

Copyright Information for Creatives

outline from "*Electronic Copyright*" by Jean S Perwin

Know the Copyright Basics:

What is a copyright? A copyright is actually a bundle of different exclusive rights which you won when you create works of visual art and photography and which only you can exploit.

The five basic copyright rights are:

1. **Reproduction Rights**
The right to make identical or substantially similar copies of the work.
2. **Adaptation or derivative Rights**
The right to create derivatives of the original work.
3. **Distribution Rights**
The right to be the first one to sell the work.
4. **Display Rights**
The right to display the work publicly.
5. **Performance Rights**
The right to perform the work for the public.

For designers and photographers, reproduction rights and derivative rights are generally the most important copyright rights. These are the ones which are the most commercially exploitable and the ones that should be carefully protected.

You don't have to Register your work, but you may want to

You own a copyright from the moment you create a work for a term of your life plus fifty years, whether you do anything about it or not.

In a copyright infringement case you must prove: that the work is yours, that there was access to the work and that it was copied. Once you have proven those things, you are then entitled to damages. These damages will be either the amount of your actual damages (which you must prove you lost) or statutory damages -- damages set out in the statute which you do not have to prove.

How to Register

[Artwork](#) is registered on copyright [Form VA](#) .

It costs \$45.00 to register each work you've created.

You can get this form from the above link or by calling the Copyright Forms number: (202) 707-9100.

You mail your registration form with a Nonreturnable copy of your artwork.

It generally takes four to five months to get back your certificate of registration.

Fair Use

In Section 107 of the Copyright Act, the statute states that someone who uses copyrighted work for the purposes of education, research, criticism, news reporting, parody, or other "fair uses" is not guilty of copyright infringement. This, for example, is why teachers are not infringing when they copy and distribute articles or books to their students.

To determine whether something constitutes fair use, the law requires consideration of four factors:

1. What is the purpose and character of the use? Generally, non-profit, educational, non-commercial use (including news reporting) is generally considered fair.

2. What is the nature of the copyrighted work used? The more creative the work that is copied, the less likely it will be found to be fair use.

3. How much of the work will you use? The amount and substantiality of the use in relation to the work as a whole. The Supreme Court has held that even a very small degree of copying can be sufficient to transgress fair use if the copying is an essential part of the work.

4. If this kind of use were widespread, what effect would it have on the market for the original or for permissions? Under some circumstances, it weighs more than all the others put together. Under other circumstances, it weighs nothing! It depends on what happened with the first three factors.

Please check this [educational site](#) for more on Fair Use.

Know Guidelines to Fair Use of Other People's Work

What about the use of other people's work that you find on-line or in digital form?

Recognizability:

If you can recognize or identify someone else's work in your work.

Substantially Similar:

You can not change a few minor elements and avoid infringement. Changing the color or the placement will often still leave the copy substantially similar to the original.

"I know it when I see it"

A visceral, intuitive test that is used in the law when it is hard to articulate a standard.

Know How to Get Permission

It can be a difficult undertaking to find the owner who actually owns the copyright.

- The Copyright Office: For a fee, the Copyright Office staff will search to see if a particular work is registered and who the owner is.
- Artists' Unions and Guilds: The Graphic Artists Guild and the Electronic Design Association for example, can sometimes find particular artists.
- Professional Search Organizations: such as Thomson & Thomson can search copyrights for a fee; (800) 692-8833.

Know How to Find Copyright Information on the Internet

US Copyright Office

<http://www.copyright.gov/>

Register your copyright using the government's on-line services.

The Copyright Website

<http://www.benedict.com/>

Information about how to register your copyright. You'll also find answers to some of your copyright questions. There is even a special section about Internet issues. Note: this is a commercial site.

PBS Teacher Source - Copyright & Fairuse

http://www.pbs.org/teachersource/copyright/copyright_fairuse.shtm

A brief intro to copyright - by Brad Templeton

<http://www.templetons.com/brad/copyright.html>

Appropriation in Art

– content from a presentation on appropriation of copyrighted artwork by Peggy Jones