

WORKSHOPS & CLINICS

Affordable professional development workshops for creatives and arts administrators

Tuition is waived for those facing financial hardship. Contact us at (314) 863-6930 or vlaa@vlaa.org to request a scholarship. For these in-person workshops, American Sign Language interpreters and other reasonable accommodations are available upon request.

FOR INDIVIDUALS

BUSINESS EDGE FALL 2023

This series is designed to increase the business savvy of our region's artists.

Record Keeping for Freelancers and Self-Employed Creatives

Monday, October 30, 5:00-6:30 PM

Metro Theater Company, 3311 Washington in Grand Center

This record keeping workshop is for creatives of all disciplines who receive fees, grants, and other business income. We'll explain why accurate record keeping is important, show you how to keep track of your income and expenses, and review the most common Schedule C deductions. (Your \$10 registration fee may be tax-deductible!) Getting organized now will streamline your tax preparation and ensure that you don't pay more than you really owe. VLAA Executive Director Sue Greenberg is the presenter. Visit (vlaa.org/get-smart/workshops-clinics/) to register.

MO Sales Tax 101

Monday, November 13, 5:00-6:30 PM

Metro Theater Company, 3311 Washington

Does sales tax or the thought of it make you cringe? Accountant Jessica Seiffert Rubin-Brown, makes it less daunting by covering all the basics, including how to register for a sales tax permit, e-commerce, selling artwork in art fairs, or how you should explain the difference between services and tangible property to your clients. Our special guest is Shayba Muhammad, metalsmith and creative entrepreneur. Visit (vlaa.org/get-smart/workshops-clinics/) to register.

FOR ORGANIZATIONS

ACCIDENTAL ARTS ADMINISTRATOR

Monday and Tuesday, December 11 and 12, 4:00 to 6:30 PM

Metro Theater Company, 3311 Washington

This two-session seminar is co-presented by the Arts and Education Council, Missouri Arts Council and Regional Arts Commission.

The first session covers working with a board of directors, marketing, fund-raising, and financial management. Participants receive a 75-page manual. Tuesday's interactive session will help you develop an approach to planning that answers your organization's questions and act strategically. Tuition is \$20 and \$5 for each additional person from the same organization who attends. Visit (vlaa.org/get-smart/workshops-clinics/) to register.

QUICKBOOKS FOR NONPROFITS

Thursday and Friday, December 7 and 8, 9:00 AM to 1:00 PM

Anders CPAs + Advisors, 800 Market (downtown)

This hands-on training for users with little or no accounting experience is team taught by Anders CPAs + Advisors. We'll cover QuickBooks Online and include presentations on bookkeeping basics and payroll. Tuition is \$40 per organization plus \$15 for each additional person from the same organization. Free parking will be available. Visit (vlaa.org/get-smart/workshops-clinics/) to register.

ART SPACE LISTINGS

Remember... there's a lot more to leasing commercial space than just figuring out the base rent. Leases can be very complex. The fine print is often full of pitfalls, so you should always consult an attorney.

Arcade Apartments

800 Olive Street, St. Louis, MO 63101
(314) 786-3229
arcade@dominiuminc.com

With over 13,000 square feet of shared work and studio spaces designed to support local artists. We offer spectacular 1 and 2 bedroom floor plans with affordable rents.

Arch Reactor

2215 Scott Ave., St. Louis, MO 63103

Arch Reactor is a communal workshop space where all members can share tools and work on projects together.

ArtLoft

1527 Washington Avenue, St. Louis, MO 63103
(314) 436-6545
info@artloftstouis.com

A 10-story warehouse with 63 live/work units for low-income working artists.

Foundry Art Centre

520 North Main Street, St. Charles, MO 63301
(636) 255-0270
director@foundryartscentre.org

A remodeled 1940s train car factory with studios for artists on the mezzanine level of the renovated building.

Intersect Art Center

3636 Texas Avenue, St. Louis, MO 63118
intersectstl@gmail.com

The center offers private and shared studio spaces available for working artists as part of its residency program.

Jacoby Arts Center

627 East Broadway, Alton, IL 62002
(618) 462-5222
info@jacobyartscenter.org

Artist studios and adjacent common space on the center's lower level with small (250 sqft) and large (324 sqft) studio spaces available.



