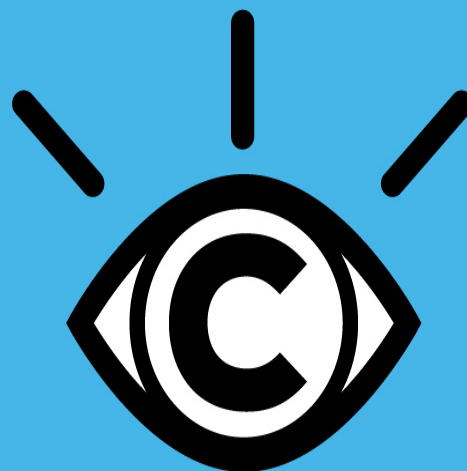


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***Copyright Basic Training***

Ty Turley-Trejo

Susie Quartey

October 21, 2015

#ByuCopyright2015

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- Submit questions via social media



@byucopyright



facebook.com/byucopyright

Use the hashtag #byucopyright2015



H

- 1440 - Gutenberg
- 1662 – Licensing – Addressed to the Queen
- 1710 - Statute of Anne – 1<sup>st</sup> Copyright Act – 14-yr term
- 1787 – U.S. Copyright Act – 14-yr term

( 261 )

Cup 19

Anno Octavo

## Annæ Reginae.

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.



Whereas Printers, Booksellers, and other Persons have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the

Encouragement of Learned Men to Compose and Write useful Books: May it please Your Majesty, that it may be Enacted, and be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the Tenth Day of April, One thousand seven hundred and ten, the Author of any Book or Books already Printed, who hath not Transferred to any other the Copy or Copies of such Book or Books, Share or Shares thereof, or the Bookseller or Booksellers, Printer or Printers, or other Person or Persons, who hath or have Purchased or Acquired the Copy or Copies of any Book or Books, in order to Print or Reprint the same, shall have the sole Right and Liberty of Printing such Book and Books by the Term of One and twenty Years, to Commence from the said Tenth Day of April, and no longer: and that the Author of any Book or Books already Composed and not Printed and Published, or that shall hereafter be Composed, and his Assignee or Assigns, shall have the sole Liberty of Printing and Reprinting such Book and Books for the Term of Four-

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( 261 )

Cup 19

Anno Octavo

## Annæ Reginae.

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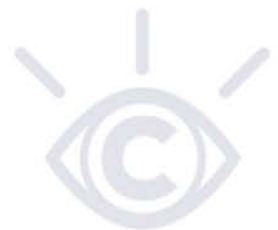
Encouragement of Learned Men to Compose and Write useful Books: May it please Your Majesty, that it may be Enacted, and be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the Tenth Day of April, One thousand seven hundred and ten, the Author of any Book or Books already Printed, who hath not Transferred to any other the Copy or Copies of such Book or Books, Share or Shares thereof, or the Bookseller or Booksellers, Printer or Printers, or other Person or Persons, who hath or have Purchased or Acquired the Copy or Copies of any Book or Books, in order to Print or Reprint the same, shall have the sole Right and Liberty of Printing such Book and Books by the Term of One and twenty Years, to Commence from the said Tenth Day of April, and no longer: and that the Author of any Book or Books already Composed and not Printed and Published, or that shall hereafter be Composed, and his Assignee or Assigns, shall have the sole Liberty of Printing and Reprinting such Book and Books for the Term of Four-

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ause

# History of Copyright

- “The Congress shall have power ... **to promote the progress of science and useful arts**, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries” U.S. Constitution, Article I, Section 8 (1787).
- U.S. Copyright Acts of 1790, 1831, 1870, 1909, 1976.





# 1976 Time Capsule

## 4051 personal computing:

### Ask a BASIC question, get a Graphics answer.

Compare Tektronix' 4051 to any other compact computing system. There's a Graphic contrast.

Wide-ranging performance right at your desk. BASIC power. Graphics power. Terminal capability. You've got instant access to answers, all from one neat package.

Easy-to-learn, enhanced BASIC. We took elementary, English-like BASIC, and beefed it up for more programming muscle. We've designed it with MATRIX DRAW, features like VIEWPORT,

WINDOW, and ROTATE, to help you get your teeth into Graphics almost instantly.

