

week::eight

Copyright, Licensing, & Fair Use

Copyright

The Basics

- Assume works published after 1923 are copyrighted.
- Works are in copyright when they are published.
- © — The copyright character is not required to prove a work is copyrighted.
- Posting on an open/public website is considered published.

Five copyrights (for the creator) from US law

- The **right to reproduce** the copyrighted work
 - The reproduction right is perhaps the most important right granted by the Copyright Act.
 - Under this right, no one other than the copyright owner may make any reproductions or copies of the work.
 - It is not necessary that the entire original work be copied for an infringement of the reproduction right to occur. All that is necessary is that the copying be “substantial and material.”
- The **right to prepare derivative works** based upon the work
 - The right to make a derivative work overlaps somewhat with the reproduction right.
 - A derivative work usually involves a type of transformation, such as the transformation of a novel into a motion picture.
 - In the computer industry, a second version of a software program is generally considered a derivative work based upon the earlier version.
- The **right to distribute** copies of the work to the public
 - The distribution right grants to the copyright holder the exclusive right to make a work available to the public by sale, rental, lease, or lending.
 - This right allows the copyright holder to prevent the distribution of unauthorized copies of a work.
 - However, the distribution right is limited by the “first sale doctrine”, which states that after the first sale or distribution of a copy, the copyright holder can no longer control what happens to that copy.
- The **right to perform** the copyrighted work publicly
 - The public performance right allows the copyright holder to control the public performance of certain copyrighted works.
 - A performance is considered “public” when the work is performed in a “place open to the public or at a place where a substantial number of persons outside of a normal circle of a family and its social acquaintances are gathered.”
 - Literary works, Musical works, Dramatic works, Choreographic works, Pantomimes, Motion pictures, Audio visual works
- The **right to display** the copyrighted work publicly
 - The public display right is similar to the public performance right, except that this right controls the public “display” of a work.
 - The definition of when a work is displayed “publicly” is the same as public performance.

Things to look for when determining Copyright

- Copyright note
- Author byline
- Image caption
- Opening/closing of the video (credits)
- Masthead/header/footer
- Usage/Permissions/Information/About/Legal/Disclaimer

Copyright & Your Creative Work

What about the work that you'll likely create when in the industry?

- In the current environment for creative work (graphic design in particular), clients expect to pay for the work you produce and own that work outright (aka; Own the copyright).
- There are always exceptions: Some photographers, animators, and illustrators negotiate usage contracts for their work, with the client purchasing their specific style.
- For most creative work you do as an employee, the copyright is owned by your employer, then transferred to the client.
- According to the law, in freelance work, the designer owns the copyright of their own work unless it's transferred in writing.

About Permission

When in doubt, ASK for permission

- Attribution is NOT permission.
- Citation is NOT permission.
- Track citations to all works used that are not your own.

Licensing & the Creative Commons

Licensing

- Licensing is paying or making arrangements with the creator/copyright holder to use the item.

Creative Commons

- Creative Commons is a non-profit organization that has developed licenses for copyright holders to use to promote use of copyrighted works without payment.



Creative Commons Licenses

- Licenses are assigned by the creator at the time of publishing
- License types:
 - Attribution, CC BY
 - Attribution-ShareAlike, CC BY-SA
 - Attribution-NoDerivs, CC BY-ND
 - Attribution-NonCommercial, CC BY-NC
 - Attribution-NonCommercial-ShareAlike, CC BY-NC-SA
 - Attribution-NonCommercial-ShareAlike-NoDeriv, CC BY-NC-ND

Fair Use & Public Domain

Fair Use

- The Fair Use doctrine means portions of a work can be used on a temporary (single term) basis.
- Permission to use an item should be obtained if the desired use of a work is long-term (or the whole work).
- For Fair Use works, be cautious and remember to consider any monetary value you may be taking away from the creator.
- Linking out to content is OK

Public Domain

- Works that are in the public domain are freely available to all and not owned by a single entity.