Copyright & The How-To’s of Online Image Posting

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WordCamp 2014
May 3, 2014
Intellectual Property

• Result of **human originality, creativity or innovation** (intellectual endeavour)

• Governed by a web of **legal regimes** which create economic rights (international treaties and national laws)

• Most common **forms** are patents, trademarks, copyright, industrial designs and trade secrets (confidential information)

• IP regimes create **frameworks** to manage relationships with others around intellectual endeavours (social and business)
Communication & Copyright

• Copyrights protect the manner in which ideas are **expressed**, not the underlying ideas
• Originality requires exercise of **skill** and **judgement** and a work must generally be fixed in some material form
• Consent & Licenses: permissions to use original works under copyright
• Many works represent or embody **layered** interests in copyright
• Digital content use challenging © legal regimes

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Copyright Act

• Design based on international treaties
• “Modernization” amendments November 7, 2012
• Confers a bundle of copyrights (economic) and moral rights (personality)
• The rights arise automatically upon creation of an original literary, artistic (visual), musical and dramatic works
• Seeks to balance public (user) and creator (owner) interests to encourage the dissemination of works of creativity and intellect
Scheme of Copyright Act

Publicity Threshold
- Access economic benefits once you publish
- Publication comes with risk of loss of control

Balancing of Interests
- Author Rights - First Owner/Control over Publicity/Moral Rights
- Owner Rights - Relationship with Author
- Neighbouring Rights - Performers, Soundtrack Makers, Broadcasters
- Public (User) Rights - Exceptions to Infringement

Infringement = Copying (Substantially)
- Do without permission what copyright holder has right to do
Communication & Fair Dealing

User Rights (exceptions to infringement)
Many communications will have a fair dealing purpose

Fair Dealing Purposes include: research, private study, education, parody, satire, criticism, review, news reporting

Factors to determine if dealing is fair include: purpose, character, amount copied, alternatives, nature of the work, effect of copying

Other specific exceptions relating to e.g. education and user-generated content.

Strive to clearly articulate purpose, minimize copying and consistently acknowledge sources
Copyright Challenges

Reality of essentially unrestricted access to content resources on the internet

Multitude of considerations arise when sourcing, using or altering images to develop content on websites:

– Type of work (copyright implications)
– Source of work (due diligence)
– Intended use of copy(ies)
– Jurisdiction (websites)
– Consent (specificity, clarity, format)
Image Content & Websites

Digital images are visual works that may represent layered © interests depending on the subject of the image:

• Paintings, cartoons, graphic designs, photos, memes, engravings, posters, ads
• Sculptures, statues, models, crafts, buildings
• Publications, film and dramatic productions, (characters, performers, compilations, collections)
• Works of applied art (ornamental features on useful articles, e.g. Fabric, wallpaper, carpets kitchenware, jewelry, machines

Adaptations & Derivatives (substantial copying)
Pillars of © Management

• Develop communication strategies (e.g. copyright marking, attribution of sources, business before legal solutions)

• Keep informed of legal developments (global approach) – World Intellectual Property Organization (WIPO)

• Be prepared to be flexible, adapt and use legal support
© Action Plan – Part I

• Plan ahead, assess resources and if permission is required (public domain, fair dealing)
• Diligently seek and document efforts to determine who is the owner of the work
• Determine specific rights needed
• Seek consents – may require negotiation of payments or special clearance (anonymous works)
• Put your arrangements in writing
• Track the details of your arrangements and review periodically
• Maintain contact to build relationships and anticipate changes in arrangements

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© Action Plan – Part II

• Mark and register intellectual property rights
• Communicate your approach to copyright
• Monitor third party activity
• Reach out to resolve unauthorized copying
• Be ready to use non-legal and legal recourses

Resources:

– Tracking images (e.g. DMCA.org, Google Images & Alerts)
– Accessing images (e.g. Creative Commons, Getty Images)
– WordPress Tools (Plugins)
Know Your Options

- Monitoring & Take-Down Procedures
  - US *Digital Millenium Copyright Act* – gave rise to tools & processes (offered and applied by ISPs and service providers like DMCA.com)
- Creative Commons (content sharing)
  - [http://creativecommons.org/about](http://creativecommons.org/about)
  - [http://creativecommons.org/licenses/](http://creativecommons.org/licenses/)
- Stock Photos (content access)
  - Multi-level options (e.g. Getty Images)
- Website Content Marking, Notices, Restrictions
  - WordPress Plugins
Content Tracking: DMCA.com

Service Provider for marking, monitoring and facilitating unauthorized content use:

– Mark your own content and content you have permission to use (watermarking):
  • Copyright notice, logos, DMCA protection badges
  • Mask URL of image directory
  • Discourage “hot-linking”
  • Suitable for standard image formats (e.g. JPEG and PNG)

– Some free features and some for a modest fee to access a system for monitoring/reporting copied content (see also Google Alerts and Google Images)

– Do it yourself and assisted take-down support services
Content Take Down Procedures

Developed as a result of legislation such as the US Digital Millennium Copyright Act

Automatic’s (WordPress.com) Procedure:
• Verify blog is hosted by Automatic
• Contact blogger first and try to resolve
• Send notice of complaint to Automatic using online form or by email including:
  – Signature of copyright owner or person authorized to act on their behalf
  – Identification of copyright claimed to have been infringed
  – Description of nature and location of infringing (copied) content
  – Your contact information
  – Statement of good faith belief of infringement (subject to legal penalties)
Non-Profit Provider of **Content Sharing System** providing legal and marking tools for sharing your own content and accessing the content of others:

- Spectrum of license options, e.g. all rights reserved, non-commercial, no derivatives, share-alike, attribution, no rights reserved
- Design: Legal Code, Commons Deed, CC Rights Expression Language (machine-readable)
- Current **Version 4.0** – clearer regarding moral rights
- Do not use as trademark licenses (e.g. for logos) that may have copyright protection
- Do not use for public domain works
March 2014

• Getty Images Wordpress Plugin (Jan 2014, update expected)
• Immediate support for “.com” sites
• Over **35 million images free for non-commercial uses**
• Image served in an embedded player
• Attribution controlled by Getty Images
• Image link back to site
• Collect information on who is using/viewing
• Use information for business development
• Can generate revenue w/out license unless promoting business
Copyright Proof – digitally certify original content and insert copyright/license notice in posts

iCopyright Toolbar – includes interactive copyright notice “to enable sharing, licensing, syndication, tracking and monetization of content

WP Content Protection Protection – disables functions used to copy content (e.g. right clicks, image dragging, keyboard shortcuts)

DMCA Protection Badge – install protection badges to deter unauthorized content taking

Fantastic Copyright Free – adds copyright notice to footer of WordPress site
Customizable (free) Plugin for adding Creative Commons license information to posts, pages and feeds:

- Configuration page in administration panel
- Per post license setting options (default, no license, all or no rights reserved)
- Widget for sidebars
- Display block with license information under content
- License type selection from CreativeCommons.org
- Reset license information without affecting customization settings
- Translations in other languages available
Thank You!

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