

CO Gold Conference 2023:

Copyrights and IP for Writers – Key Takeaways from the Presentation

Same disclaimer as in the session ...

- *This is not legal advice*
- *It may not be relied upon* as a substitute for legal advice.
- If you have a legal matter involving copyright issues *you should consult an attorney* regarding the specific facts of your case.

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1. **Goal** of copyright (and all of the field of “Intellectual Property” (IP)) – earn recognition or financial benefit from what they invent or create
 2. **Eligibility for CR Protection** requires 3 elements:
 - a. original work by human being (so not AI)
 - b. a “modicum” of creativity
 - c. done (or recorded) in a “tangible medium” – one that can be perceived
 3. **Things that cannot be copyrighted**
 - a. Ideas, themes, titles, names or *slogans* (although slogans for products may be trademarked)
 - b. Facts, processes, bus. processes / procedures, math principles
 4. **“Substantial Similarity”**
 5. **If work is covered by copyright protection, you get:**
 - a. rt. of publication
 - b. rt. of reproduction
 - c. rt. of pub. performance
 - d. rt. of pub. display
 - e. rt. to create derivative works / adaptation
 6. What about fanfiction? ... it’s permitted as long as:
 - a. the work is “transformative” (meaning the new author added content with new meaning and value to the original work); and
 - b. the derivative work is “noncommercial” (meaning the fanfic author doesn’t make money)
 7. **How Long Does CR Protection Last?**
 - a. if work was **created after 1/1/78**, OR created before 1/1/78 but not published or registered with copyright office ... **then protection lasts for the *life of the author* + 70 years** after author’s death
 - b. no renewal allowed

8. copyright protection is automatic (i.e., no need to register it) once it satisfies the 3 elements above
 - a. ... but to be sure that you can definitively show the date you created it (in case there *is* a challenge), you should save it in a safe environment (the cloud) and/or email it to someone (or yourself)
 - b. registering with the US Copyright Office provides a stronger claim, but also costs between \$45-250 and takes some time to fill out the necessary forms

9. copyright protection for submitted MS or Self-Publishing

- a. **Submitted MS:** Using a CR symbol on unpublished MS's that you're sending out for consideration is unnecessary
- b. **Self-Pubbed:** CR notice isn't required, but same benefits as registering

10. Licenses and Rights – types

- a. All Rights
 - b. Electronic Rights
 - c. Exclusive Rights (... for how long?)
 - d. First [North American or other geographical subset] Serial Rights → almost obsolete
 - e. First Serial Rights
 - f. Reprint Rights
 - g. Subsidiary Rights
 - h. Worldwide Rights
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- i. Reversion of rights back to the author (under what circumstances do the rights come back to you?) ... be very careful and specific!