What is Copyright, really?

A “Bundle of Rights”

Limited Economic Monopoly for Authors

A system to “promote the progress of science and the useful arts....”
History of Copyright

1600: Statute of Anne (1709)
1700: Queen Anne
1800: U.S. Constitution
1900: First US Copyright Law 1790/1834
2000: Copyright Law of 1976

- Concept of “fair use” (1841)
- Sony Case (1984)
- Digital Millennium Copyright Act (1998)
- Teach Act (2003)
Copyright: What are my rights?

(1) to reproduce the copyrighted work in copies
(2) to prepare derivative works
(3) to distribute copies to the public by sale or other transfer of ownership, or by rental, lease, or lending;
(4) to perform the copyrighted work publicly
(5) to display the copyrighted work publicly
§106 “Bundle” Can Be Given Away....

Your "Bundle of Five Rights"

You can transfer any one (or all) of the bundle of rights to a publisher

This is done through a contract or agreement

Read the publisher's contract carefully

Which means that the publisher, not you, would own the right to make copies, prepare derivative works, etc. +You no longer own the bundle+

Some contracts request exclusive rights to your work!

Subject Matter of Copyrights

- Literary works
- Musical works
- Dramatic works
- Pantomimes/choreographic works
- Pictorial, graphical and sculptural works
- Motion pictures and audiovisual works
- Sound recordings
- Architectural works
Work Must be...

- Copyright protects original works of authorship that are fixed in a tangible medium of expression.
- Original - not copied, but an independent work.
- Creative – not a new idea, but a new expression of the idea.
- Fixed in a tangible medium of expression.
  - Embodied in a form which enables it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

Feist Case Discussion

- Copyright protection is not available for a mere "idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work." (§102(b))
- Similarly, © protection not available for “mere statements of facts”
Feist teaches us...

- Facts are not copyrightable although compilations of facts may be when
  - the choices as to selection and arrangement of the collected data are
  - made independently by the compiler; and
  - entail a minimal degree of creative arrangement;

Library Applications of Feist

- Is there a © in.....?
  - Indexes
  - Catalog Records
  - TOC
  - Bibliographies
Other works....

- Collections of recipes entitled to copyright protection when there is some literary or other original component to the work (or compilation is original in the selection of items, its arrangement, etc.)
  - individual recipes or collections lacking any originality are not entitled to copyright protection.
- Cookbooks have been held eligible for copyright protection when they were found to contain original elements
  - not when they consisted of mere statements of facts, with no expressive content

Selfies and Copyright: an exercise in theory
There are three types of *limitations* on copyright owners' rights:

1) compulsory licenses
2) exemptions
3) fair use

§106 Bundle Exclusive Rights: Exceptions

Those qualified for an exemption do not pay a fee and do not have to ask permission

§107 [fair use]

§108 [library/archive, preservation, ILL copying]

§109 [first sale]

§110(1) [face-to-face teaching activities of a nonprofit educational institution, in a classroom, etc.]

And more....
Ownership

- There are only four ways to “own” a copyright:
  - ownership by authoring the work
  - ownership by transfer, i.e., by a written agreement or by operation of law (“give away the bundle”)
  - ownership by bequest in a will
  - state intestacy laws

- Whether one person or another is the owner of rights or whether one person has instilled the work with enough originality to be an author is a question of fact

Formalities: Registration in © Office?

- Completed registration form and a submission of the original work.
- Copyright office will issue to the owner a certificate of registration
  - Advantages of registration
Reading the Statute

- Copyright Act consists only of the first *eight* chapters of title 17, United States Code (USC)
- There are *five* other chapters in title 17.
  - All five are *sui generis* provisions placed in title 17 for various reasons, i.e. administrative reference to the Copyright Office, or desire to make use of definitions in the Copyright Act.

Works in the public domain...

- Copyright has a limited term, though often a long one:
  - U.S.: Life + 70 years
  - Spain: Life + 80 years
  - Mexico: Life + 100 years
- The rules for term of copyright are complicated: Peter Hirtle’s Public Domain Chart
- Rules of thumb:
  - Works first published in the U.S. before 1923 are now in the public domain here.
  - Works first published abroad before that date may still be in copyright here, as may works published after that date in the U.S. or elsewhere.