



© client corner

Copyright 101

This month's featured client: COPPeR (Cultural Office of the Pikes Peak Region)



I'm pleased to announce COPPeR's newest program, **Sounds of the Pikes Peak Region!** The first volume of the Sounds of the Pikes Peak Region has just been released. This eclectic mix features 13 original songs from some of the finest and most beloved musicians in the Colorado Springs metro area. COPPeR knows that music builds community identity and pride, and as the arts scene in the Pikes Peak region continues to flourish, this special compilation aims to raise the profile of the rich musical talent in our area. You'll be awed by our region's musical strengths and diverse offerings. These musicians were selected through a competitive process for their craftsmanship, originality and diverse musical styles.

What are copyrights? Copyrights are one of the four basic types of intellectual property: copyrights, trademarks, patents and trade secrets. In the US, copyrights are governed by **federal**, not state, **law**. The term is copyright**S** plural, because copyrights pertain to a **bundle of legal rights** afforded to **original works of authorship** fixed in any tangible medium of expression.

Original works of authorship include:



Literary works;



Musical works, including any accompanying words (compositions, or "notes on a page");



Dramatic works, including any accompanying music;



Pantomimes and choreographic works;



Pictorial, graphic and sculptural works;



Motion pictures and other audiovisual works;



Sound recordings (the recorded performance of a musical work); and



Architectural works (2D blue prints and 3D structures).

The copyright owner has the **exclusive right** to:

- **Reproduce** the work (make copies, thus the term *copyrights*);
- **Prepare derivative works** (adaption of the original, such as a translation, or a screen play from a book);
- **Distribute** copies (sell, give away, lend);
- **Perform** the work publicly (as applicable, such as a

To learn more about Sounds of the Pikes Peak Region, call Bettina Swigger at (719) 634-2204 or visit [COPPeR on the Web](#).

stuff and such

It's orchestra season again! I play French horn with the [Pikes Peak Philharmonic](#) and **our first concert is this Sunday, October 19**, at 3:00 p.m. at Wasson High School Auditorium (2115 Afton Way). The program, *Orchestral B's*, will feature: Brahms – *Academic Festival Overture*, Bach – *Orchestral Suite #1*, Butterworth – *Shropshire Lad*, and Bizet – *L'Arlesienne Suite #1*. Admission is: \$9 Adults, \$6 Students & Seniors (age 55+), and \$18 Family (immediate household).

On another note, you may have noticed that I haven't gotten an e-newsletter out since April. Yep, it's been that long. Well, I'm back on track and my goal is to get my **monthly e-newsletter** out the **second Tuesday of each month**. I welcome your suggestions on legal topics impacting the creative and technological arts about which you'd like me to write.



quote

- play); and
- **Display** the work publicly (as applicable, such as a sculpture).

Due to changes in the US Copyright Act over the years, **the term of a copyright depends upon when the original work of authorship was created and who created it**. Currently, the term for works created on or after January 1, 1978, is either for the **life of author plus 70 years** for an **individual work**, or the first to expire of **95 years from publication** or **120 years from creation** for an **anonymous work, pseudonymous work** or **work for hire**.

After **expiration** of the copyright term, the work is in the **public domain** and **may be used freely** by anyone. **Caveat: public availability does not mean public domain**. For example, the book *Harry Potter and the Sorcerer's Stone* by J.K. Rowling is publicly available at bookstores for purchase and at libraries to borrow; however, it is not in the public domain, because it is still within its copyright term.

Although **marking** an original work with **copyright notice** is not legally required, it is for the owner **best to do so**. Copyright notice **format** appears as either © 2008 Author Name for most works, or as **⒫ 2008 Performer Name** for sound recordings (the "circle P" symbol for sound recordings originated in the era of the phonograph).

Under US federal law, **copyrights** in original works of authorship **arise at the moment of creation** of the work. **Creation occurs** once the work has been **converted from an idea** to a **tangible expression** of that idea. In other words, writing down on paper a story you've formed in your mind creates an original work that may be subject to copyright protection. All you have to do to have a **claim of copyright** in your work is to **transform it to tangible expression**.

However, to **enforce your claim of copyright** in a work, you must have a **copyright registration** for that work. Simplistically, a copyright registration is an **admission ticket to the federal courthouse** to sue for infringement. Copyrights in a work are **enforced by the owner** of the copyrights. Unfortunately, there are **no "copyright police"** who'll do that for you. If someone **infringes** your copyrights, then you have to **sue** him to protect and enforce your rights.

Although you may **file for a copyright registration** in a work at any time **during** its copyright term, it is better to file right away. A copyright registration **filed within three months** of first **publication** of the work allows the copyright owner to seek **attorney's fees and costs** and to opt for an award of statutory versus actual **damages** in an infringement suit. By **waiting until later** to file a registration, you are potentially **leaving money on the table** that could have been awarded to you in a copyright infringement suit.

*unnameable and
communicate the
unknowable."*

-Leonard Bernstein

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Brenda Speer has been practicing law since 1989 and has honed her area of emphasis, intellectual property law (patent, trademark and copyright), through both private law firm practice and in-house legal department service. She provides legal counsel to artists, entertainers, innovators and companies in the creative, technological and business arts. Her passion is protecting the creative works, inventions, proprietary information and trade identities of her clients. Contact Brenda at 719.381.1708.