**There's a Graphic contrast.** The 4051 will handle most application problems. But for your most complex problems, the 4051's Data Communications Interface option can put you on-line to powerful Graphic applications that no stand alone system can tackle.

**Just \$6995.\*** Less than most comparable alphanumeric only systems. Including 8K workspace, expandable to 32K, with 300K byte cartridge tape drive, full Graphics CRT, upper/lower case, and all the BASIC firmware.

Talk to Tektronix today! Your local Sales Engineer will fill you in on our 4051 software. Our range of peripherals. Our flexible purchase and lease agreements. And he'll set up a demonstration right on your desk. Call him right now, or write:

Tektronix, Inc.  
Information Display Group  
P. O. Box 500  
Beaverton, Oregon 97077



Circle 189 on reader service card



## WATCH WHAT EVER NEVER.

With Sony's Betamax SL-8600 video recorder, you can see any TV show you want to see anytime you want to see it.

Because Betamax, which plugs into any TV set and is easy to operate, can videotape a show up to three-hours long (with the L750 videocassette) while you're doing something else—even while you're out of the house, by setting the electronic timer.

It can also videotape something off one channel while you're watching another channel.

And remember, Sony has more experience in videorecorders than anyone (over 20 years). In fact, we've sold more videorecorders to broadcasters and industry than any other consumer manufacturer. We even make our own tape.

For years you've watched TV shows at the times you've had to. Now you can watch them at the times you want to.



**SONY BETAMAX**

THE LEADER IN VIDEO RECORDING

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**Special Offer!**  
Sole until Dec. 11

**Polaroid Pronto!S**  
The magic of Polaroid SX-70 pictures at our lowest price ever. Just in time for Christmas!

**Only \$49.99 at Sears.**

No pulling. No pushing. Pictures eject dry in 8 1/2 seconds, come to life while you watch.

Save 25¢ per pack of SX-70 instant color film at Sears through Dec. 11

**Save \$20**  
**Polaroid SX-70**  
**Sears Alpha Outfit.**  
Regularly \$139.99 Now only \$119.99 at Sears.

Polaroid's SX-70 with new Alpha electronics features a single lens reflex system with a split-image range finder. View and focus at the same time.

The 4-element lens lets you take a variety of shots. From frame-filling closeups at 10.4 inches, all the way to infinity.

Alpha electronics set the correct shutter speed automatically. Just focus and shoot. Your picture is ejected in 1 1/2 seconds, developed in about 8 minutes.

The SX-70 Sears Alpha outfit comes with carrying case and instruction booklet. Gift-packed in its own presentation case.

Pronto!S is loaded with SX-70 technology for all the fun of SX-70 pictures. They come to life right before your eyes.

The 3-element lens focuses manually from three feet to infinity. An electronic eye sets the shutter speed automatically.

Shoots Polaroid SX-70 film for 10 long 3 1/4" x 3 1/4" pictures as fast as you can focus and shoot.

Pronto!S camera outfit comes gift boxed with shoulder strap carrying case and instruction booklet.

Regularly \$4" you save \$5

At most larger Sears stores and catalog. Prices higher in Alaska and Hawaii.

**Sears**

© 1976 Polaroid Corporation. "Pronto!" "Pronto!S" and "Pronto!S" are trademarks of Polaroid Corporation.

\*U.S. Domestic price only

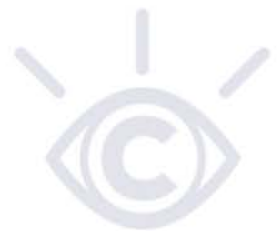
# “THE NEXT GREAT COPYRIGHT ACT?”

Maria Pallante, Register of Copyrights

March 19, 2013 –Congressional Address



# What Copyright is NOT...



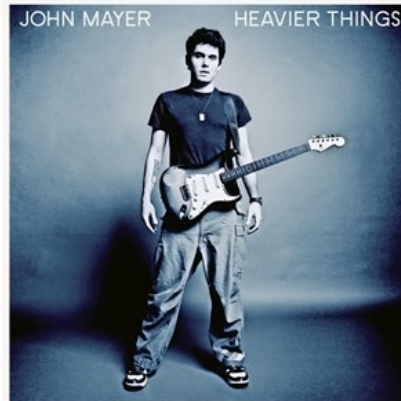
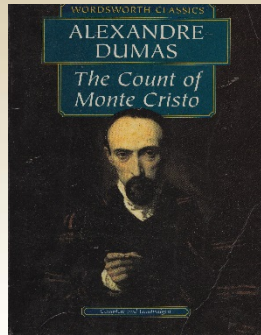


# Copyright vs. Trademark

- A trademark is a word, name, symbol or device which is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others.

