

COPYRIGHT BASICS

Arts Services Initiatives of WNY
Re-Opening Together

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Basic Copyright Concepts

- ❖ Works Protected:
 - ❖ Original Works of authorship that are fixed in a tangible form of expression
- ❖ Categories:
 - ❖ Literary works
 - ❖ Musical works, including any accompanying words
 - ❖ Dramatic works, including any accompanying music
 - ❖ Pantomimes and choreographic works
 - ❖ Pictorial, graphic, and sculptural works
 - ❖ Motion pictures and other audiovisual works
 - ❖ Sound recordings
 - ❖ Architectural works



Basic Copyright Concepts (cont'd)

- ❖ Rights of Copyright Owners
 - ❖ To reproduce the Work in copies or phono records
 - ❖ To prepare derivative works based upon the Work
 - ❖ To distribute copies or phono records of the Work to the public
 - ❖ To perform the Work publicly
 - ❖ To display the Work publicly
 - ❖ For sound recordings, to perform the Work publicly by means of digital, audio transmission
 - ❖ Rights of attribution and integrity in certain works of visual art



Basic Copyright Concepts (cont'd)

- ❖ Copyright Claimants
 - ❖ Authors, co-authors and collaborators
 - ❖ Works for Hire
 - ❖ Works prepared by employees within the scope of employment
 - ❖ Works specially ordered or commissioned if expressly agreed in writing to be Works for Hire
 - ❖ Assignees



Basic Copyright Concepts (cont'd)

- ❖ Copyright Registration
- ❖ Copyright Notices
 - ❖ ©Leslie Mark Greenbaum 2020
- ❖ Term of Copyright Protection
 - ❖ Life of the author, plus 70 years
 - ❖ Works for Hire, 95 years from publication or 120 years from creation, whichever is shorter



Basic Copyright Concepts (cont'd)

- ❖ Transfers, assignments and licenses of copyright
 - ❖ Can be all of the Owner's rights or limited rights (e.g. to make limited prints of a visual artwork or to use a musical composition in a motion picture)
 - ❖ Transfer of exclusive rights must be in writing and signed by the Copyright Owner or the Owner's duly authorized agent.
 - ❖ "All rights other than those specifically granted, are reserved to the author and such reserved rights which are not granted under this agreement include, but are not limited to the motion picture, radio broadcasting, television, video or sound taping, all other forms of mechanical or electronic reproduction, such as retrieval systems, and the rights of translation into foreign languages."

Excerpt from Dramatists Play Service, Inc. Agreement.



Basic Copyright Concepts (cont'd)

- ❖ Limitations on Exclusive Rights : Fair Use
- ❖ [T]he fair use of a copyrighted Work... 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:
 - 1) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
 - 2) the nature of the copyrighted Work;



Basic Copyright Concepts (cont'd)

- ❖ Limitations on Exclusive Rights : Fair Use (continued)
- 3) the amount and substantiality of the portion used in relation to the copyrighted Work as a whole; and
- 4) the affect of the use upon the potential market for or value of the copyrighted Work.

The fact that a Work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors



Basic Copyright Concepts (cont'd)

❖ Fair Use – No Bright Lines

In considering the fair use defense "the task is not to be simplified with bright-line rules, for the statute, like the doctrine it recognizes, calls for case-by-case analysis...Nor may the four statutory factors be treated in isolation, one from another. All are to be explored, and the results weighed together in light of the purposes of copyright.

Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994)

"Copyright law thus must address the inevitable tension between the property rights it establishes in creative Works, which must be protected up to a point, and the ability of authors, artists, and the rest of us to express them - or ourselves by reference to the Works of others, which must be protected up to a point. The Fair-Use Doctrine mediates between the two sets of interests, determining where each set of interests ceases to control." *Blanch v. Koons, et al.*, 467 F.3d 244 (Second Circuit 2006)

