

Is Your Tattoo Legal

Tattoos & Copyright



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DISCLAIMER

This is not legal advice

Please consult a Copyright Lawyer.

About Me



- Central Piedmont Library Copyright Committee
- Library Director at The Art Institute of Charlotte
- Certificate in Copyright Leadership through SLA & CopyrightLaws.com
 - 2017
 - 8 classes in Copyright

Basics

Automatic Protection

- * Originality
- * Fixed Format
- * Minimally Creative

The Berne Convention for the Protection of Literary & Artistic Works

Protect the expression of an idea

Does **NOT** Protect

- Ideas
- Facts
- History
- News



(Hain, 2015)

Fair Use

- *"Purpose and character of the use"*
- *"Nature of the copyrighted work"*
- *"Amount and substantiality of the portion used"*
- *"Effect of the use upon the potential market"*

(U.S. Copyright Office, 2015)

Public Domain



- “Refers to creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws.”
- Copyright is Expired for all works created in 1924 or earlier

Licensed Content



(Bykst, 2016.)

Licenses or Contracts

ALWAYS

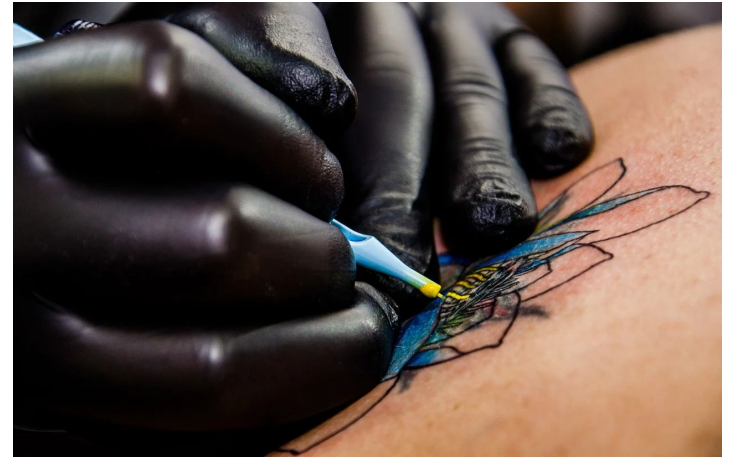
take Precedence

in Copyright Cases

You can **only** use the material according to your license specifications.

Work for Hire

- Sec 101 defines concept
- Employees, Independent contractors
 - Company is considered the author
- 95 years from date of publication or 120 years from date of creation, whichever expires first
- Must have expressly agreed in a written document signed by both parties



(U.S. Copyright Office, 2012)

<https://pixabay.com/photos/tattoo-artist-tattoo-drawing-556036/>

Artists Rights Society



“...visual artists in the U.S. have historically had fewer legal protections.”

Artists Rights 101 -
Navigating your rights.

<https://arsny.com/>

Artists Rights Society



Artists Rights 101 - Navigating your rights.

Ownership of a physical object & ownership of the underlying copyright are thus **two separate and distinct things.**

<https://arsny.com/>

Visual Artists Rights Act

- 1990 Congress legislated limited moral rights of attribution & integrity to authors some visual arts.
- Limited rights to prevent distortion, mutilation, or modification of a work; work; and the right...to prevent destruction of a work that is incorporated into a building.
- VARA rights endure only for the artist's life



<https://www.copyright.gov/reports/exsum.html>

Image Source: [Deposit Photos](#).

Tattoos & Lawsuits

- As of 2012 no precedents from the courts
- Copyright Holder **MUST** have registered the work with the US Copyright Office
- “Copyright Holder has to **PROVE** the copied work has a negative effect on the work’s value or potential market.”
- Not usually a Work For Hire

Major Motion Mishap



Digital Recreation



(Photo: Frederic J. Brown/AFP via Getty Images.)

- An implied license to display their tattoos in public
- The tattoos could be photographed, recorded or otherwise reproduced without the tattoo artist's consent.
- Can they be digitally recreated?

Costly Cover Art



Model states he never posed for such a picture and his likeness and distinctive back tattoo was used without his permission.

“Gangsta Bitch Music Vol. 1,” released by Cardi B in 2016.

Best Practices

- Read what you sign (especially if it results in something permanently on your body)
- Everything is copyrighted
- Copyright is often settled out of court, which is why it's so grey
- I didn't know, so you can't sue me - is not valid

Questions



Resources

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