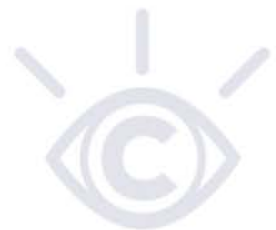


# Copyright vs. Trademark



# Copyright vs. Patent

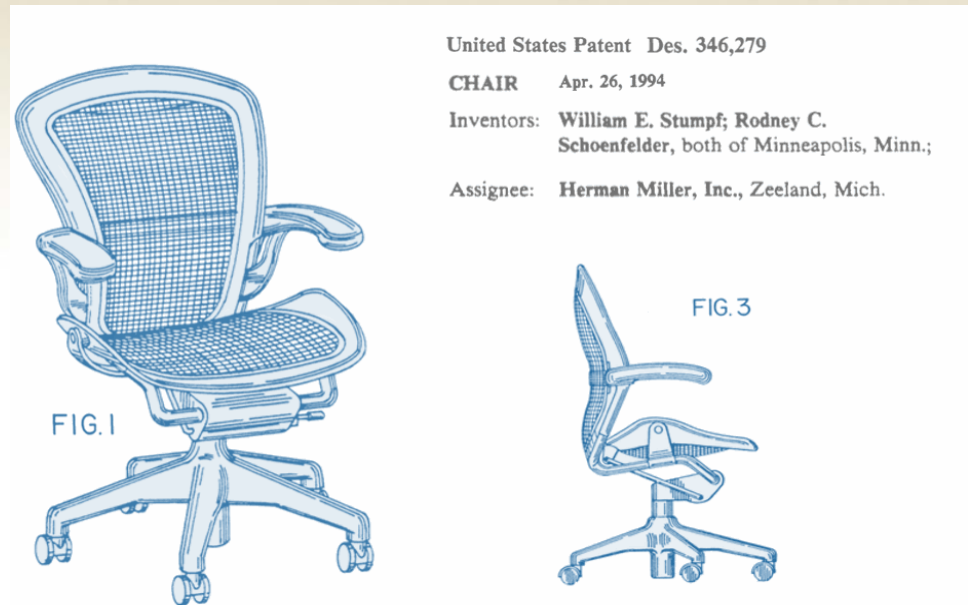
- U.S. Constitution: “The Congress shall have power ... **to promote the progress of science and useful arts**, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries”.
- A Patent for an invention is the grant of a property right to the inventor to *exclude* others from making, using, offering for sale, or selling" the invention in the United States.



# Copyright vs. Patent



Gutenberg Printing Press



Modern Chair





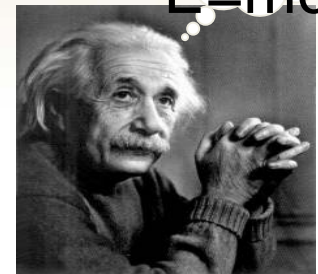
# Other Works NOT Subject to Copyright

Examples of works **not** subject to copyright:

- (a) words and short phrases (names, titles, slogans);
- (b) ideas;
- (c) blank forms;
- (d) calendars, height and weight charts, rulers, etc.;
- (e) typeface.

got milk?

$E=mc^2$



Times  
New Roman

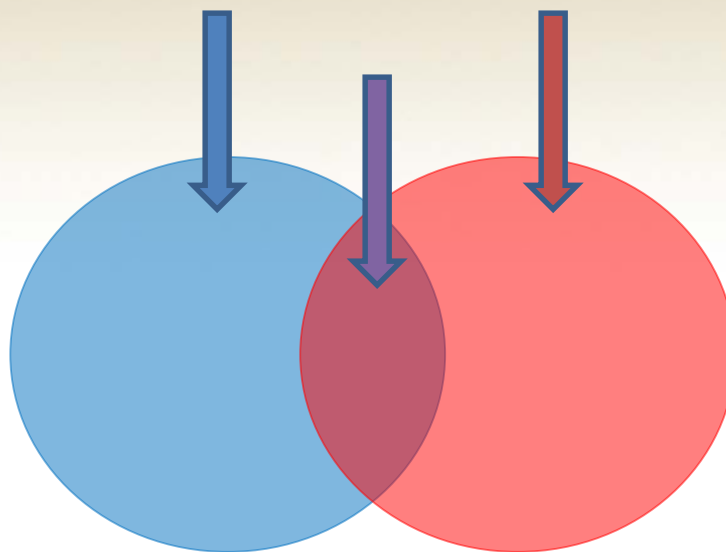
Times New Roman Times New Roman Times New Roman  
Times New Roman Times New Roman Times New Roman

