



THE NATIONAL SCIENCE DIGITAL LIBRARY

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Rights Management Interest Group



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: Excerpting, 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