Volunteer
Lawyers and
Accountants
for the Arts

The Connector
Newsletter

CONNECTING CREATIVES

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THE ART OF ASSERTING A PARODY DEFENSE

KIM LY

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From The Onion to memes to more recently, the movie, Bottoms, parodying occurs when you take other work and then build on top of it. Parodies can be humorous and poignant, or, neither, like the movie Meet the Spartans (which had an audience score of 25% on Rotten Tomatoes). Taking another person's



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work may implicate copyright law, however, and there's a limit to what and how much you can take—which is why the photographer in the Mattel v. Walking Mountain Productions case could use copyrighted elements but the publisher in Dr. Seuss Enterprises v. Penguin Books USA could not.

What Your Can Take

In copyright law, Campbell v. Acuff-Rose Music tells us that a parodist must show that their work at least in part comments on what they took from the original. To take from an original doesn't require that work be the sole subject of your parody, but it does require that

your parody can reasonably be perceived as commenting on the original.

The case distinguished between parodies and satires, allowing a legal defense for only the former. Parodies, unlike satires, need the elements they copy to make their message. This means if you want to comment on a particular book (parody), you can probably justify copying from it. If you want to comment on books in society in general (satire), you'll have a much harder time justifying copying from a book. Additionally, a legal parody has to target the specific element copied, not just the general style or the genre of art of the original.

The answer to our earlier question about the difference between the photographer in Mattel v. Walking Mountain Productions and the publisher in Dr. Seuss Enterprises v. Penguin Books USA, then, is the purpose of what was being copied.

In the Mattel case, the photographer wanted to critique the standard of the female body that Barbie dolls have come to embody. Because of this, he was allowed to use actual Barbie dolls in his Barbie-parodying photo collection, "Food Chain Barbie." His photos portray Barbie dolls in configurations like naked in a vintage

malt machine or disembodied in a fondue pot. Conversely, in the Cat in the Hat case, the infringing book, entitled Cat Not in the Hat!, was a retelling of the O.J. Simpson murder trial. The book took the character design, style and rhyme scheme made famous in The Cat in the Hat books. The court found no link between the messaging behind the book and what was taken from the Cat in the Hat. The court even found the authors of the book simply copied the elements "to get attention."

How Much Can You Take

There is a range of what is lawfully allowable. You can take at least enough of the original to make the object of your parody recognizable. This might mean you can take what makes up the "heart" of the copyrighted work if that is what is needed to make your parody. Acuff-Rose Music recognized that most of the time, parodies need to take the main part of the original – in that case, the song "Pretty Woman" – to get their message across. In the Mattel case, the photographer had to use actual Barbie dolls to create his photos parodying how Barbie dolls portrayed women.

The upper limit of that range is a little harder to figure out. CONTINUED ON NEXT PAGE



VLAA's History

Co-founded in 1982 by the City's St. Louis Arts and Humanities Commission (now the Regional Arts Commission), St. Louis University School of Law, and a small board of directors. Accountants were added in 1984. Only three organizations in our national network include CPAs. In 2019, we moved to the High Low, The Kranzberg Arts Foundation's literary arts venue in the Grand Center arts district.

Our Valued Partners



VLAA's mission is to support the creative community by providing free legal and accounting assistance and a wide variety of affordable educational programs. We serve artists of every discipline and career level, nonprofit cultural organizations and small creative businesses. Our organization enhances the region's cultural fabric and offers rewarding volunteer opportunities.



Client Spotlight

Luke Sailor posted his Sail Away LLC certificate on Facebook with this proud announcement: "My LLC is now active!!! Now, when you're dealing with me, you're also dealing with my LLC. Thanks to VLAA for the assistance." Sailor, a St. Louis native, started playing piano when he was five years old.

You aren't allowed to take as much as you need to make the best parody but rather, enough to make a parody. In Walt Disney Productions v. Air Pirates, a comic book parodying the innocent nature of famous Disney cartoons took too much when it copied the likeness of the characters exactly. Because the comic book targeted characters that are so recognizable, there is less need to exactly copy the original character to show the parody.

Parodic Clarity is the Key

Like in all areas of the law, reality and litigation success do not necessarily directly correlate. To succeed under a parody defense in a copyright infringement claim, you should convince a judge or jury of your intent.

In the Mattel case, the photographer did two smart things that allowed him to win his case against the doll company. First, he gave a very clear statement of intent behind "Food Chain Barbie" — "to critique the objectification of women associated with [Barbie], and [to] lambast the conventional beauty myth" that "Barbie embodies." He also went a step further and explained why he chose to target Barbie — because "he believes that Barbie is the most enduring of those products that feed on the insecurities of our beauty and perfection-obsessed consumer culture." The photographer might have had a harder time trying to comment on something with a less clear message.

