

4 Basic Questions About Copyright and Weblogs

Contributed by Sheila Ann Manuel Coggins

On Copyright Issues, Copyright Infringement, Fair Use & Bloggers

Copyright experts Kimberlee Weatherall and Eugene Volokh shed some light on this issue in direct relation to bloggers and weblogs.

A lot of questions about copyright issues often come up when it comes to blogs and bloggers. So, I asked intellectual property experts and law bloggers Kimberlee Weatherall (KW) and Eugene Volokh (EV) to shed some light on basic copyright issues.

Ms. Weatherall is an Associate Director and Lecturer of the Intellectual Property Research Institute of Australia Law School of The University of Melbourne. She is also a blogger who maintains - <http://weatherall.blogspot.com> .

Mr. Volokh teaches free speech law, copyright law, and the law of government and religion at UCLA Law School. He is also the founder of the blog, The Volokh Conspiracy.

{mosgoogle}1) What Is Copyright?

KW: Copyright is a kind of property, created by law. It gives authors and creators certain exclusive rights in things that they create, for a limited period (life of the author plus 70 years, in most cases in the US).

So, for example, copyright law gives authors of books and articles exclusive rights in their books and articles. The exclusive rights vary between countries. But broadly, they are exclusive rights to make copies, and to distribute those copies.

Copyright exists in literary works (text-based items like books, articles, and computer programs), artistic works (pictures, photos, drawings, graphics), musical works (songs, symphonies), dramatic works (scripts), and also in sound recordings and films.

EV: Someone who owns a copyright in a book, movie, Web page, computer program, song, etc. generally has a legal right to stop other people from copying or publicly performing that work (or doing a few other things to it).

2) Does copyright laws hold on the web and are they applicable to bloggers?

KW: Yes, acts done online can be copyright infringement. When you make a copy of a copyright photo, for example, and you put that photo on your website, you are making a copy (an infringement), and you are (in US law) 'displaying the work publicly' (another infringement). What is more, if you are in the US, and you do these things, you infringe US copyright law. But, if your website is accessible in another country, depending on how that country limits the application of its copyright law, you may commit an infringement there, too. Copyright law applies only within one country - I can only infringe US copyright in the US. But (a) most countries have copyright law now, and ALL members of the WTO must have it, and (b) a network of treaties means that Australian authors get protection in the US, and vice versa, all over the world. So if I, in Australia, take a photo, and you, in the US, put that photo on your website, you might infringe my copyright under US law in the US, and under Australian law in Australia.

Yes, these laws apply to bloggers. Even if a blogger is not earning any money from their blog, copyright applies: even non-commercial acts can be infringement.

EV: Copyright laws generally apply to all media, including the Web - to bloggers as well as others. And yes, internationally too. Of course, they aren't always easy to enforce, especially internationally.

3) What is copyright infringement?

KW: Copyright infringement is where you do an act in relation to a copyright work, that the copyright owner has the exclusive right to do, without any permission or defence.

EV: Copying or publicly performing someone else's work without the owner's permission --- BUT some such uses are OK, especially if they fall within the often ill-defined "fair use" exception (which incidentally varies quite a bit from country to country).

Additional Reading:

- Bloggers and Copyright
- Copyright & Fair Use: Stanford University Libraries

4) What types of copyright infringements do you often see bloggers commit?

KW: The most common are:

(a) Copying the whole, or nearly the whole of a text written by someone else on their blog, sometimes with some comment. While it is often a 'fair use' to take an extract of a work, to take the whole thing will often be infringement, even if you are doing it for the purposes of criticism/review.

(b) Copying a picture which belongs to someone else, and putting that picture on their site;

(c) Copying the layout of someone else's site. Depending on how much you take/how slavish your copy is, it is conceivable that a website owner could sue you for infringement of their artistic work - although, this is probably unlikely since the layout of blogs tends to have low originality, meaning not much variation is required before you aren't infringing.

EV: It's actually pretty rare; most of the copying of others' works by bloggers tends to be fair use.

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