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protecting the technological and creative arts

LEGAL ISSUES IN WORLD BUILDING

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DISCLAIMER!

- This may be boring
- You may not learn anything
- If you learn something, it'll probably be enough to make you dangerous
- This is **NOT** legal advice



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LEGAL ISSUES

- PEOPLE
- PLACES
- THINGS




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PEOPLE

- DEFAMATION
- RIGHT/INVASION OF PRIVACY
- RIGHT OF PUBLICITY



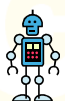


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People...

- **NATURAL PERSONS**
 - Living 
 - Dead
- **ARTIFICIAL PERSONS**
 - Entities 
 - Characters 



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Defamation

- **What?**
 - Explicit or implicit *injury to a person's reputation* caused by the publication of spoken or written words
- **In other words...**
 - Dishin' dirt about others 

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Defamation...

- **Who?**
 - *Living* natural person
 - *Existing* entity
- **What?**
 - *Libel* (written or Literal) 
 - *Slander* (oral or Sspoken) 



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Defamation...

- **Level of protection (ascending)**
 - Public official 
 - Public figure 
 - Private figure 



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Right/Invasion of Privacy

- **What?**
 - The right to be let alone
- **Who?**
 - *Living natural* person

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Right/Invasion of Privacy...

- **How?**
 - *Public disclosure of private facts*
 - *False light*
 - *Intrusion*
 - *Misappropriation of name or likeness*




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Right of Publicity

- **What?**
 - Right to prohibit others from using your persona for commercial purposes
- **Who?**
 - *Living natural* person
 - *Dead natural* person

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Right of Publicity...

- **What is okay?**
 - *Reporting* 
 - *Scholarship* 
 - *Commentary* 


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THINGS

- TRADE LABEL
- TRADEMARKS & TRADE DRESS
- COPYRIGHTS
- MISCELLANEOUS


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Trade Label

- **What?**
 - A *false statement that injures* the business reputation of a company or the sale of a company's products
 - Also known as **Product Disparagement**
 - Akin to Defamation


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Trademarks & Trade Dress

- **What?**
 - **Trademark:** Indicator of source or origin of a good or service
 - **Trade Dress:** Total image and overall appearance of a good or service


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Trademarks & Trade Dress...

- **Examples?**
 - Goods
 - Services
 - Titles
 - Characters
 - Book Covers


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Trademarks & Trade Dress...

- **How?**
 - Body of text reference to actual good or service
 - Proper format
 - Attribution


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Trademarks & Trade Dress...

- **Proper Format**
 - **Always** use as an **ADJECTIVE**
 - Trademark brand noun
 - **Big Chief**[®] brand writing tablet
 - **Not** as a **noun**
 - Please make a Xerox of this document.
 - **Not** as a **verb**
 - Let's go rollerblading in the park.

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Copyrights

- **What?**
 - **Original works of authorship**
fixed in any tangible medium of expression
 - Rights
 - **Reproduce** the work
 - **Prepare** derivative works
 - **Distribute** copies

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Copyrights...

- **Works?**
 - **Literary** works 
 - **Musical** works 
(including any accompanying words)
 - **Dramatic** works 
(including any accompanying music)

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Copyrights...

- **Why not?**
 - Infringement
 - **Access** to original work
and
 - **Substantial similarity** to original work

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Copyrights...

- **What is okay?**
 - **Express permission**
 - **Fair use**
 - *Purpose and character of use*
 - *Nature of the copyrighted work*
 - *Amount and substantiality*
 - *Effect on the potential market*

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MISCELLANEOUS

- **NEGLIGENT PUBLICATION**
- **RIGHTS & PERMISSIONS**
- **SON OF SAM LAWS**
- **OBSCENITY**

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Negligent Publication

- **What?**
 - Instruction, advice or other information that a reader uses to his or her **detriment**

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Rights & Permissions


- What?
 - Third party elements
- Examples?
 - Photos
 - Illustrations
 - Maps

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Son of Sam Laws

- What?
 - Criminals cannot profit from their crimes



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Obscenity


- What?
 - Matter that appeals to the *prurient interest*, depicts or describes in a *patently offensive* way *sexual conduct*, and *lacks serious* literary, artistic, political or scientific *value*

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Obscenity...

- In other words...
 - "I shall not today attempt further to define the kinds of material but **I know it when I see it.**"
 - Supreme Court Justice Potter Stewart



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PLACES

- TRADE LIBEL
- TRADEMARKS & TRADE DRESS

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OTHER STUFF

- PUBLIC DOMAIN
- LIABILITY
- MANUSCRIPT VETTING

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Public Domain

- **What?**
 - Available for all to use
 - **Caveat:**
Public Availability \neq Public Domain

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Public Domain...

- **When?**
 - **Copyright**
 - *Individuals:*
 - Life of author plus 70 years
 - *Anonymous or Pseudonymous or Work for Hire (earlier of):*
 - 95 years from publication
 - 120 years from creation

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Public Domain...

- **When?**
 - **Trademark**
 - As long as continually used
 - **Trade Dress**
 - As long as continually used

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Public Domain...

- **When?**
 - **Natural persons**
 - Death
 - Defamation
 - Right of Privacy
 - (*Right of Publicity*)
 - **Artificial persons**
 - Cease existence
 - Copyright expiration

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Liability

- **Who?**
 - *Publisher*
 - *Author*
- **How?**
 - *Publication*
 - *Indemnification*

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Manuscript Vetting

Checklist adapted from
Kirsch's Handbook of Publishing Law
 Jonathan Kirsch



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Manuscript Vetting...

1. Does the work contain any **material that was contributed** by someone other than the author?
2. Does the work contain potentially **damaging statements** about or depictions of a living individual or an existing company?

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Manuscript Vetting...

3. Does the work contain potentially **embarrassing statements** about or depictions of a living individual?
4. Does the work make use of the **business name, trademark or trade dress** of an existing business?

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Manuscript Vetting...

5. Does the work make use of the **name, image or likeness** of an individual, whether living or dead, for purposes of advertising, promotion, merchandising or implied endorsement?
6. Does the work offer **instruction or advice** that might affect the reader's mental, physical, legal or financial well-being?

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Manuscript Vetting...

7. Is the work written by (or does it draw upon the experiences of) **a criminal**?
8. Does the work contain **explicit sexual content**?

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QUESTIONS



- **Answers**
 - The Answer to Life, the Universe and Everything is "42"
 - Douglas Adams, *Life, the Universe and Everything* (*Hitchhiker's Guide to the Galaxy* Trilogy)
 - "It Depends"
 - Universal legal answer