In the Cat in the Hat case, the court said the authors of the parodying book took without commenting on anything about the rhyming scheme or stanzas of the original...but maybe the publisher could have prevailed if their lawyers had said the book intended to parody the Cat in the Hat books' whimsical and innocent nature by juxtaposing its elements with the context of a murder trial.

The next time you create a parody, remember that it needs to clearly criticize or comment on what you take.

CELEBRATING THE FREEDOM TO READ

LIBRARIANS RESPOND
THURSDAY, NOVEMBER 2 AT NOON
High Low Listening Room, 3301 Washington
in Grand Center

It's Banned Books Week. Join Rachelle Brandel (Missouri Library Association), Kathleen Gallagher (Richmond Heights Public Library), and Joe Monahan (St. Louis Public Library) with moderator St. Louis Public Library Board President Vincent Volpe, and the ACLU's Tony Rothert to learn about how librarians are responding to the new mandates. Actor Jacqueline Thompson will begin the program with an inspirational reading.

The free weekly High Noon lecture series is presented by the Kranzberg Arts Foundation. Librarians Respond is co-sponsored by St. Louis Volunteer Lawyers and Accountants for the Arts.

About Banned Books Week

Of course, no one is celebrating banned books — except those banning books! The annual week-long event celebrates the freedom to read. It spotlights current and historical attempts to censor books in libraries and schools. It brings together the entire book community — librarians, booksellers, publishers, journalists, teachers, and readers of all types — in shared support of the freedom to seek and to express ideas, even those some consider unorthodox or unpopular.



Record Surge of Challenges in Public Libraries

Between January 1 and August 31, 2023, the American Librarians Association reported 695 attempts to censor library materials and services and documented challenges to 1,915 unique titles — a 20% increase from the same reporting period in 2022. The vast majority of challenges were to books written by or about a person of color or a member of the LGBTQIA+ community. For more visit:

(ala.org/advocacy/bbooks/book-ban-data).

INTRODUCTION TO COPYRIGHT RIGHTS AND LICENSES

JOHN LEE
University of Arkansas graduate and prospective law student for Class of 2024

Most creatives have a basic familiarity with the concept of copyrights. Even so, the world of copyright can sometimes feel like a mystical maze for those trying to figure out what rights they have in their works, or what rights they need to acquire to use other's work. The goal of this article is to demystify the copyright system and provide an introduction to the rights granted by copyright as well as an introduction to copyright licenses.



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History of U.S. Copyright Law

While the basic concept of a copyright dates back centuries, the first copyright statute was the British Statute of Anne of 1710. This law provided authors of books exclusive rights to their contents for two 14-year periods. The rationale at the time was that by providing these exclusive rights, it would encourage more books to be written and thus encourage learning. This rationale has informed copyright laws ever since: by providing a financial incentive to create books, shows, music, art, etc. for a certain length of time, society is able to reap the benefits from these creative and intellectual endeavors. When the United States passed its first copyright statute — the Copyright Act of 1790 — into law, it closely mirrored the Statute of Anne. The original law protected books, maps, and charts for two 14-year terms, totaling 28-years of potential copyright protection.

Over the course of the next two centuries, U.S. copyright law would receive four general revisions that expanded the scope of copyright protection and the length of protections. The first general revision came in 1831, which added musical compositions to the list and increased the first term of protection to 28 years. Now creators could obtain a total of 42 years of protection for their works. The second general revision of U.S. copyright law

occurred in 1870, and in addition to expanding copyrights to include the exclusive right to the creation of derivative works (works that are based on one or more already existing works), this revision designated the Library of Congress as the overseer of copyright registration, deposit, and recordation. This revision of 1870 also created the official indexing of copyright registrations. In 1909, President Theodore Roosevelt signed the third general revision of U.S. copyright into law with the 1909 Copyright Act. This modification extended the maximum potential term of protection — to 56 years — consisting of two 28-year terms, while broadening the subject matter of copyright protection.

The fourth, and most recent, general revision to U.S. copyright law was signed into law by President Gerald Ford in 1976. The Act extended federal protections to all works, both published and unpublished, from the moment they are fixed in a tangible form. It created copyright protections for more than the life of the author of new works. The maximum term established by the Copyright Act of 1976, which applied to all works created on or after January 1, 1978, was the life of the author plus 50 years. With the expansion of modern communications technologies, works had the potential of generating huge financial benefits for their creators even long after their initial creation and release. In addition to extending the maximum term for new works, the act also extended the renewal term for older works to 47 years, increasing the maximum term for these older works to 75 years.

