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Recent Copyright Issues in the News Begs the Question, “What Qualifies as Copyright Infringement?”

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If I attribute a song or book to its author when I use it on my website, it's okay to use the material, right?

No, you have possibly committed copyright infringement. Even the most well-intentioned use of another’s copyright-protected material may be subject to legal action and possible monetary damages. Several recent examples have come to light in the news highlighting this issue.

For instance, Internet Archive created a free electronic library to help provide reading materials to provide access to literature to those in quarantine, as well as to provide additional resources to teachers for remote education use. The library is quite extensive having 1.3 million e-books. Users could borrow an e-book for up to 14 days, but all lending restrictions on use were dropped in March 2020 as Internet Archive attempted to create a “National Emergency Library to serve the nation’s displaced learners.” However, publishers such as Penguin Random House, HarperCollins, Hachette Book Group and John Wiley & Sons sued Internet Archive alleging copyright infringement. While Internet Archive maintains that it is simply functioning as a “brick-and-mortar” library during the quarantine, unlike actual libraries, Internet Archive acquires copies of books via donations or purchasing the books, without paying a license to the copyright owner as a library does. Thus, even while attempting to help during global pandemics, one must remain mindful of copyright ownership rights.

Additionally, music artists, such as Don Henley, are urging Congress to strengthen copyright infringement protections in the United States on behalf of artists and the recording industry. On Tuesday, June 2, 2020, Henley testified from his home asking for changes to the 1988 Copyright Act. Henley claims that while current enforcement mechanisms exist, they simply cannot keep pace with infringers. Specifically, Henley focuses on “Big Tech” platforms such as Google via YouTube alleging that while some infractions are removed, “dozens” more take their place almost instantly. While Henley focuses on “Big Tech”, Small Tech also needs to be mindful of using snippets of songs, or complete tracks, on social media, websites, videos, etc. To wit, if you use music/audio files to help your business venture earn profit, you are likely committing copyright infringement, even if you attribute the song to its singer or author. Quite simply, without a license, do not use music/audio files that you did not create. This includes use at live venues, websites, online, etc. Further, hiring someone else, such as a cover-band, to perform music faces the same problem. Without a license, public use of another’s music/audio files constitutes copyright infringement.

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