

KawarthaLakesArtsCouncil

COPYRIGHT FOR CREATORS

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Panelist

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CONNECT Music Licensing



Copyright for Creators



Penni Holdham, CSEP
Certified Special Event Professional
with

Dwayne Collins,
Digital Scholarship Librarian, Trent University
and

Catherine Jones
Executive Director, CONNECT music licensing

Moderator – Dianne Lister

Intellectual Property



TRADEMARK

PATENTS

INDUSTRIAL DESIGN

TRADE SECRETS

COPYRIGHT

What is Copyright?



1. YOUR LEGAL RIGHT TO PROTECT YOUR WORK
2. COPYRIGHT LAW IDENTIFIES THE LEGALLY ENFORCEABLE RIGHTS INHERENT IN CREATIVE AND ARTISTIC WORKS
3. IT IS THE 'RIGHT TO COPY' GRANTED TO THE OWNER OF A 'WORK' THAT IS COPYRIGHTED
2. COPYRIGHT PROTECTS THE REPUTATION OF THE CREATOR

Do I have to register to enjoy protection?



IT IS ENCOURAGED FOR CREATORS TO 'REGISTER' THEIR WORKS HOWEVER, IT IS NOT ESSENTIAL

A REGISTRATION PROCESS IS OFFERED IN MOST AREAS OF CREATIVE DISCIPLINES

WHEN INFRINGEMENT OF A WORK IS INDICATED, IT IS DIFFICULT TO PROVE YOU ARE THE CREATOR IF YOUR WORK IS NOT REGISTERED OR PUBLISHED

What are the basic requirements for Copyright protection?



ORIGINALITY

FIXATION

NATIONALITY & PLACE OF CREATION

What is protected by Copyright?

LITERARY WORK

Books, Novels, Articles
Documentaries & Biographies
Plays, Scripts

DRAMATIC – PERFORMANCE

Movie Screen Plays
Reality TV
Dance & Choreography
Theatre

MUSICAL WORK

Lyrics & composition
Music Scores
Sound Recordings

PRODUCTION WORK

Performers & Recordings
Public Broadcast
Lighting Plots & Staging details

ARTISTIC WORK

Painting
Drawing, Illustration
Graphics
Designs & Patterns

DIGITAL TECHNOLOGIES

Videos
Blogs & Posts
Photography

When does a Copyright fall into public domain?



1. 50 YEARS AFTER PUBLICATION IF SUBJECT TO CROWN COPYRIGHT
2. 50 YEARS AFTER THE DEATH OF ITS CREATOR
3. 50 YEARS AFTER PUBLICATION WHERE THE CREATOR IS UNKNOWN OR- IF NOT PUBLISHED – THEN 75 YEARS AFTER ITS CREATION
4. IF IT IS A DIGITAL OR COMMUNICATIONS SIGNAL, 50 YEARS AFTER THE SIGNAL IS BROADCAST.

Am I the owner of my work?



OWNER

OR

AUTHOR

COULD I BE BOTH?

Rights of the Owner



OWNERSHIP OF A COPYRIGHT IDENTIFIES WHO HAS CONTROL OVER THE USE OF A PARTICULAR WORK

THE OWNER HAS THE RIGHT TO SAY YES OR NO TO A SPECIFIC USE OF THE WORK

THE AUTHOR IS NOT ALWAYS THE OWNER

OWNERSHIP OF A COPYRIGHT DOES NOT OVERRULE THE AUTHOR'S MORAL RIGHTS

What if my work is for payment as Employee or Contract work?



WORK DONE BY AN EMPLOYEE – IS OWNED BY THE EMPLOYER PROVIDING THAT:

1. THE EMPLOYEE IS EMPLOYED UNDER A 'CONTRACT OF SERVICE'
2. THERE ARE NO PROVISIONS WHICH STATE THE EMPLOYEE OWNS THE COPYRIGHT
3. THE WORK IS CREATED IN THE COURSE OF PERFORMING THIS CONTRACT
4. FOR FREELANCERS- THE GENERAL RULE IS THEY ARE THE AUTHORS AND 1ST COPYRIGHT OWNERS OF THEIR WORK.

Rights of the Creator



MORAL RIGHTS & NEIGHBOURING RIGHTS

PROTECT THE RIGHTS OF THE CREATOR

INTEGRITY

PROTECTS AGAINST DISTORTION OR MUTILATION OF A WORK THAT MIGHT PREJUDICE THE AUTHOR'S REPUTATION

PATERNITY

GRANTS THE AUTHOR THE RIGHT TO BE ASSOCIATED WITH THE WORK OR NOT

Michael Snow – Geese at Eaton Centre



What is Infringement?



