
Copyright Programming for Public and Academic Libraries:

**Educating to Support Creators &
Enhance Access**

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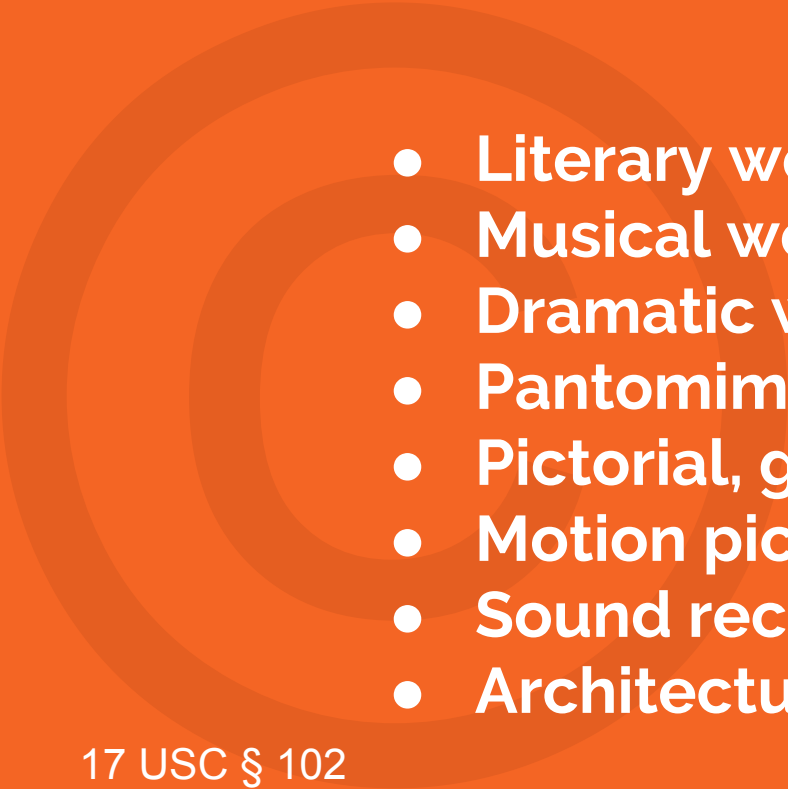
1.
copyright in 5 minutes
(or less)



**(almost*)
everything
you create** is
copyrighted**

* “Copyright subsists...in original works of authorship fixed in any tangible medium of expression...” Such as, literary works, graphics, photos, videos, recordings. 17 USC § 102

** *or find on the Internet*

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- **Literary works**
 - **Musical works**
 - **Dramatic works**
 - **Pantomimes & choreographic works**
 - **Pictorial, graphic & sculptural works**
 - **Motion pictures & other audiovisual works**
 - **Sound recordings**
 - **Architectural works**

**... but not
everything
created is
copyrighted**



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- ideas, facts, methods, processes, etc. (17 USC § 102)
 - short phrases & titles
 - expired copyrights (§§ 302-305)
 - works not by people (chimps, accidents)
 - federal government works (§ 105)
 - works dedicated to the public domain
 - works that are not *fixed in a tangible form*
 - mere typeface
 - blank forms
 - familiar symbols & designs
 - layout, design, format



See Copyright Office, Circular 33: "Works Not Protected by Copyright"



**copyright
is the right to
control
copies &
derivative works**

- 17 USC § 106: Exclusive rights to control reproductions, distributions of copies, prepare derivative works, plus control public performances and displays
-

... but not all
other uses
(not even all
other copies)



Many limitations, exceptions, and defenses!

- Fair Use (17 USC § 107)
- Library Uses (§ 108)
- First Sale (§ 109)
- Classroom & other performances (§ 110)
- Various other exceptions (§§ 111-121)
- Accessibility (§ 121)
- Statute of limitations
- Good faith belief use was fair (§ 504(c)(2))
- *De Minimis*
- Statute of limitations & laches
- Unclean hands, copyright misuse



