Introduction

- What should you know?
- What can you do?
- What can help you?
Layers of Copyright Issues

- Program, text, or image rights as a whole
  - Example: article as a whole, or book as a whole
  - Entire program or excerpt clips

- Individual pieces/ image rights
  - Example: illustration within an article
  - Example: shot within a program or clip
Rights Related to the Whole

- Distribution rights
- Talent and guild agreements
- Ownership rights
Distribution Rights: Whole Program/Item

- Market/means of distribution
  - Broadcast, audiovisual, educational, Internet, journals, books
- Territories in which you can distribute to these markets
  - World, US, North America, UK
- Term of distribution rights
  - 5 years, 10 years, in perpetuity
- Packaging and branding (question of archiving or reuse)
Talent rights: Whole Program/Item

- Talent and Union guilds
- Writer - WGA
- Narrator or actors - AFTRA/SAG
- Music - composed AF of M
- Live music - performer?
- Director - DGA
- Artists? Photographers?
Ownership Rights: Whole Program/Item

- Ownership of a completed work
  - Co-produced / co-owned — shared ownership?
  - Acquisition — were only distribution rights purchased?
  - Complete ownership
- Funder ownership obligations?
- Rights to entire work vs. excerpts
- Rights to develop derivative works
Component Rights

- stock footage, audio, photos, illustrations, text, or music for media materials
  - Each piece could have a different owner
  - Some could be co-owned
  - Are there any talent issues in the shot
    - A famous actor?
    - Any music?
  - For image/photo, need to consider:
    - Photographer, artist
  - For text, need to consider:
    - Author, journal or publisher
Component Rights

- Animation/graphics
- Material shot for the program
  - Location releases
  - Appearances releases for people
    - Ethical question of using children and images of children
    - Original intent of the use
- Music - other than theme composed for whole program
  - Needle drop/pre-recorded
    - Recording rights
    - Publisher rights
Example of a Program Clip

- Clip from one of our shows that we wanted to use in other program
- Program rights
  - Check contracts
  - Talent rights out of license
- Cue sheet to check for individual shots (see sample)
  - Check individual contracts for materials or license agreements (see samples)
Does the source really own the copyright?

- Could be a distributor
- Are they giving you access/a copy or the right to use material?
  - Could have material in collection, and will sell you a copy, but doesn’t own the rights to give you permission to use it
  - Are they indemnifying themselves in their license?
Reuse issues: Excerping, Modifying, Linking, and Fair Use

- Original intent of the materials
  - Are you infringing on permission of the original agreement?
- Just because it’s on someone else’s site, why can’t I use it?
  - How are you planning to use it?
- Can I change it?
  - How much of it do you plan to change?
- Credits — do you want a credit?
  - Are you willing to be associated with the modified piece?
- Other issues?
Strategies to Tackle the Issues

- Your lawyer and friend
  - Talk about the issues separately/break them out one by one
- Ask what risks that they are concerned about
  - How can the risks be alleviated?
- Can it be a fair-use case?
  - Does the use (like educational) change the risk?
- Try to reach a compromise
- Research copyright owners
  - Credits in book or at end of program
  - Internet
  - Books about the subject
- Library of Congress copyright database
  - Is it in public domain?
Best Effort/Due Diligence

- Document your efforts
- Keep a running file of correspondence
- Make sure your lawyer is comfortable that you have overturned every stone and with the risks you may be taking
Reference web sites

- Library of Congress copyrightoffice
  - http://www.copyright.gov/
Agenda for NSDL Rights Interest Group

- Set some guidelines for resources in the NSDL
- Determine how to document what rights were obtained
- Agree to minimum rights that need to be cleared for NSDL resources
  - Should or can we be clearing for individual projects or for NSDL as a whole project?
    - For how long?
- Names and e-mail addresses