

Can I Post This? Putting Creative Content Online

Colorado Attorneys for the Arts

Dave Ratner
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Online Content

Made up of copyrighted works

For example

- Music, video, 2D images
- Words that are written and/or spoken
- Choreography, sculptures

All these independent copyrighted works combine to create a new copyrighted work



What is a Copyright?

Copyright protects an original work that is permanently fixed in some way

Protects works that are

- Literary works;
- Musical works;
- Dramatic works;
- Pantomimes and choreographic works;
- Pictorial, graphic, and sculptural works;
- Motion pictures and videos;
- Architectural works.



Rights Granted by Copyright

Exclusive Rights

- (1) Reproduce
- (2) Prepare Derivative Works
- (3) Distribute
- (4) Perform
- (5) Display
- (6) Perform by Digital Audio Transmission



Copyrights Ownership

Who Owns the Copyright?

The author (creator) is the claimant (owner)

If an employee creates the work within the scope of his/her employment, the employer owns the copyright as a “Work For Hire”

Work for Hire can also be contracted



Using Others' Copyrights

How can we use someone else's copyright in our content?

Get a License!

A license is a specific grant of rights from the owner to another party



Licensing

Direct License: Person A grants Person B the rights to use the content

Blanket License: a Company owns the rights to many pieces of content and you get a license to use some or all of that content

A license should **always be in writing**



Blanket Licenses

Generally from online databases

This can be OK if licensed properly

Read the Terms of Use

Ensure that your planned use fits into the terms being offered



Does Posting Grant a License?

When you post something you grant a license

- Terms vary
- You do not give up ownership
- Others cannot use your work (except reposting)

Similarly, you cannot use someone else's work just because they posted it



Copyright Term

Copyright last for a set amount of time (the “term”)

Currently, the term is 70 years after the life of the author

Or 95 years after first publication or 120 years after creation, whichever expires first



Public Domain

After the copyright term expires, the work enters the public domain

Works in the public domain are not protected by copyright and are therefore free to use

However, it is VERY difficult to determine when things enter the public domain because the law has changed so many times

Generally, anything created before 1925 will be in the public domain

Anything after that requires investigation and analysis



Fair Use

If the use of someone else's copyright is "fair" then it's permissible

- But this is a complex analysis!

Fair Use is a defense to infringement

- It is not an affirmative right

It is a case by case analysis



Four Fair Use Factors

Four Factors

- The purpose and character of your use
- The nature of the copyrighted work
- The amount and substantiality of the portion taken, and
- The effect of the use upon the potential market.

We DO NOT rely upon fair use regularly

It does apply in certainly scenarios



Music Copyright

Twice as complicated!

Two copyrights in every piece of music

- 1. Composition** (music & lyrics)
- 2. Sound Recording** (aka the "master")



Music Licensing

Including music in connection with a moving image requires a synchronization (“sync”) license

Must get sync licenses for both the composition and the master

Sync licenses are VERY expensive



Music Licensing

Also requires a public performance license

- Public performance is normally covered by Performing Rights Organizations (PROs)
- PROs in the US are ASCAP, BMI, and SESAC

May also require a mechanical license

- To mechanically reproduce the composition in a recording



Exceptions

YouTube

- Content ID System

Creative Commons

- Alternate licensing scheme

Live Streams

- Not an exception



Now What?

Think about the copyrights you use in your content

- Do you have the rights?
- Can you get the rights?

Be sure to “clear” the content you are using



Can I Post This?

Yes, if you have the rights

Yes, if you license the rights

Maybe, if someone else posted it

Yes, if it's public domain

Maybe, if it's fair use

Always think ahead and respect others' rights!



Thank You!

Dave Ratner

dave@creativelawnetwork.com

Creative Law Network

720-924-6529

