



The Good, the Bad & the Really Bad

Copyright Laws and Nonprofits

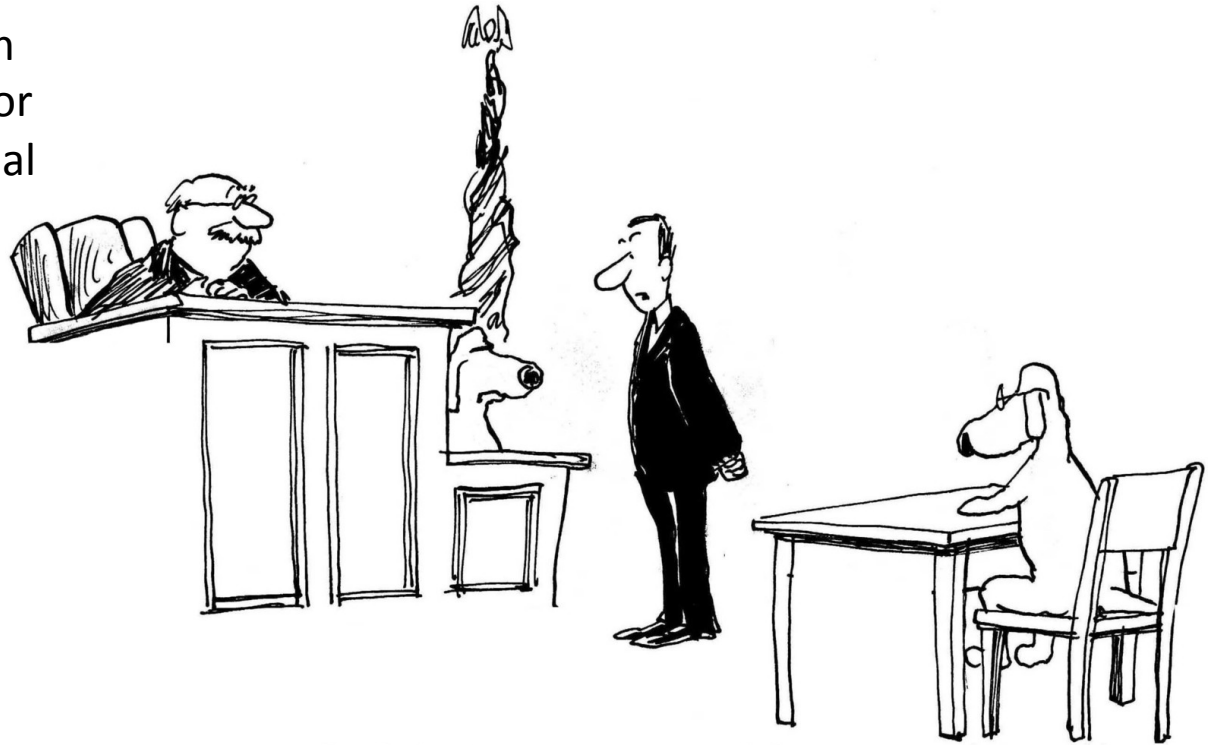
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DISCLAIMERS

The information provided in this presentation is strictly for educational and informational purposes.

It is not legal advice and should not replace legal counsel.



“And this bone, would you say he wanted to pick it for quite some time?”

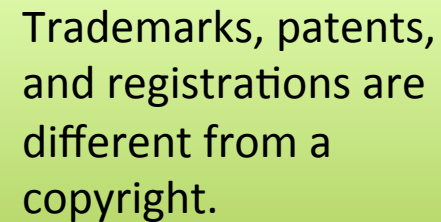


THE GOOD



COPYRIGHT BASICS

- What is a copyright?
 - Protection of creative and intellectual works. It does not require registration.
- Who is the “author” of a copyrighted work?
 - The “author” is the person who created the work.



Trademarks, patents, and registrations are different from a copyright.

COPYRIGHT BASICS

What can be copyrighted

- Original work that is “fixed in a tangible medium of expression”
 - The work must exist in some physical form (e.g., on paper, on a hard drive, or on a cassette tape) for at least some period of time, no matter how brief.
 - Original – it must be independently created by the author.
 - Artistic/Creative – it must be the result of at least some creative effort on the part of the author.