THIS IS WHEN AN ORIGINAL CREATIVE WORK APPEARS TO BE COPIED, REPRODUCED OR UTILIZED WITHOUT PERMISSION FROM THE CREATOR OR OWNER OF THE WORK IN QUESTION

OCCURS IF THE ORIGINAL WORK IS PROVEN TO BE THE SOURCE FROM WHICH THE REPRODUCTION WAS DERIVED AND... IF THERE IS SUBSTANTIAL SIMILARITY BETWEEN THE ALLEGED INFRINGEMENT AND THE ORIGINAL WORK

INFRINGEMENT OF COPYRIGHT IS CONCERNED WITH THE 'QUALITY' OF WHAT WAS COPIED AND THE PURPOSE FOR THE COPYING

6 Key factors for Fair Use Dealings



1. PURPOSE AND CHARACTER OF USE
2. NATURE OF THE ORIGINAL WORK
3. AMOUNT AND SUBSTANCE OF THE PORTION OF YOUR WORK THAT IS USED
4. EFFECT ON THE MARKET YOUR WORK WOULD FALL INTO
5. TRANSFORMATIVE IMPACT
6. EDUCATION APPLICATIONS

The Fifth Factor

Transformative Use



ADDED TO FAIR USE LAW IN 1994-

A DERIVATIVE WORK IS CONSIDERED
'TRANSFORMATIVE' IF IT USES A SOURCE WORK
IN A COMPLETELY NEW OR UNEXPECTED WAY

TRANSFORMATIVE - FAIR USE

PARODY- FREE-SPEECH

NEW TECHNOLOGY- IMAGE SEARCH

Educators and Learning



PERFORMANCE, PRESENTATION OR
DISPLAY OF COPYRIGHTED MATERIALS IN A
NOT-FOR-PROFIT CLASSROOM SETTING IS
CONSIDERED TO BE 'FAIR USE'

THERE IS A LOT OF GRAY AREA OFFERING
MANY VARIABLES

ACCREDITATION IS ALWAYS RECOMMENDED

Transformative or not?

Art Rogers
'Puppies'



Jeff Koons
'String of Puppies'



Transformative or not?



Lawren Harris

North Shore-Lake Superior



Penni Holdham

Old Stump Revisited



Copyright and the Digital world



NO ELECTRONIC THEFT ACT (NET) – 1997

IT IS A FEDERAL CRIME TO REPRODUCE,
DISTRIBUTE, OR SHARE COPIES OF ELECTRONIC
COPYRIGHT WORKS SUCH AS SONGS, MOVIES,
GAMES OR SOFTWARE PROGRAMS

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) – 1998

STRENGTHENS LEGAL PROTECTION ON
INTELLECTUAL PROPERTY RIGHTS IN THE PRESENCE
OF NEW COMMUNICATION TECHNOLOGIES SUCH AS
INTERNET

Protecting Your Website



1. Include a link to your Terms of Use statement on each page of your website
2. Your Terms of Use should reflect your intention
3. Include the Copyright Symbol as well as, Name of Copyright Owner

Sample Statement- Copyright Term of Use

Except as permitted by the copyright law applicable to you, you may not reproduce or communicate any of the content on this website, including files downloadable from this site, without the permission of the copyright owner.

You Tube & Google- dispelling the Myths



1. If there is no Copyright notification it is still protected
2. Even where there is no charge or fee you do not have the right to copy and share without permission
3. Just because something is found on the internet does not mean it is in the Public Domain
4. Computers do not make copies- Human do!
5. If I do not 'defend' my copy 'rights' – I could lose protection
6. If I create my own story based on another creators characters – does my new work belong to me?
7. I am providing FREE advertising by using this image
8. I received this by email so I think I can post it

In summary



- Almost all things are copyrighted the moment they are ‘fixated’
- Copyrights do not change whether money is exchanged or not
- Posting to the net does not grant Public Domain
- Fair Use is meant to provide for certain education and social purposes
- Copyright is not lost simply because you did not defend it
- A name or title does not meet copyright governance
- Copyright is civil law rather than criminal law where special rights of criminals do not apply
- Rational that your ‘copying’ is of benefit to the copyright holder is ill-informed
- When in doubt- ask permission

Thank-you



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