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Copyright Law Applied to the Internet

It began as a straightforward, easy to understand rule: “thou shalt not steal” Simple enough, right? Don’t take anything that belongs to somebody else. Easy enough, or is it? Certainly in its most simplistic form this rule is not hard to understand and follow, but then questions begin to arise. What exactly can be owned, and therefore stolen, from somebody else? Do people own their ideas? Can someone kidnap someone else’s brainchild?

Recent developments in the American Legal system suggest that they can, and out of these developments has come intellectual property law. Quoting from John V. Luong’s book, “New Intellectual Property Issues,” intellectual property is, “a broad entitlement extending the concept of property beyond its materialistic definitions to include information, ideas, and other intangible assets in their expressed form” (vii). Basically, these laws stop people from making money off of other people’s ideas. Protecting ideas makes sense, but unfortunately is much more complicated than this. The line between ludicrous legislation and valid protection of intellectual property is a fuzzy one, to be sure. And the farther our nation advances into the technological age the fuzzier the line will become.

As the broad spectrum of information available on the Internet has increased it has become much easier to steal. Along with this sudden easy access to information the rising generation has picked up the bad habit of taking information without even thinking about the legal connotations of their actions. This new philosophy is much like the old adage “finders keepers.” Many young Americans believe that if they can find it on the Internet, they own it and can do with it as they wish. Little thought is given to copyright laws, and even those who think of such things often turn a blind eye, rationalizing their breach of the law. This is a dangerous game to play, however. It is important to know what is and isn’t legal concerning Internet copyright laws and then act in a manner that reflects this knowledge.

As we look at the legal ramifications of copyright laws on the Internet we will be bridging several important perspectives. We will discuss the basics of copyright law, what web developers should be doing to protect their work, and what individual surfers of the cyber highway must know to keep from accidentally stealing from other’s websites.

The first thing that must be understood when studying this topic is simply what is a copyright? According to attorney Richard Stim, copyright laws are part of, “a wide body of federal and state laws [which] protect creative property” (1/7). Specifically copyrights protect paintings, writing, architecture, movies, software, photos, dance, and music. In general, one may not use a copyrighted work for commercial purposes without the permission of the copyright-holder, who is generally the creator of the piece or the employer of the creator of the piece.

It is also important to understand how a work gets copyrighted. According to the Copyright Clearance Center at copyright.com, “Copyright is secured automatically when the work is created, and a work is "created" when it is fixed in a tangible form, such as the first time it is written or recorded. Neither publication, registration or other action in the Copyright Office is required to secure copyright, although registration is recommended” (copyright basics). This means that all works are copyrighted whether they are registered, have a copyright label, or have nothing whatsoever. Just because a work doesn't say it is copyrighted doesn't mean it isn't. In fact, due to this principle, nearly all works are copyrighted.

Reading this jargon on copyright law makes it sound like everything is copyrighted and nothing is available without conditions. However, this is not the case. There are many works outside of the reach of copyright law and even ways provided through the law to give less limited access to copyrighted works. In fact, it might be just as important to understand what copyrights cannot cover as well as what they do cover.

First of all, what cannot be copyrighted? Attorney Richard Stim gives four categories of works that cannot be protected by copyrights. The first of his categories is short phrases. This includes common idioms of the English language, such as “show me the money.” The second category is facts and theories such as the distance of the Earth from the Sun. The third category is ideas, such as common themes in movies. The final category is works of the U.S. Government (8/4-6). All of these things can be used freely without any restraint due to copyright law because the law does not apply to them.

Second of all, what provisions have been made to make copyrighted materials more readily available, and under what circumstance can they be used? The Fair Use

doctrine has come into being expressly for this purpose. According to John Luong the Fair Use doctrine comes from common law and the First Amendment and establishes that a work used for, “criticism, comment, news reporting, teaching, scholarship, or research is not an infringement of copyright” (167). This doctrine can be fairly confusing, but a good example of its use could be a parody. Take Weird Al, for example. He has built his whole career off of copying famous music and lyrics, however his work is not considered a violation of copyright law because it is a parody... a sort of witty commentary on the original works validity.

So now that we understand the basics of copyright law, public domain and the fair use doctrine how does this specifically apply to the web? Well, first of all, as web developers we can register or mark our websites as copyrighted. According to Copyright.com marking our site means including the copyright symbol, the name of the owner of the copyright, and the year of the first publication. (copyright basics) We can also register our own work with copyright offices, adding more protection upon it.

Another perk of understanding the basics of copyright law is that as a web user we can surf the internet with a very clear idea of the legal validity of the information we find there. When we encounter information we would like to use, either on our own websites or simply in our lives, we know whether or not it is copyrighted, how to go about getting permission to use it under the condition that it is copyrighted, and for what purposes we can use the information without breaching the law.

There is a little more to consider about copyright law than this alone, unfortunately. According to Richard Stim web developers should know more about copyright law than simply what it is. He claims that it is also important to know how to

act if someone complains to you that your site is breaching their copyright. Precedent has shown that the law was much more lenient to those web developers that did two specific things when confronted with this problem: PROMPTLY remove offending material, and investigate all claims immediately. On top of removing the material and investigating any given claims, a web developer should make the user reporting this infringement aware of the steps and precautions being taken to alleviate the problem through a letter. If a web developer fails to do these things the repercussions could be extensive. “Attempts to ‘contain’ the damage will likely help your case should it find it’s way to court,” Stim explains, “Continuing to use the offensive material after being notified may aggravate the claim and increase the chance of your being found liable—and increase the amount of damages you may have to pay.” (6/3) Obviously the best thing to do is to follow these steps and avoid as many problems as can be avoided.

Of course there is one way to be certain that nothing posted to your website will ever be a breach of copyright law. This is to create your own content. As Jakob Nielsen states in the popular alertbox, “Content Creation for Average People,” “Distributing copies of other peoples' creations without permission will never be a great use of the Internet. Whatever the courts decide, in my view it is certainly a moral copyright violation to surreptitiously take and spread the fruit of someone else's labor. In any case, regular folks must be able to create their own content and contribute it to the Internet.” Nielsen suggests utilizing specific talents to make a website both useful and legal. “Even when people don't have material that the world might find of interest, they often have content to share that is very important to a few people, such as their family and friends. The beauty of the Web is that it supports narrowcasting and the posting of pages that only

a handful of people might read,” Nielsen explains. It is clear that the internet gives average people the enormous opportunity to share information with a lot of different people. However, along with this responsibility there is also an obligation to follow the law and make websites that are ethical. By understanding copyright law, web developers are better prepared to do so.

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