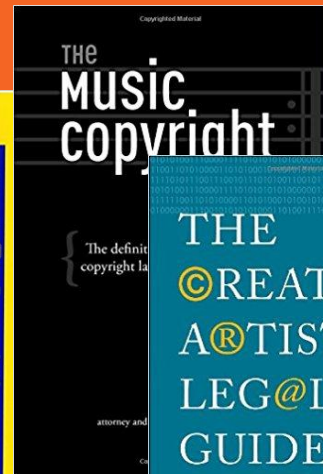
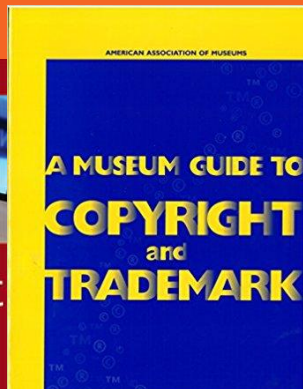
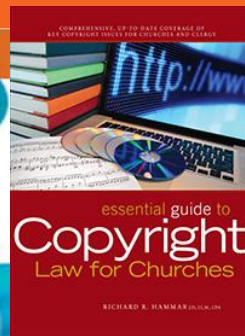
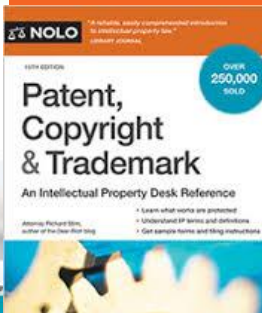
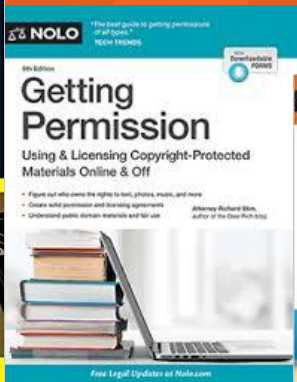
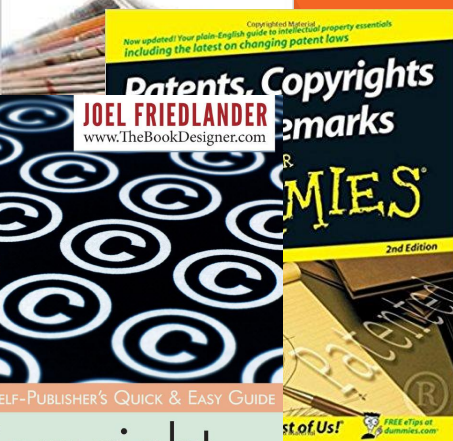
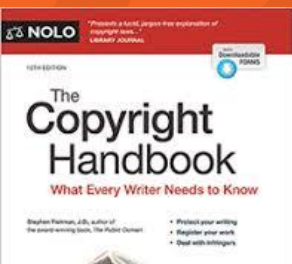
3 fun facts

- term: copyrights expire 70 years after your death
 - Works are automatically copyrighted upon fixation: no © symbol needed & no registration. You own thousands of copyrights!
 - Penalties can be high (\$150K for willful infringement), but libraries & educational institutions have a get-out-of-statutory-damages free card
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2. why libraries?

creators need help!

- *Drauglis v. Kappa Map Group, LLC*, 128 F.Supp. 3d 46 (D.D.C. 2015) - Creative Commons!
- Publishing contracts: Case in point, academic authors.
- Evidence: Vast volume of self-help books for authors, musicians, etc.



but why libraries?

Libraries are creatures of copyright



* “Libraries are creatures of the historical and statutory balance in copyright law.” Carol Henderson, “Libraries as Creatures of Copyright: Why Librarians Care About Intellectual Property Law and Policy”, American Library Association, <http://www.ala.org/advocacy/copyright/copyrightarticle/librariescreatures>

Libraries are creatures of copyright

- Purchase copyrighted works
 - Many works designed primarily for library market
 - Deeds of gift / acquisitions for special collections
 - Licensing
 - Supporting entire industries

We are one of the major customers for copyright industries & creators.

Libraries are creatures of copyright

- Provide access to copyrighted works
 - Lend & display materials under First Sale
 - Library provisions for ILL, preservation, research copies, access to older materials, video archiving, exemptions for reproduction equipment, exemptions for good faith fair use, displays & imports, etc
 - Public domain investigations

We are already elbow-deep in copyright!

Libraries are creatures of copyright

- Support creation of new works
 - By providing existing works (“shoulders of giants”)
 - Internet access
 - Authoring tools & maker spaces
 - Space to write
 - Workshops
 - Research

Every library is already a maker-space. We facilitate creation routinely.

We are already
doing copyright
education.
(Just not very well.)



Posted to Flickr by tracie7779 at
<https://flickr.com/photos/54597574@N00/38229159976>,
CC-BY-SA 2.0. Available at Wikimedia Commons.

**This is our domain, and we
are uniquely suited to
educate users & creators.**

“What is ‘fair use’?”

This cartoon by Bion Smalley was published in *American Libraries* in May 1977 -- more than 40 years ago. Libraries and librarians have been involved in copyright for decades!

