a work to an author, artist, or person.

Author - The originator or creator of a tangible product qualifying for copyright protections.

Collaboration - The act of working with someone to produce or create something. *See Joint Author.*

Commercial - Making or intending to make a profit.

Compilation - The action or process of producing something, especially a list, book, or report, by assembling information collected from other sources.

Copyright - The exclusive legal right, given to an originator or an assignee to print, publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.

Creative Commons - A set of various licenses that allow people to share their copyrighted work to be copied, edited, built upon, etc., while retaining the copyright to the original work. Often requiring attribution. *See Attribution.*

Derivative - A creation originating from, based upon, or influenced by another's copyrighted work.

Display - A prominent display of an object, performance, or event where an item can be observed publicly.

Distribute - The act of giving an item to multiple parties.

Duplicate - The act of creating additional copies of an original product.

For Profit - An organization that operates to make a profit. *See Commercial.*

Infringement - The act of breaking the terms of law or an agreement. A violation of an individual's rights. *See Copyright.*

Joint-Author - A collaborative piece where two or more individuals have a share in a copyrighted piece. Courts will often require a pre-collaboration written contract in order to establish these agreements and the percentage of ownership allotted for each contribution.

Liability - The responsibly placed on a party for the actions performed by themselves or by another with or without their knowledge.

Primary Liability - The act of services performed by in-house employees or an individual personally (direct infringement).

Secondary Liabilities - Not directly involved in the acts or services being performed. Is split into two levels;

Contributory - individual knowingly contributed, constructively, or materially in the infringement.

Vicarious - had the ability to supervise and stop the infringement but failed to do so. Individual may have benefited monetarily.

License - A set of permissions granted by a copyright holder, allowing an interested party to use a copyrighted piece. Usually with an agreed upon set of rules, terms of use.

Parody - An imitation of the style of a writer, artist, or genre with deliberate exaggeration for comic effect.

Patent - A license conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention.

Performance - A display or event involving items of music, video, choreography, drama, or other potentially copyrighted content. *See Display.*

Piracy - The act of unlawful duplication and distribution of copyrighted content, with or without monetary gain.

Plagiarism - The act of passing someone else's creations as your own without appropriate attribution.

Public Domain - Content that has run its copyright duration period or has been dedicated to public access. Is no longer subject to copyright restrictions.

Release - An agreement by which and individual releases another from legal liabilities for an agreed upon activity.

Scenes-a-Faire - Elements of genres that are not protected under copyright law due to their generic and expected place in that genre.

Tangible - A clear and definite product, cannot just be a thought. E.G. a video recording or writeup of a dance move, a sketch, a rough draft of a novel, an audio recording.

Third-Party - A separate entity or organization acting as a distributor, vendor, or agent between an originator of a product and an interested party, such as a customer.

Trademark - A symbol, word, or words legally registered or established by use as representing a company or product.

Transformative - A measurable change in use or design of a piece that could potentially be original enough to qualify for its own copyright for the newer portion of the content.

Work-for-hire - A contracted agreement between an employer and a creator that determines whether a creation is the full property of the employer or the employee that has created the work.

Notes:

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