Examples:

- Brochure, novel, article, poetry, play
- Photograph, sketch, video, movie, games
- Software code, blog
- Sheet music, recorded music, music performances
- Painting, sculpture, architectural design

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COPYRIGHT BASICS

What cannot be copyrighted

- **Ideas.** Copyright law only protects the particular way an idea is expressed.
- **Facts and Theories.** Anyone who creates a scientific theory or discovers a previously unknown fact cannot prevent others from creating new works or otherwise using that theory or fact.
- **Short Phrases, Names and Titles.** Although these may be protected under trademark law.
- **U.S. Government Works.** Any work created by a United States government employee or officer is in the public domain, provided that the work is created in that person's official capacity. (Does not apply to state or local government employees.)

COPYRIGHT BASICS

Public Domain

- Items that could be copyright protected, but are not because of:
 - Expiration of copyright
 - Failure to renew
 - Lack of required notice
 - Dedication
- Accessibility does not imply public domain
 - Internet
 - Public use

COPYRIGHT BASICS

Fair Use

- Public is entitled to freely use items for certain purposes:
 - Commentary or criticism
 - Nonprofit education
 - Parody
- Authorized infringement for social benefit



THE BAD



MAINSTREET ACTIVITIES

(that relate to copyright)

- Brochures
 - Images
 - Text
- Websites/Social Media
- Themes
 - Parades & Events – Images/Proper Names
- Events
 - Music
 - Plays
 - Art
 - Images/Text



BAD NEWS

You may
have already
infringed on
a copyright.



TYPICAL PITFALLS for MS

- Local band playing at an event, concert in the park, festival music
- Music playing from an iphone over speakers
- Movies shown in “free” theater or outdoors
- Images copied and pasted from the Internet on brochures, posters, ads, etc.
- Parade theme with a registered/copyright theme
- Play performed at an event