37 C.F.R. § 202.1.



# Copyright Infringement vs. Plagiarism

Using content:  
(a) without permission;  
BUT  
(b) giving credit to the  
source (e.g., “no copyright  
infringement intended” on  
a **YouTube** video).

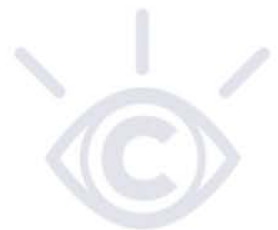


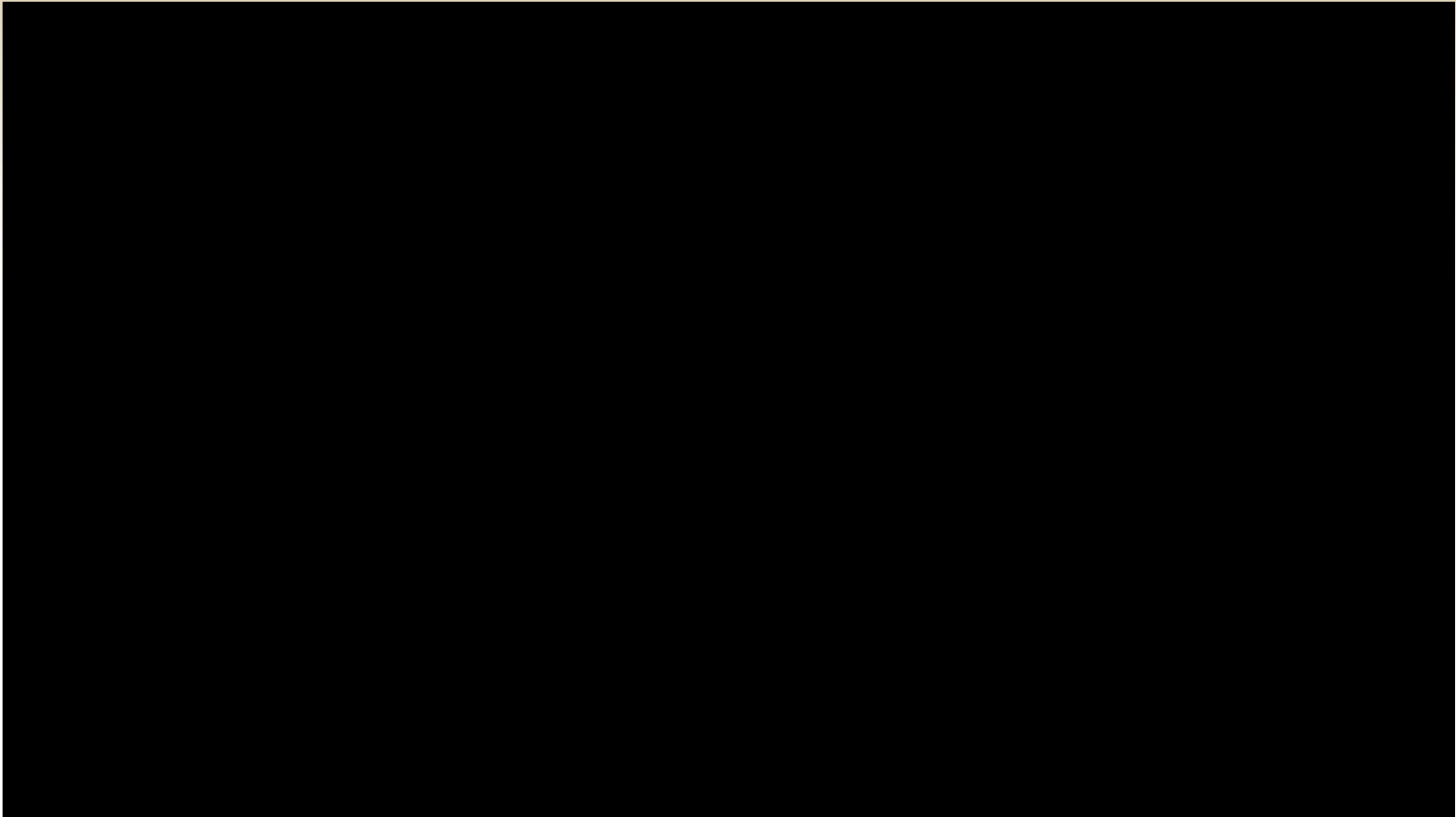
Passing off  
another’s work as  
your own, with  
their permission  
(e.g., submitting an  
essay purchased  
online).

