6-9-2016

Intellectual Property

Paul Royster
University of Nebraska-Lincoln, proyster@unl.edu

Follow this and additional works at: http://digitalcommons.unl.edu/library_talks
Part of the Intellectual Property Law Commons, Scholarly Communication Commons, and the Scholarly Publishing Commons

http://digitalcommons.unl.edu/library_talks/125

This Article is brought to you for free and open access by the Libraries at University of Nebraska-Lincoln at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Library Conference Presentations and Speeches by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.
Intellectual Property

“The gift that keeps on giving.”

Paul Royster, Coordinator of Scholarly Communications
University of Nebraska-Lincoln Libraries
June 9, 2016
1) **Copyright:** words, music, performance, graphic arts  
U.S. Copyright Office (Library of Congress)  
*automatic*

2) **Trademark:** signs, symbols, commercial identity  
U.S. Patent and Trademark Office  
*long legal application process*

3) **Patent:** objects, processes, manufactures, formulae  
U.S. Patent and Trademark Office  
*very long legal application process*
Registration of Copyright

- Not required for copyright ownership.
- Necessary to collect damages in suit for infringement.
- At U.S. Copyright Office: $35 fee.
- Also offered by dissertation services for slightly more.
What does copyright give you?

Exclusive rights to:

1. copy and distribute
2. perform
3. create derivatives
4. license others to do the above
Forever? . . . . Well, almost.

Current terms:

Personal works: Life of author + 70 years

Corporate works: 95 years
Requirements for copyright

1. creative act

2. fixed form
You cannot copyright

• facts
• data
• general knowledge
• public domain works
• U.S. government works
You can copyright

Your particular way of expressing yourself, or your particular combinations of language, choreographed movements, gesture, sound, etc.
Transfer of copyright

• Must be by contract or legal instrument: no implied transfer.

• Sought and held by most publishers, who control vast amounts of intellectual property.

• Most author/creators have lost control of their original intellectual property.
Exceptions to copyright exclusives

1) “Fair use”
2) Library preservation
3) Instructional use
4) “open access” licenses
“Fair use” (§107)

“the fair use of a copyrighted work, including such use by reproduction in copies ... for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”
The 4 Factors in “fair use”

1. Nature of the use
2. Nature of the work
3. Portion of the work
4. Effect on value of the original
Instructional exemption §110:

“A copyrighted work may be displayed under the supervision of an instructor as part of a class offered by an accredited nonprofit educational institution if it is directly related to the content, and is limited to students officially enrolled in the course.”
So an instructor may ... 

- read or display a copyrighted work in class
- distribute a section of a copyrighted work
- place a copyrighted work on electronic reserve at the Library
- place a copyrighted work on Blackboard or other course management system
“Open access” licenses

“Creative Commons” licenses can be attached by the holders of copyright. These permit others to reproduce, alter, redistribute, and create derivatives, subject to certain attribution or non-commercial requirements.
Ownership by UNL?

- **Scholarship & creative activity**: Faculty own it.

- **Course materials**: Faculty own it, but UNL has license to retain and use them.

- **Substantially supported products**: UNL owns, but author has rights to re-use and share in profits (for support “in excess of the norm”).

- **University initiated & funded**: work for hire; UNL owns it.
When in doubt . . . .

Work it out beforehand!
Contact: Copyright or publishing help, advice, consulting, etc.

Paul Royster
306 Love Library, South
402-472-3628
proyster@unl.edu
@paulroyster