September 2012

Questions and Answers-Copyright Column

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Recommended Citation

Gasaway, Laura N. (2012) "Questions and Answers-Copyright Column," *Against the Grain*: Vol. 24: Iss. 4, Article 31.
DOI: <https://doi.org/10.7771/2380-176X.6199>

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Questions & Answers — Copyright Column

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QUESTION: *How does one copyright a font? A designer wants others to be able to use the font but wants to ensure that she will be credited and have some control over its use.*

ANSWER: Unfortunately, fonts are typically not eligible for copyright protection. The designer may be able to license the font for use as a way to control it but only by contract and not through copyright. A number of online sources discuss copyright issues as they relate to fonts; two examples are http://nwalsh.com/comp.fonts/FAQ/cf_13.htm and <http://blog.crowdspring.com/2011/03/font-law-licensing/>.

QUESTION: *In June 1950, a Hollywood motion picture was filmed on campus at what was then an Army hospital with some scenes shot in the town; the film was released in 1951. Some locals were even extras in the film. In the next few months there will be a ceremony on campus to present a historical marker from the state Historical and Museum Commission. The campus wants to screen the movie repeatedly during the day-long activities. The screening would be free and open to the campus and local community, veterans, and former employees of the hospital. Would the institution infringe copyright by showing the film as described? The librarian found the movie in its entirety on YouTube and also on "OV Guide." Does this mean that the movie is in the public domain?*

ANSWER: Whether showing the film on campus the day of the celebration constitutes infringement depends on whether the film is still under copyright. Where it was filmed does not have much to do with the copyright, however. It is possible that the film is in the public domain, but if it was registered in 1950 the **1978 Act** would have been effective at the time of renewal. If renewed in 1978, it would have received an additional 47 years of protection for a total of 75, now 95 years. It is either in the public domain now or is protected until 2045.

The fact that the movie is available on YouTube and other sources may mean that it is in the public domain, but not necessarily so. Viewings on YouTube are more likely to be private performances than are the repeated public performances described in the question.

The librarian could check the Copyright Office records to see if the copyright was renewed or contact the movie studio and seek permission. The campus could decide to assume the risk and go ahead and show the film, but it clearly is a public performance (one of the exclusive rights of the copyright holder).

QUESTION: *A publisher asks for clarification of the statement in the February 2012 column regarding Creative Commons licenses and whether they are revocable. As a part of an answer regarding abandonment of copyright when an author is deceased and his heirs want to change the CC license, the column stated that the license is revocable as to future licenses but not as to anyone who had already used the work as permitted under the license.*

ANSWER: The CC license itself says that licenses are not revocable but that the owner of the work may stop distributing the license or change the terms of licenses for future users. Perhaps use of the term "revocable" is the problem, and I should have been clearer even though the question was focused on abandonment and providing a chain or conveyances. An excellent article by **Steve Melamut** states what I was trying to say but much more clearly than I did. "The licenses are non-revocable, meaning you can remove the license from the material but you cannot take back permission from those who have already used or downloaded the materials."¹ So, the owner may change the license or withdraw the work from distribution entirely but not against someone who has already used the work under the CC license that existed at the time.

It should also be noted that **Creative Commons** license complaints have not yet reached the courts, so the above is based on materials provided by CC rather than a court.

QUESTION: *May a librarian reproduce an 1863 image that is included in a book? He cannot locate the original image. The book in which it is published is copyrighted and is dated 1980.*

ANSWER: The answer to this question, however, depends on whether the photograph was published prior to 1980. If it was not published until 1980, then the copyright endures for 95 years after the death of the author or 2047, whichever is greater (See section 303(a) of the **Copyright Act**). If it had been published contemporaneously with its creation, or if it were published in the United States before 1923 it would now be in the public domain. Due to the age of the photograph, it is unlikely that the heirs of the photographer would come after a library that reproduced the image. Whether this is a fair use cannot be determined due to lack of information about the use of the reproduction.

QUESTION: *Is one required to have some type of official status to qualify as a corporate author?*

ANSWER: While it is not absolutely clear what is meant by "official status," the assumption is that it means must one be a corporate officer, a government official, etc. The answer is no. Corporate authorship merely means that an agency or a company is credited as being the author since no one or small group of authors is responsible for the authorship of work. Works made for hire are typically works of corporate authorship, but an individual could be the employer rather than a business, although this is not the most likely scenario.

The copyright impact of a work of corporate authorship is that the work is eligible for 95 years of protection after publication or 120 years after creation, whichever expires first. 🌱

Endnotes

1. *Understanding the Creative Commons Licenses*, AALL Spectrum, April 2010, at <http://www.aallnet.org/main-menu/Publications/spectrum/Archives/Vol-14/pub-sp1004/pub-sp1004-creativity.pdf>.

From the Reference Desk from page 62

"new multimedia elements such as some 250 full-color photographs and 50 video clips."

- **Encyclopedia of Housing**, (two volumes, ISBN: 978-1-4129-8957-2; \$375; eISBN: 978-1-4522-1838-0, electronic price: \$469). This set explores the recent subprime mortgage crisis "along with many other gradual changes and dramatic upheavals in the housing industry" since the publication of the first edition in 1998.

Wiley Blackwell has also released a couple of recent titles of interest.

- **Encyclopedia of Human Resource Management** (three volumes, ISBN: 978-0-470-59134-5, \$495) "*Volume 1* covers an A-Z spectrum of all the key topics and issues related to human resource management, labor, and workplace policy. *Volume 2* features hundreds of model employment forms, customizable or reproducible and compliant with current regulations. *Volume 3* provides a summary of Employment Law, Labor Relations, and Human Resources Laws and Practices from over

250 countries, including key primary documents..."

- **The Wiley-Blackwell Encyclopedia of Globalization** (five volumes, ISBN: 978-1-4051-8824-1, \$795) "This five-volume Encyclopedia contains over 600 entries on ... topics of Globalization... including agency-structure, Americanization, anti-globalization, Bretton Woods; coca-colonization, Empire; Euro crisis, ethnic cleansing, exploitation, feminization of poverty, genocide, global warming, nation-state, neo-liberalism, oil, post-globalization, Qadaism, rape,

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