Using content: (a) without permission; **AND**  
(b) passing it off as your own (e.g., copying a  
classmate’s essay without permission or posting a  
video you don’t own and claiming you made it).



“In no case does copyright protection...extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery...”



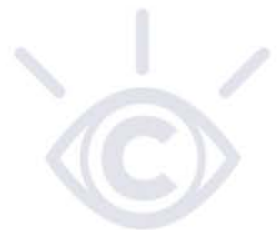




# So what is copyright?

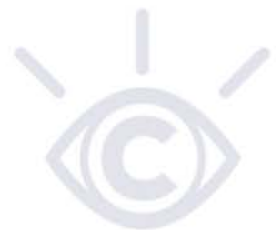
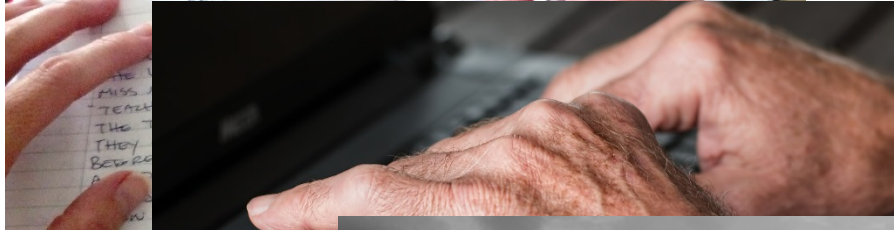
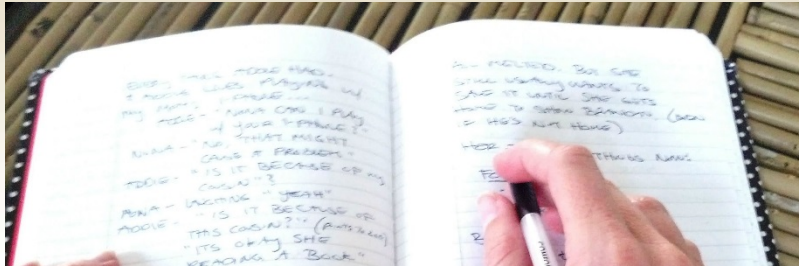


Copyright is a form of protection provided to the authors of "original works of authorship". Essentially, copyright protects creative products.



# How are things Copyrighted?

“Copyright protection subsists...in original works of authorship fixed in any tangible medium of expression.”



# Do I need to register my Copyright?

- No!
- Once it's fixed in a tangible medium it's protected.
- No more "Poor Man's Copyright"
- Benefits of registration
  - Proof of ownership and copyright eligibility in court
  - Statutory damages



# Who can be a Copyright Owner?

# EVERYONE!





# Who can be a Copyright Owner?

## Monkey Selfie

COMPENDIUM OF THE U.S. COPYRIGHT OFFICE PRACTICES, Third Edition

### 313.2 Works That Lack Human Authorship

As discussed in Section 306, the Copyright Act protects “original works of *authorship*.” 17 U.S.C. § 102(a) (emphasis added). To qualify as a work of “authorship” a work must be created by a human being. See *Burrow-Giles Lithographic Co.*, 111 U.S. at 58. Works that do not satisfy this requirement are not [copyrightable](#).

The Office will not register works produced by nature, animals, or plants. Likewise, the Office cannot register a work purportedly created by divine or supernatural beings, although the Office may register a work where the application or the [deposit copy\(ies\)](#) state that the work was inspired by a divine spirit.

