



Copyright Licensing for Nonprofits:

Licensing Materials
Created by Your Nonprofit

John C. Bush
May 20, 2015

Purpose

- This brief presentation will discuss (1) copyrights generally and (2) how an organization can license its copyrights.

Mission of Pro Bono Partnership of Atlanta:

To maximize the impact of pro bono engagement by connecting a network of attorneys with nonprofits in need of free business legal services.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- We host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
 - ✓ Join our mailing list by emailing rla@pbpatl.org

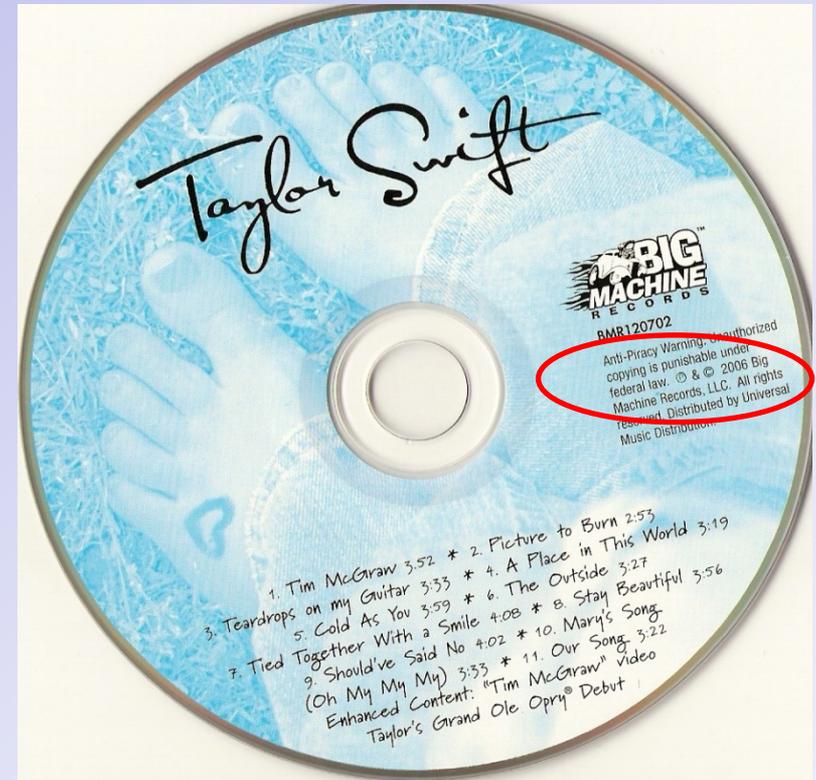
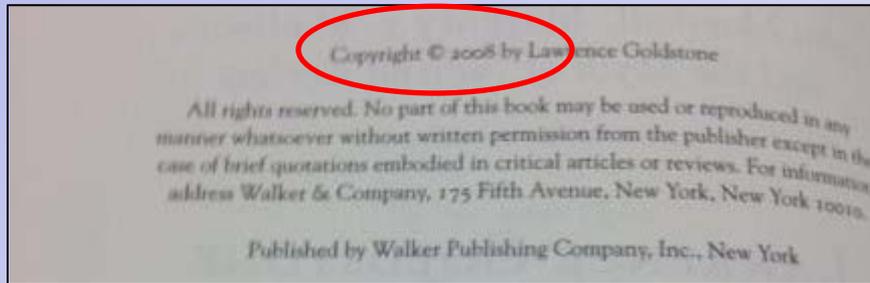
Legal Information:

- ✓ This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.
- ✓ All rights reserved. No further use, copying, dissemination, distribution or publication is permitted without express written permission of Pro Bono Partnership of Atlanta.

Background on Presenter

- Bryan Cave LLP
- Focus on technology and intellectual property issues, particularly computer- and software-related issues involving patents, copyrights, trademarks, trade secrets, and data privacy.

The © symbol and copyright notices are ubiquitous



Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

What is a copyright?

- A “copyright” is a legal right created by the law of a country.
 - ✓ There is no requirement to post a copyright notice.
 - ✓ In the United States, a copyright exists even without seeking registration.
- A copyright captures the creative expression of the author.

Examples of copyrightable works

- 17 U.S.C. § 102
 - ✓ literary works
 - ✓ musical works, including any accompanying words
 - ✓ dramatic works, including any accompanying music
 - ✓ pantomimes and choreographic works
 - ✓ pictorial, graphic, and sculptural works
 - ✓ motion pictures and other audiovisual works
 - ✓ sound recordings
 - ✓ architectural works

Examples of copyrights



Copyright does not protect facts

- Copyright protection extends to the expression of ideas and not the ideas themselves.
- Examples
 - ✓ No copyright protection in the Braves win-loss record.
 - ✓ No copyright protection in the names in the telephone book.

Copyright's rights

- Distribute the work
- Reproduce (or make copies of) the work
- Display the work
- Perform the work
- Create derivative works
- Certain moral rights

Damages for infringing a copyright

- The consequences for copyright infringement can be devastating.
 - ✓ Statutory penalties can range from \$750-\$30,000 for a non-willful act of infringement.
 - ✓ Statutory penalties can reach \$150,000 for a willful act of infringement.
 - ✓ Meanwhile, there may be civil damages that the copyright owner can collect.

LICENSING COPYRIGHTS

Non-Profits own copyrightable content

- Fundraising brochures
- Curriculum / training materials
- Photographs
- Articles
- Website
- Software

Each is protectable under copyright law.

Potential uses

- Others may want to use your materials:
 - ✓ They may be working for a similar goal in another part of the state or country.
 - ✓ They may want to publish information that your organization has compiled.
 - ✓ There may be an overlap between your goals and theirs.
 - ✓ *And still other reasons*

Licensing

- Simple, written agreement
 - ✓ Clearly identify the material to be licensed.
 - ✓ Recognize your ownership of the material.
 - ✓ Agree that you will own any derivative materials.
 - ✓ Provide a non-exclusive license to the licensee.
 - Either perpetual or for a fixed amount of time, depending on the purpose.
 - ✓ Consider making it non-transferrable.
 - ✓ Consider whether royalties are appropriate.
 - Note: There may be tax consequences if royalties are received.

Also, consider the importance and complexity of the materials in deciding whether you should speak with an attorney.

Software Licensing

- More complicated; consider engaging Pro Bono Partnership to assist.
- Additional considerations:
 - ✓ Access to source code?
 - ✓ Indemnifications and warranties?
 - ✓ Ongoing support?
 - ✓ Ownership of modifications?

Enforcement

- Monitor whether anyone is using your content.
- If you encounter unauthorized use, consider reaching out to the infringer:
 - ✓ Perhaps request a takedown.
 - ✓ Perhaps request acknowledgement of you as the author.
 - ✓ Perhaps request a licensing agreement.
 - Perhaps request royalties.

Should you register a copyright?

- All works are automatically protected by copyright.
- However
 - ✓ Registration more readily identifies the work.
 - ✓ Registration is required to sue for copyright infringement, but registration can occur after infringement has begun.

Registration considerations

- Cost: \$35 per work.
- What is the work's value to the organization?
- How does the organization intend to use the work in the future?

QUESTIONS?

For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

www.pbpatl.org

404-407-5088

info@pbpatl.org