While the Copyright Act of 1976 provides the basic framework for current copyright law, copyright protection terms are now determined by the Sonny Bono Copyright Term Extension Act of 1998. This Act amended the rules determining the length of time creators would have protections for their work, and any work currently in its renewal term gained protection for 95 years from its original publication. This meant that works first published after 1923 were granted this maximum term of 95 years, as long as they were properly renewed for their second terms under the 1909 Copyright Act. In addition, this Act extended the copyright term for works of corporate authorship to 95 years from publication or 120 years after creation, whichever ends earlier.

What Works Get Copyright Protection?

To gain copyright protection, it must meet two basic requirements: (1) it is an original work, and (2) it is fixed in a tangible form. The originality requirement ensures that authors of works are actually contributing something creative and new in their work rather than simply copying existing works. There are, however, certain things that have been determined to not qualify as "creative" in the eyes of copyright law. These include titles, names, short phrases, and slogans; familiar symbols or designs; variations in typography, coloring, or lettering; listings of ingredients or contents, and more. The boundaries for some of these can be fuzzy, so always consult a lawyer before picking categories for your work.

The requirement that works be fixed in a tangible form demonstrates an important fact about copyright: copyright protects expression — not ideas, methods, concepts, principles, or processes. For a work to be fixed in a tangible form, it needs only to be captured in a semi-permanent form, either written down or recorded.

What are the Specific Rights Granted with a Copyright?

When a work is granted copyright protection, its author receives six basic exclusive rights. These rights are to:

Reproduce the work in copies or phonorecords. This means that authors have the exclusive right to create copies of their works. What qualifies as a reproduction of a work depends somewhat on the form of the work originally. Importantly, this right applies to copying portions of the work as well as the work in its entirety.

Prepare derivative works based on the work. Derivative works are new works based on the original work. This could mean a book or movie sequel using the same characters and setting, or even a motion picture adaptation of a book. It could also mean a translation of a poem or a new arrangement of a composition.

Distribute copies or phonorecords of the work to the public by sale or other transfer of ownership or by rental, lease, or lending. Just as authors are given the right to create copies of their works and distribute those copies for financial gain.

Perform the work publicly. For literary works, musical works, dramatic works, choreographic works, pantomimes, motion pictures, and audiovisual works, authors are given the exclusive right to perform these works in public. A performance is considered to be public when it is located somewhere open to the public, located in a place accessible by a substantial number of people outside a familial or social circle.

Display the work publicly. This right is very similar to the previous one in definition; however, it applies to slightly different types of works. The exclusive right to display a work applies to literary works, musical works, dramatic works, choreographic works, pantomimes, pictorial works, graphical works, sculptural works, and stills (individual images) from motion pictures and audiovisual works.

Perform the work publicly by means of a digital audio transmission. This last right applies only to works that are sound recordings.

What Are Copyright Licenses?

Copyright licenses exist as a way for authors and creators to control the use and distribution of their work. Where copyright protection provides creators with the exclusive rights mentioned above, licenses allow those same creators to temporarily grant others these rights, often for a fee. Licenses are usually highly specific about which uses of a work are allowed. The terminology used in these licenses is typically industry-specific, though they mostly exist for the core functions of controlling use and providing creators a way of financially leveraging their exclusive rights.

Conclusion

Copyright protections play an important role in our society. By providing creators exclusive rights over their work for a time, copyright laws in the U.S. allow for the rich cultivation of the arts throughout society. And with copyright licenses, these authors have ways of controlling and leveraging these rights to not only build a sustainable career, but also leave their loved ones with the financial benefits of their creativity for some time. Having a basic understanding of the rights creators are granted is essential for creators and those who want to use their works.

Who We Serve

We embrace a broad and inclusive definition of art that encompasses the visual, literary, media, design, performing arts, makers and artisans, as well as community-based arts practices and emerging creative fields. Our clients include individual artists, cultural workers, collectives, small creative businesses and nonprofits. Clients must demonstrate financial need in order to receive pro bono legal or accounting services. Our educational programs and other resources are open to everyone.

Our primary service area is greater St. Louis, which includes St. Louis City, St. Charles, St. Louis, Franklin and Jefferson counties in Missouri and Madison, St. Clair and Monroe counties in Illinois. We also serve eastern Missouri, including Boone County, and other counties in Southwest Illinois.



Our Impact

Our 300 dedicated volunteers annually provide more than \$350,000 in free professional services. Without their assistance many important legal and accounting problems would go unresolved. Our educational programs help our creative community avoid legal and accounting problems, grow their creative practices and strengthen nonprofit organizations.