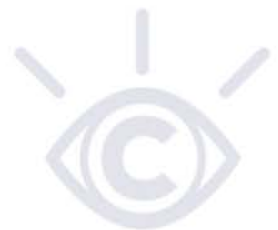
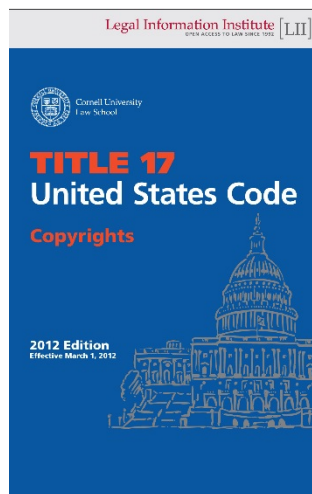
*Examples:*

- A photograph taken by a monkey.



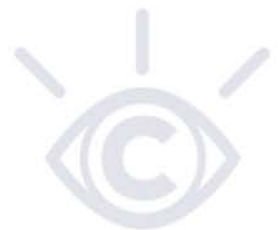
# How is Copyright Governed?

Copyright Law in the United States and Related Laws is Contained in **Title 17** of the **United States Code** (17 U.S.C.)



# What are the categories of Copyright?

- (1) **literary** works;
- (2) **musical** works, including any accompanying words;
- (3) **dramatic** works, including any accompanying music;
- (4) pantomimes and **choreographic** works;
- (5) **pictorial**, graphic, and sculptural works;
- (6) **motion pictures** and other audiovisual works;
- (7) **sound recordings**; and
- (8) **architectural** works.



# Examples of Copyright-Eligible works



**Choreography**  
(BYU Contemporary Dance Theatre)



**Sequence of Yoga poses**  
Bikram Yoga v. Evolution Yoga(C.D. Cal.  
2015)



**Folk Dance**



**Social Dance**

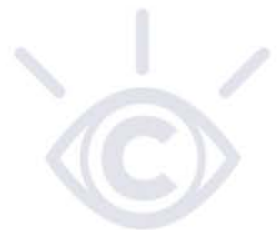




# Examples of Copyright-Eligible works



D.C. Comics v. Towle Car replicas (C.D. Cal. 2013), *aff'd* (9<sup>th</sup> Cir.)



# What Rights do Copyright Owners have?

**R** Reproduction

**A** Adaptation

**P** Public Performance

**D** Distribution

**D** Display (public)

**D** Digital Audio Transmission



# How long does Copyright last?

## Life of the Author + 70 years

- 1909 Act
  - First term of 28 years
  - Second term of 28 additional years, if renewed
- 1976 Act
  - Life of the author + 50 years
- 1998 Act
  - Life of the author + 70 years

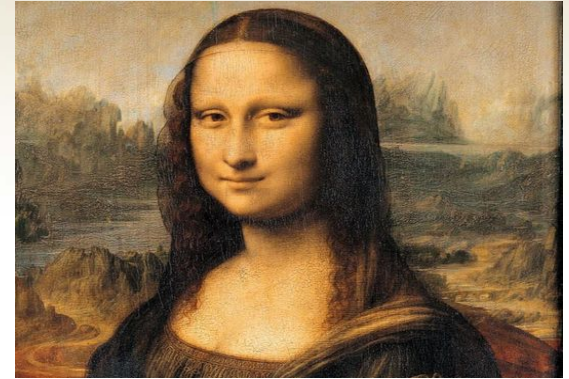
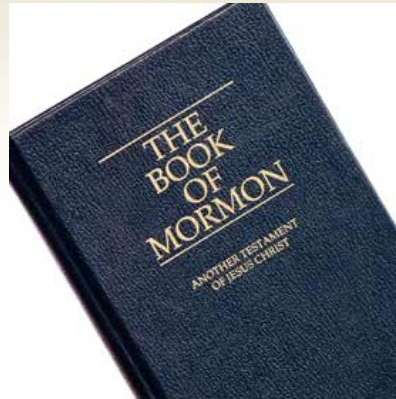




# Public Domain

## 1923


Anything published prior to **1923** is in the Public Domain, meaning the copyright has *expired*.

