

# Copyright and the Rights of Attribution, Publicity, and Privacy

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# Before We Begin...

- This presentation is intended for informational purposes only and should not be considered legal advice. You should contact your attorney to obtain advice for any particular issue or problem.

# What Are We Covering Today?

- Copyright
- The Right of Attribution
- The Right of Publicity
- The Right of Privacy

# The 3 Morals

- Be nice
- Get permission
- Get it in writing

# What is “Copyright?”

- An exclusive legal right
- For expressive works

# Nature of Copyrightable Works

To be “copyrightable,” a work must:

1. Be original
2. Be authored
3. Be fixed in a tangible medium
4. Be perceivable, either with or without a machine/device

# Registering a Copyright

Through the U.S. Copyright Office

- Online filing fees starting at \$35
- Paper filing fee is more
- Deposit a copy of the work with the Copyright Office

# Benefits

Registration of a copyright provides:

- The ability to block the importation of infringing goods
- The ability to pursue statutory damages
- The ability to pursue enhanced damages
- Federal court jurisdiction



# Duration

- If a publisher is the initial owner – 95 years from the date of publication or 120 years from creation.
- If the author is the initial owner – lifetime plus 70 years.
- There are online copyright duration calculators, but be careful:
- Copyright durations vary by country and Congress can and does change the U.S. duration!

# Fair Use

- Infringing a copyright to:
  - Criticize
  - Comment
  - Report News
  - Classroom Instruction
  - Research
- Not a clear standard – consider:
  - Nature of the use, nature of the work, how substantial the use is, the effect of the use on the market

# The Right of Attribution

- Non-transferrable right to authors of visual art
- Lasts for the life of the author
- Includes:
  - Right to claim authorship
  - Right to prevent false attribution
  - Right to prevent work from being mutilated, distorted, or altered in a way that would be “prejudicial to his or her honor or reputation”
  - Right to prevent destruction, if work has “recognized stature” (VERY LIMITED)

# The Right of Publicity

- Matter of state law – will vary state to state
- What is it?
  - The right of an individual to exclude others from using his/her likeness or image
  - Focus here is \$\$\$

# The Right of Publicity

- Who has it?
  - Everyone vs. Celebrities
- How long does it last?
  - Throughout life vs. Forever

# The Right of Publicity

- Oregon
  - No statute; no common law yet
- Washington
  - Statute (struck down); common law recognition
- California
  - Statute; common law recognition

# The Right of Privacy

- General Rule: If you are on public property and you can see it, you can photograph it.
- What is it?
  - Good question! The right to be left alone? The right to keep secrets?
  - Focus here is information control

# Q&A Topics

- Government Copyrights
- Creative Commons
- Enforcement
- Finding an Author
- Permissions/Licensing
- Photographing Private Property
- Photographing Minors
- Controlling Access to Licensed Materials





# Thank you!

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