

Copyright and Trademark for Haunters

Thank you for attending This talk is meant to be a brief overview of copyright and trademark issues and how they impact haunting. It is not a thorough overview, so please feel free to contact me or, if you need legal advice, an attorney that works in the field.

COPYRIGHT AND TRADEMARK BASICS

Copyright: Copyright is a set of exclusive rights granted to the creator of a work of creative expression that is fixed to a tangible medium of expression (meaning written down in some way). It protects everything from books, songs, movies, TV shows and much more and grants the copyright holder the exclusive right to make copies, publicly display/perform the work, make derivative works or distribute the work.

Trademark: A trademark is any recognizable sign, design or expression that identifies one business and separates it from another. This includes business names, logos, slogans and more. Trademark protects against unauthorized use of the mark as well as similar marks that may cause confusion in the marketplace. Unlike copyright, trademarks can be weak or strong depending upon how distinctive they are and can be used without permission to describe the product, service or company.

Fair Use: Fair use is a defense both in copyright and trademark that balances freedom of speech against the protections granted the rights owner.

Public Domain/Genericization: Copyright protected works eventually lapse into the public domain, meaning that they lose copyright protection. This happens after the life of the author plus 70 years or after 95 years if it's a work of corporate authorship. Trademarks can lose their protection if it becomes Genericized, meaning it has become a generic term for a product (IE: Aspirin) or if the mark is not maintained.

Copyright and Trademark Registration: Though not required under the law, registering your copyright and/or trademark has many benefits. For copyright, a registration is required to file a lawsuit and a timely registration entitles you to vastly increased damages. A trademark registration also increases damages and helps you block confusingly similar marks.

ISSUES FOR HAUNTERS

Common Haunt Copyright Issues: Haunts sometimes use characters, in particular from films, that are likely infringing. Likewise, audio, video played in the haunt and in advertisements should be approved. Websites also present challenges as all text, images and code need to be authorized.

Common Haunt Trademark Issues: Haunt names and logos should be unique, especially within the region. Note that characters, film names and related designs also enjoy trademark protection. Be especially careful with anything you use to promote your haunt or anything you sell.

General Rules: You own anything you create and, if incorporating other creations into your haunt, asking permission is better than facing a lawsuit. Even a “cheap” copyright or trademark lawsuit will cost tens of thousands of dollars, not including damages. Better to be safe than sorry.

ADDITIONAL INFO:

- U.S. Copyright Office (<http://www.copyright.gov>)
- Online Copyright Registration (<https://eco.copyright.gov>)
- Crash Course Intellectual Property (<https://goo.gl/48NGa4>)
- The Copyright Website (<http://www.benedict.com>)
- U.S. Patent & Trademark Office (<http://www.uspto.gov>)
- Register Your Trademark (<http://goo.gl/e1YrKc>)
- Harvard's Overview of Trademark (<https://goo.gl/VNvj1>)

ABOUT ME

My name is Jonathan Bailey I am a copyright and plagiarism consultant for CopyByte and a blogger at Plagiarism Today. However, at my heart I am a haunter with 20 years of experience including 10 at Bernie Baxter's Traveling Sideshow. I also record a podcast with Crystal Ramey about the haunt industry entitled Haunt Weekly:

- Blog - Plagiarism Today (<http://www.plagiarismtoday.com>)
- Consulting Practice - CopyByte (<http://www.copybyte.cm>)
- Haunt - Bernie Baxter's (<http://www.berniebaxter.com>)
- Podcast - Haunt Weekly (<http://www.hauntweekly.com>)