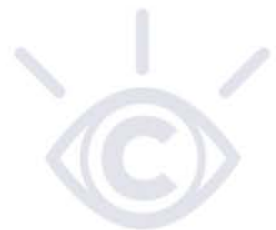


- Works of the United States Government
- (17 U.S.C. § 105)



# How to Use Content without Getting Sued!

1. Use Public Domain materials (pre-1923)
2. Creative Commons Licenses 
3. BYU Database Licenses (or other institution)
  - [Omnimusic](#)
  - [Image Databases](#)
  - Article Databases via HBLL
4. Obtain PERMISSION
5. Exemptions...Fair Use, Educational Exemption, etc.



# Educational “Teaching” Exemption

“Notwithstanding the provisions of section 106, the following are NOT infringements of copyright:

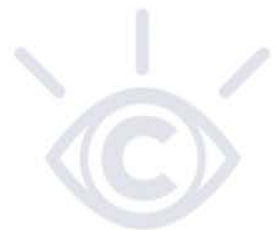
(1) **performance** or **display** of a work by *instructors* or *pupils* in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction...”





# Distance/Online Education Exemption

- [TEACH Act](#)



# FAIR USE

“[T]he fair use of a copyrighted work, including such use by reproduction ... for purposes such as **criticism, comment, news reporting, teaching** (*including multiple copies for classroom use*), **scholarship**, or **research**, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include...”



# FAIR USE

P

“PURPOSE and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes”

A

“AMOUNT and substantiality of the portion used in relation to the copyrighted work as a whole”

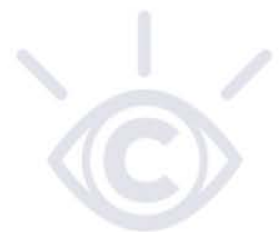
I

IMPACT – “the effect of the use upon the potential market for or value of the copyrighted work”

N

“NATURE of the copyrighted work”

FAIR USE INDEX



# FAIR or NOT FAIR?

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

FAIR

Ex. 1 – Scholar quotes portions of an unpublished novel in a critical review

- 5% of the unpublished novel is used in her review.
- Review was not published
- Review was a form of literary criticism

[poll.fm/5fu6r](http://poll.fm/5fu6r)

Sundeman v. The Seajay Society, Inc. (4<sup>th</sup> Cir. 1998)



# FAIR or NOT FAIR?

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

Ex. 2 – Teacher copies a work to incorporate in her non-profit educational class

- Teacher purchased pamphlet from adult cake decorating class.
- Prepared a booklet for use in her food service career classes and used 11pgs (50%) of original cake decorating pamphlet).
- Only made 15 copies for her class

[poll.fm/5fu6t](https://poll.fm/5fu6t)



# FAIR or NOT FAIR

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

Ex. 3 – Google Books

- Digitized 20 million+ books without permission to create an online index
- Didn't include entire text of books in search.

[poll.fm/5fu6u](http://poll.fm/5fu6u)

Authors Guild v. Google (2<sup>nd</sup> Cir. 2015)





# FAIR or NOT FAIR

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

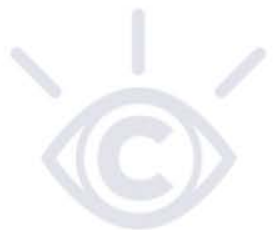
FAIR

## Ex. 4 – Grateful Dead Case

- An author uses photos of artwork from Grateful Dead posters in a 400-page cultural history “coffee table book”
- Book was sold for profit

[poll.fm/5fu6z](https://poll.fm/5fu6z)

Bill Graham Archives v. Dorling Kindersley (2d Cir. 2006)



# FAIR or NOT FAIR

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

Ex. 5 – “Course Packs”

- Commercial copy shop assembles excerpts from articles and books into a coursepack for students.
- No permissions were obtained.

[poll.fm/5fu70](https://poll.fm/5fu70)



# FAIR or NOT FAIR

P

PURPOSE

A

AMOUNT

I

IMPACT

N

NATURE

FAIR

## Ex. 6 – Acuff Rose

- 2 Live Crew rap group released a 1989 parody titled *Pretty Woman* that used the heart of Roy Orbison's *Oh, Pretty Woman*.
- The single was sold for commercial profit.
- Both lower court and 6<sup>th</sup> Circuit ruled the parody was NOT fair use.

[poll.fm/5fu73](https://poll.fm/5fu73)





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**ENJOY THE SYMPOSIUM!**

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801-422-9339

