

Copyright: Please Look But Don't Touch!

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We live in a community where information exchange and communication by online, electronic mechanisms is growing at a tremendous rate. There are now numerous ways in which to copy, modify, reuse and transmit images, text, video, music and more. From a copyright perspective putting your valued images or information content up on the Internet can feel a bit like standing in the middle of a jungle and shouting, "come eat me". The reality is not quite so scary and the risks can be measured and controlled. We will look at how to protect yourself from breaching copyright in digitising originals and how to protect your materials against breach of copyright.

This paper will look at copyright with the intention of providing protection from the two main types of person who breaches the copyright rules:

- The blatant and knowledgeable thief.
- The uneducated user who does not know they are actively stealing.

The only way to prevent anyone stealing valued materials is to lock them away and never show them to the public. But this is counter-productive, as the reason for many services, resources and organisations to exist is to provide access to varied information resources. In essence we desire people to be able to look but not necessarily touch our images. We want the public to have access either to justify and/or sell our services plus the public recognition such access would bring for our organisations.

Three Steps to Copyright Safety

- Know the copyright law and your rights in relation to your resources, your audience and your organisation.
- Educate your viewers and users about copyright law and what it means in relation to the specific resource they are using.
- Take steps to protect your resources from abuse the best you can with the finances and technology available to you.

Knowing the copyright law

It is essential that you check all advice upon copyright from general sources (like this paper) with the legal representatives of your organisation. This is because whilst the law might not seem a mobile target, the exact application of the law for your organisation will always need to be checked for issues specific to your organisation or the materials in question.

The basis for our current copyright laws date back to the early 18th Century. During the reign of Queen Anne, Parliament adopted the first copyright laws in recorded history. Whilst we may have drafted new laws and revised them several times with those laws being reflected and revised in many countries most copyright laws still reflect the sentiment of the original legislation.

Basically, copyright secures for a limited time to authors and creators/inventors the exclusive right to respective works. In essence this gives the copyright owner the right to make a financial gain.

The financial questions are paramount in my estimation. They will control all decisions regarding the practical implementation of copyright law. For others the moral or ethical rights issues might be as powerful, but I believe that to be the exception rather than the norm.

So when considering implementing a system or clearing copyright the expenditure of money will be based upon balancing a number of factors:

- The risks to your organisation in breaking copyright by placing materials on the Internet.
- The ownership of the copyright for the materials is a third party whose rights you are protecting and thus ensuring your own continued use of the materials.
- The intrinsic value of the materials to your organisation.
- The risk of the materials being taken and actively resold.
- The value of the items in the open market.
- The cost of protecting your materials.
- The cost of pursuing thieves.
- The range and extent of access that you might allow to the materials.
- The cost and risk to your organisation if the materials are stolen and how that will affect the image of your organisation.

Whatever you want to do you can create a scaled approach to copyright according to your financial resources, the risks involved and the value of the materials.

The Digitiser and Copyright

The main consideration for the digitiser of materials is to find out whether the items are in copyright, who the copyright owner is and whether they will allow you to digitise their materials. This will not prove to be as simple or as easy to achieve as it may first appear. Copyright clearance is generally required before you can do any digitisation at all, even for the purposes of tests. If you are hoping that an external bureau will digitise your materials then consider that they will require a waiver of legal liability to protect them in case they break copyright law on your behalf.

The problem with copyright clearance is often that it requires a lot of effort and can become a major block to the progress of a project. What do you do if the copyright owner is not obvious, cannot be contacted or does not reply to any letters you send? There is a concept of "*reasonable effort*" which may be applied, but with great care. If you can demonstrate with careful record keeping that you have taken every reasonable effort to identify and ask the permission of the copyright owner then you may be able to mitigate some of the risks in making non-copyright cleared materials electronically available. You must be prepared to comply immediately should the copyright owner appear and demand the items' removal from public access. You are still liable to the copyright owner demanding financial redress but should this end up in court the demonstration that you made reasonable effort will count in your favour.

- Keep meticulous records of all attempts to clear copyright and make every effort to find and contact the copyright owner.
- If you cannot find them take out advertisements in places they are likely to read, such as the core professional publication or a national newspaper.

- Always assert on user access to the individual materials that they are the copyright property of someone else and that you would welcome contact from the copyright owner. You should demonstrate an immediate willingness to remove items if requested.
- Balance and measure the value of the materials against the risk you are taking making them available. Making a freely distributed political paper pamphlet available for free electronically will usually be less financially risky than selling access to a valuable item such as an art work.

The end goal of “*reasonable effort*” is to get your parent organisation to indemnify you against the consequences of a breach of copyright. The only way that can be achieved is by demonstrating that the risk is low, the consequences will not be severe and that the benefit is worth all of those risks.

A project that has taken this approach after legal advice is the BLPES Political Pamphlet Project (www.blpes.lse.ac.uk/services/guides/pamphlets/social-policy/default.html). They use the following format of statement on their non-cleared documents:

The [name of organisation] regrets that despite all reasonable efforts it has been impossible to trace the copyright owners of this particular [name of resource].

We have therefore taken the decision to digitise this [name of resource] in the hope that no offence will be incurred to the author or publisher.

Any copyright holder wishing to query this material is invited to contact the [name of organisation] at the following address:- [insert address]

The Provider of Content and Copyright

Having run the gauntlet of gaining copyright clearance and the added expense of the digitisation process it will be undesirable for all that effort to be misused by the intended user-base. It is worth investing some time, thought and effort towards a suitable means of protecting your copyright.

