



Legal Issues for Writers

A guide to protecting your rights
and
avoiding liability.

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Disclaimer

This workshop is not intended as legal advice, nor is it intended to create an attorney-client relationship between Teresa and any participant.

Legal issues we'll cover

- Copyright basics
- Trademark
- Defamation, privacy and the right of publicity
- The Option Clause
- The warranty clause

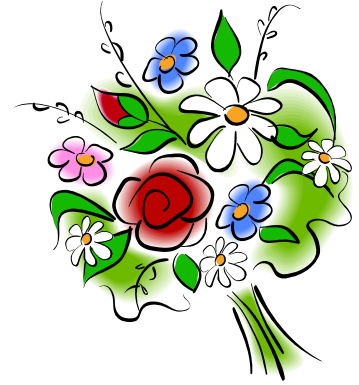
Copyright basics

- Copyright vs. plagiarism
- When does © protection arise?

Original works from the moment they are “*fixed in a tangible medium of expression*”.

- Not covered? Ideas, facts, concepts, discoveries, common themes, stock characters, titles, names, slogans . . .

Copyright basics



Reproduce

Sell Distribute

Perform publicly

Display publicly

Prepare derivative works

Public Domain

- Works published before 1923
- Government works
- Works that may have fallen into Public domain

More public domain questions

- Quoting Jane Austen's (or another historical figure's letters)
- Tolstoy translation
- Can I take whole chunks out of public domain works and put them in my novels?
- Images?

Photos



RWA Code of Ethics

Intentional copying of the written works of others (including but not limited to books, articles and/or manuscripts) with an intention to claim such work(s) as the member's own.

Infringement

- Copying an original work
- Access
- Substantial similarity
- Intent not an issue (except for damages)

Trademark:

- Kleenex ®
 - Kleenex or facial tissues
- Rollerblades®
 - Or inline skate
- Coke®
 - Or soda

Trademark:

“I’d buy you Rogaine® when you start losing all your hair.

Sew on patches to all you tear.”

“The Way I Am,” Ingrid Michaelson

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The warranty clause: Or, I'm promising what?

- Sole work of the author
- The work is original
- The work does not infringe
- The work is innocent
- The work has not heretofore been published
- The publisher may rely on representations in dealing with a third party

Defamation

- State law
 - Anyone can sue anybody for anything, anytime
- Harming reputation
- Related claims:
 - Right of privacy
 - Right of publicity

Option Clause

- Is intended to benefit the publisher
- Gives the publisher an option on your next work
- If you can't avoid it, make it as narrow as possible.

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