

Copyright Versus the "Fair Use" Doctrine

By Larry Pilarski

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Many people are confused about copyriting their work, when in reality they shouldn't be. They shouldn't be because your work is copyrighted the MOMENT you've "created" it!

That story you wrote for your grandson -- its copyrighted!
The letter you just sent to Aunt Carol -- it's copyrighted!
That email you just sent to Joe Bingham -- it's copyrighted!

That's right as soon as you "create" something and write it down whether on a piece of paper or electronically, it's copyrighted.

A Word of Caution: Copyright law can be very vague and although it's certain in some areas it can be uncertain in others.

There are a few of exceptions:

Your work must be longer than just a few lines (it can't be just a couple of words), very simple drawings are not copyrightable and you cannot copy someone elses work without adding something new to it.

Of course you wouldn't be able to copy someone elses work verbatim, you would have to express it in your own words and it would definitely have to show some fresh material.

There is a precept that lets people copy other's work. It's called "The Fair Use Doctrine." With the "Fair Use" one can actually copy someone elses work. Here's how it

works. First determine if it will fit the following:

a) Is it being used for purposes of criticism, satire, teaching, news reporting or research?

b) Is it mostly fact?

c) Are you copying only a small part and is that part an insignificant part of the work?

d) Are you adding a lot "new" to the work?

e) Has the original work been published?

The more YES answers you can achieve, the more likely your use is legal.

An example would be: you download a news article and quote a few sentences from it in your newsletter or an email.

That's "Fair Use" because you've only used a few sentences.

For some startling facts on "CyberSpace Law" check out this fascinating site and view the lessons on copyright law provided by three professors of law:

http://www.ssrn.com/update/lsn/cyberspace/csl_lessons.html

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