There are a number of potential ways to protect your copyright:

Assert Ownership

Always assert your ownership of the materials at every single opportunity you can. The most frequently used, easiest and cheapest method is the copyright symbol and the copyright statement.

Copyright symbols may be added to images, video, text and audio files either in the header information for the file which will then be displayed or in the copyright field for that file type so that readers of the file will display a copyright symbol. Packages such as Adobe Photoshop (for images) and Apple's QuickTime (for video and audio) have the means to easily add copyright information to the file header that can be displayed. This information can travel with the file and be displayed in viewers. But it is not very visible and the uneducated user may not realise its significance to them.

The copyright statement is an essential tool for ensuring that there is no possible mistaking your rights as provider of the resources and the viewer's responsibilities. This statement can be placed in front of the viewer as they log onto or enter the service for the first time. It should also be used with all images or contents that you think have particular value. In this way you are

informing the uneducated viewer and making the knowledgeable thief wary and fully accountable for their actions.

The following is the type of text that is commonly used in a copyright statement that would accompany an image. Obviously, check its suitability with your local legal representative before applying it to your own service and ensure that the listed organisation is the actual legal entity which owns the copyright.

Copyright Statement :

Copyright owned by [name of organisation]

or

Copyright owned by [name of copyright owner] managed by [name of organisation]

Permitted Uses:

The information on this page and any images that appear here, may be used for private research and study purposes only. They may not be copied, altered or amended in any way without first gaining the permission of the copyright holder.

Protect your Content

Both of the above copyright protections are easy to implement and just as easy to strip out of the file by the blatant and knowledgeable thief. They are most successful at deterring the uneducated user and informing the majority of people of what they can and cannot legitimately do with the images. To protect against the active thief requires more active measures.

The most intrusive of these is the protected Website. Several companies have come out with technologies to protect images on the Web. These programs are effective only if your Web site is the only place that you display your images. They are intended to make it impossible to copy or print images from a protected Website. But they only work with image content (not video or audio) and ways of circumventing the security have unfortunately already been found. Something as simple as a screen capture has foiled many systems. The same problem exists for encryption systems that have a basic weakness at the point when the data are decrypted and played or displayed. At this point a perfect digital copy is possible.

A few sample systems for your consideration:

- SafeMedia - part of Internet Expressions Inc. (www.safemedia.com)
- Gamacles Software – Image Protect 10.0 X-6 Enterprise Edition. (www.gamacles.com)
- Copysight - from Intellectual Protocols LLC. (www.ip2.com)
- Clever Content from Alchemedia. (www.alchemedia.com)

Watermarking your Content

Watermarking is one of the most effective ways of protecting and identifying the ownership of visual electronic content. There are many forms of watermarking, but the two most basic types are the visible watermark and the hidden or invisible watermark.

Watermarks can provide several benefits. Authentication to demonstrate that the item came from a particular source and that it hasn't been tampered with. The ability to deter theft and then to detect and prove theft when it has occurred. Proof of ownership is the essence of watermarking – asserting your rights over the material.

There is an excellent resource available from PATRON, a JISC project, with detailed information and links to products and services (www.lib.surrey.ac.uk/Patronmark/front.html)

Visible Watermarks: These are visible to the user and generally contain some sort of basic assertion of copyright ownership. This is often a translucent layer overlaid across the visual image that delivers the copyright message. They can be as visible, subtle or intrusive as you like and can be added to your Web content with automated processes according to the media format. In video this is often a small logo in the bottom corner of every frame. In images it may be a message laid across the centre of the image. Note that with visible watermarks you are deliberately changing the content to make the removal of the watermark destructive to the overall image and the watermark will be visible on screen and in printouts. The downside is that many content providers object to the intrusive nature of the watermark and don't feel it sells their content very well.

Invisible Watermarks: There is a number of new digital watermarking packages available. The invisible watermark usually works by transmitting hidden information as noise in the image. Some watermarks can simply provide copyright owner information when detected by the appropriate software. Other watermark systems are designed to prohibit duplication, printing or non-visible modifications of the digital file. Watermarks are very effective technology but there are still ways for the very dedicated thief to get around them. In some cases you can combine blur and sharpening techniques to remove the noise that makes the watermark.

The obvious downside of invisible watermarks is that the potential offender will not see the watermark unless they are using appropriate software that can detect the watermark. Without this they will not be warned that they are infringing copyright – the watermark remains invisible. High-end graphic software such as Adobe Photoshop will show these, but most viewers and imagers will be using lower-end software and will thus be more likely to unintentionally break copyright.

Copyright for the Future

This paper has described some of the ways in which to protect you and others from breaching copyright. The technology to protect copyright will continue to develop and mechanisms to protect the rights of content providers will improve. There is no doubt that no single mechanism, whether copyright statements, technical security or watermarks will be the single answer. A hybrid of various approaches scaled according to the value of the content and the funds available to implement them seem to be the best approach.

Further effort to educate the unwitting copyright offender is essential. Although the assertion of your copyright can become somewhat tiresome for the content provider, it is the only way to effectively get the message across that not all resources on the Internet are free for all.

Standardisation will be an essential feature to the effective implementation of future copyright protection technologies. A standardised method of watermark detection/display would be a real improvement so that watermark readers can be built into every piece of imaging software, web browser and viewer. This may prevent copyright infringement in the first place or at the very least warn the potential offender about the rights of the copyright owner.

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