THE VERY BAD



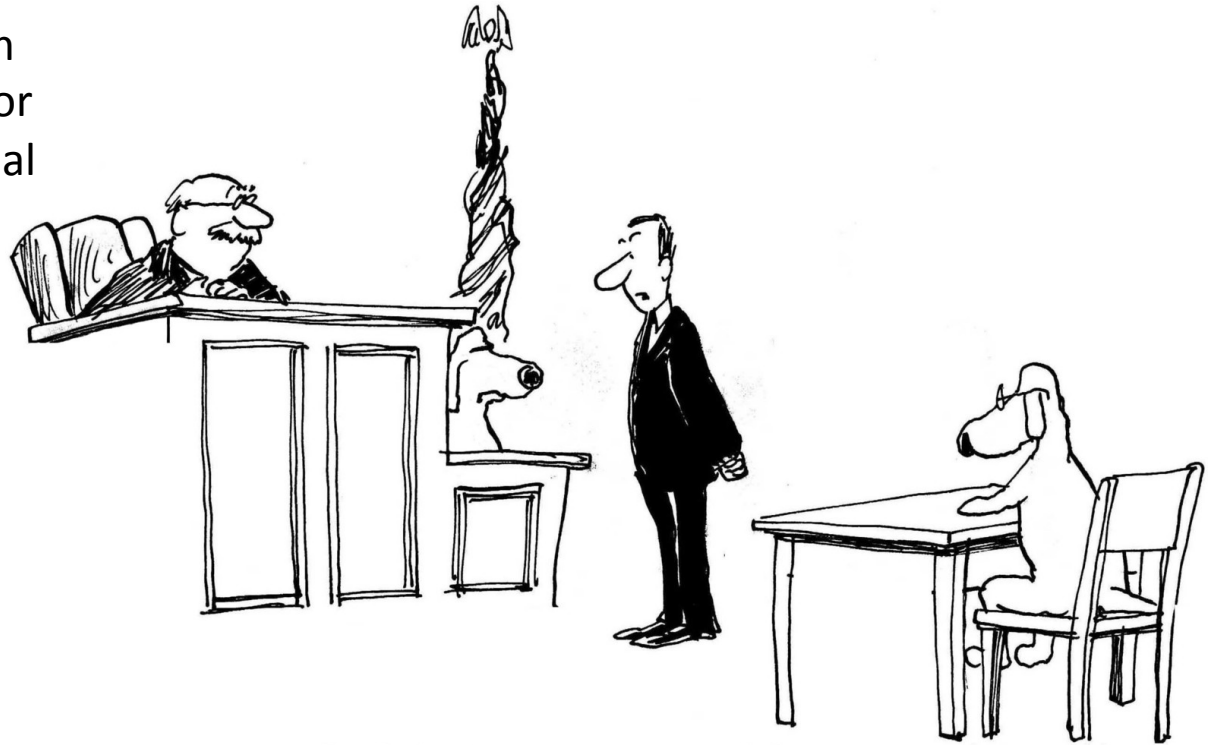
INFRINGEMENT

- The legal penalties:
 - Misdemeanor or felony
 - Infringer pays the actual amount of damages and profits AND all attorneys fees and court costs.
\$200-\$150,000, max of \$250,000 for felony
 - Up to 10 years in prison
- Criminal and/or Civil – depending on intent ruling

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INFORMATION & RESOURCES

MUSIC

Live vs. Recorded

- Live music must be licensed, unless the music is original by the performer
- Recorded music played in public (event, business, during set-up)...

The brief answer to the question of whether playing musical recordings within a small business' space amounts to copyright infringement is:

“no” for radio and television broadcasts over the air, whether played in public or not; and “possibly yes” for musical recordings played in any other manner, for instance, MP3 files on a computer or free Internet radio, and in public.

Article from the Palo Alto Bar Association: <https://www.paaba.org/2011/10/when-should-small-business-pay-ascap-or-bmi/>

MUSIC

Concerts, performance in a business, performance you put online, songs playing over a speaker...

- ASCAP - <http://www.ascap.com> and click on the “licensees” tab
- BMI - <http://www.bmi.com> and click on “music users”
- SESAC - <http://www.sesac.com/Home.aspx> and click on “licensees”
- Triple Scoop Nonprofit License - <http://triplescoopmusic.com>
(license for single song use for marketing)

MOVIES

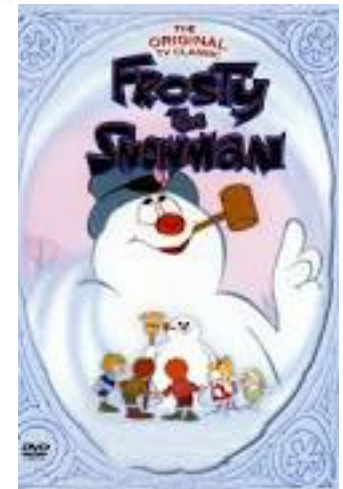
- Swank – Admission charge allowed. <http://www.swank.com>
- Movie Picture Licensing – Admission charge NOT allowed. <http://www.mplc.org/index/worldwide>
- Criterion – represents companies not covered with Swank & MPL. <http://www.criterionpicusa.com>

PLAYS

Amateur plays/performances can be licensed through

<http://www.dramaticpublishing.com/licensing.php>

NAMES/CHARACTERS



IMAGES

PLEASE DO NOT COPY OFF THE INTERNET

- Free image sites:
 - <https://unsplash.com>
 - <http://www.publicdomainpictures.net>
 - <https://pixabay.com>
- Paid image sites:
 - <http://www.canstockphoto.com/>
 - <http://www.istockphoto.com/>
 - <http://shutterstock.com/>

GENERAL RESOURCES

1. An easy-to-read article called "Crash Course on Copyrights" from the University of Texas College of Fine Art. <http://copyright.lib.utexas.edu/perform.html>
2. PDF on copyright law.
<http://www.publiccounsel.org/tools/publications/files/fairuse.pdf>
3. Search for public domain works.
<http://www.publicdomainworks.net>
4. Differences between music registration entities from The DIY Musician.
<http://diymusician.cdbaby.com/musician-tips/the-difference-between-ascap-bmi-sesac-and-soundexchange/>

POP QUIZ

COMPLETELY PEANUTS

Whew! I'm glad
that's over..



BUCKMAN 2013



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**Engage People,
Rebuild Places,
Revitalize Economies**