- Institutional knowledge for decades
- A statutory role in user education
- Unique home for creators
- Trusted source for information



Enhancing access

- Good metadata & licensing info
 - Working with creators to get library rights built in from the beginning, or as a quid pro quo in recovery
 - Helps us think more broadly about our local creators & collection development.
 - Broadening perspective of creators about copyright
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3.
how?

three points to remember

- Lots of models for user education
 - Skip the “scared straight” lectures
 - Don't worry (too much) about the “legal advice” anxiety
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Existing models for user education

Legal Education

- Street law programs & Know-Your-Right workshops
- Copyright officers in universities
- Law librarians
- Entrepreneurial services & clinics
- Volunteer Lawyers for the Arts
- Student legal services
- Legal clinics
- Lawyer in the library

Consumer Education

- Information literacy & research
 - Software (MS Word, authoring, Internet, etc)
 - Art
 - Cartooning
 - Journaling & zine-making
 - Digital citizenship / privacy
 - Home ownership
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What's wrong with 'scared straight'?

- Lots of © education is fear-based: IT depts, MPAA film warnings.
 - Unbalanced picture of copyright
 - Magnifies risk & minimizes rights
 - Shifts behavior & changes norms of copyright
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Legal advice?

- Key distinction between legal advice & legal information: Legal advice is tied to person's specific concerns, and comes with various promises
 - Avoid confusion with clear distinctions
 - Distinguish situations that trigger benefit from personalized legal advice -- e.g., in copyright & publishing,
 - Potential legal liability (especially criminal)
 - Lots of money at stake
 - Compare: Low-stakes and low-risk
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5 hot topics

5 key topics of broad interest & utility

- Creative Commons [out-licensing: connections w/ pseudonyms & privacy!] & locating CC-based content
 - YouTube publishing: ContentID & © takedowns
 - Public domain
 - Fair use
 - Difference between patent, trade secret, copyright, & trademark
 - Asking permission & negotiating rights
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**partner brainstorming :
topics, audiences, partners**

5 audiences & partners

Audience: Entrepreneurs

Local businesses, would-be businesses, inventors, designers, solo business professionals. (Can easily cross-over into creative economies. Also, don't forget about consultants, stay-at-home parents, retirees, and others who are partly in the workforce.)

Topic: Basic info about distinguishing between patents (inventions), trade secrets (business information & inventions you don't want to patent), trademarks (logos & slogans), and copyright (creative works)

Partners: Local business organizations, incubator programs, Tech Transfer Office, Patent & Trademark Resource Center, business library or business school, local community college programs

Audience: Seniors & Emeritus faculty

Audience: Seniors & Emeritus faculty; retirees.

Topic: Ensuring their legacy. Terminating copyright assignments; archiving & metadata; deeds of gift.

Partners: Special collections, archives, & museums; Provost or Alumni Office (services for emeritus faculty); Friends of the library; senior centers; local retirement communities; oral history programs; scholarly communication programs.

Audience: Creators

Audience: Creators. (Writers of all sorts, zinesters, cartoonists & artists, musicians, sculptors, videographers, photographers)

Topic: How to create & how to share your creation. Fair use; public domain content; and Creative Commons licensing (out-licensing & locating openly licensed content). Attribution & how to get it. How to enforce your copyrights.

Partners: Writing programs, MFA programs, academic departments. Community continuing ed programs. Volunteer Lawyers for the Arts. Hacker & makerspaces.

Audience: Youth

Audience: Youth. They're doing all the stuff other creators are doing, but with even fewer resources and help they can understand.

Topic: How to create & how to share your creation. Fair use; public domain content; and Creative Commons licensing (out-licensing, & locating openly licensed music & images & video). Attribution & how to get it. Privacy & anonymity.

Partners: School libraries, scouting & other clubs, local maker spaces, after school programs, summer & vacation camps. College of Education.

Audience: Teachers & Librarians

Audience: Teachers & Librarians. Educators of all sorts, from youth to adult, to support staff, to allied communities (children's book writers & programmers, publishers, etc).

Topic: Open education, Creative Commons, locating openly licensed content, fair use.

Partners: School libraries, local school district, College of Education.

2 ways to get started now

1. **Develop in-house librarian expertise.**
 - Harvard X; Copyright Advisory Network (ALA); Creative Commons certificate program; New England Copyright Education.
2. Contact potential partners that already exist & bat around some programming ideas. Tech Transfer, General Counsel's Office, Volunteer Lawyers for the Arts, local law clinics.

As with any library programming, be ready to experiment, & to fail, and to try again!

thanks!

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