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# Copyright Programming for Public and Academic Libraries:

**Educating to Support Creators &  
Enhance Access**

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**1.**  
**copyright in 5 minutes**  
**(or less)**

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**(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**

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**... 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"

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



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## 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



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# 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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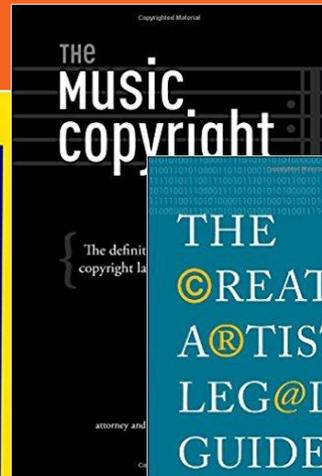
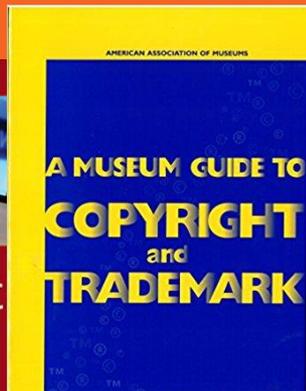
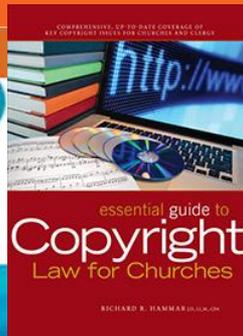
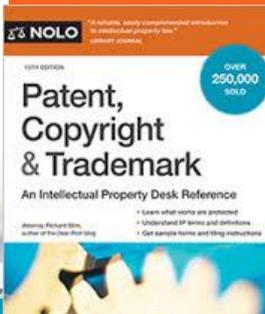
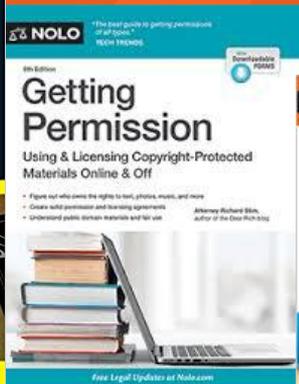
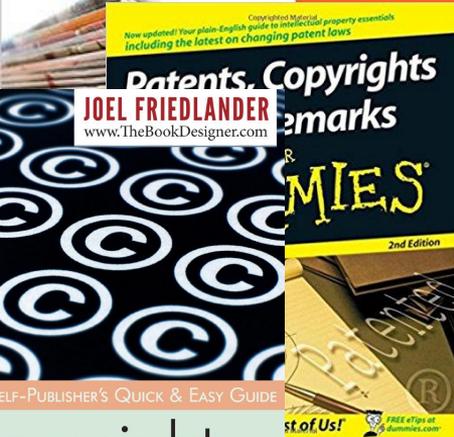
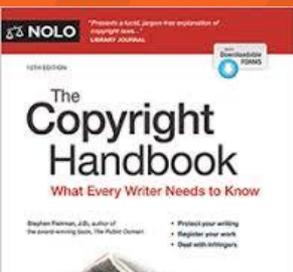
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**2.**  
**why libraries?**

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# 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.



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**but why libraries?**

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# 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>

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# 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.*

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# 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!*

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# 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.*

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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.

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

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# “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



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# 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?**

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# 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

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# 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**

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# 5 audiences & partners

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# 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

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# 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.

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# 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.

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# 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.

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# 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.

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# 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!*

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# thanks!

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