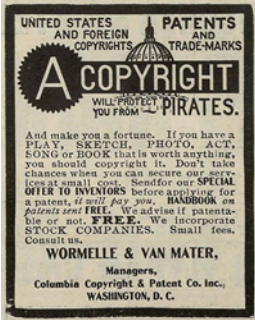


## Copyright Your Website

by Dave, March 2009



A couple years ago, purely by chance, we came across a one-man web development shop whose website listed a bunch of testimonials that looked suspiciously like our own. In fact, they were ours - copied directly from our site, word for word, without so much as rearranging the order or making up fake names. We were so amused and astounded, we laughed about it for a few minutes and then promptly forgot about it.

At Newfangled all of our sites ship with a default copyright notice at the bottom of the screen. Is this sufficient protection? [Sitepoint](#) just posted an interesting article examining the implications of copyrighting a website. Fortunately, according to Sitepoint the very act of producing and displaying content in essence implies that you hold a copyright on the intellectual property, as long as you can prove it. This has been the case since 1998.

This seemed to my non-lawyer self to be all fine and good, until a case of copyright infringement actually comes up. How does one actually prove copyright infringement? And to what extent are we plagiarizing every day, when we reference or quote someone else's original



article or blog post? A couple years ago, purely by chance, we came across a one-man web development shop whose website listed a bunch of testimonials that looked suspiciously like our own. In fact, they were ours - copied directly from our site, word for word, without so much as rearranging the order or making up fake names. We were so amused and astounded, we laughed about it for a few minutes and then promptly forgot about it.

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article or blog post?

A major issue, of course, is proving that you are the original author of the content. To file suit against someone who has plagiarized your work, proof of your original ownership must be registered. How this applies to ever-changing content, however, seems to be an ambiguous situation. As [Sitepoint](#) and [keylaw.com](#) point out, a 3-month registration can be made for database driven sites can be made for the same \$35 fee as a one-time registration. This can be done directly though [.copyright.gov](#). There are also numerous online services that offers this service for you - for an increased fee, of course. A google search brings up many, none of which seemed terribly helpful.

This 3-month registration currently looks to be the best solution if copyright protection is an important issue, but still seems like a cumbersome process that completely ignores the ever-changing format of the modern web. It is of course possible to retroactively make a registration claim, although this can be more difficult if someone has taken your content and registered it themselves. It also greatly complicates the subsequent legal proceedings, and can diminish the amount of damages sought. For an interesting look at one company's copyright infringement action, see [getaped.com, Inc v. Shelly Cangemi.](#)

Inversely, the issue of copyright infringement can also impact the blogger or webmaster in a more direct manner. Often one will make reference to another article or blog post, using a direct quote from the source, and then expound upon the point. I know I've done that many times. Is that copyright infringement? The answer is sometimes.

As [Brad Templeton](#) explains, the Fair Use exemption of U.S. copyright laws was originally intended to protect film and literature critics, who were getting sued on copyright infringement when giving the subject a bad review and including a clip or passage to back up that review. In relation to the internet, the distinction is more subtle. Basically, to be legally safe under the Fair Use clause, the source must always be cited, and never should one's own use make the viewing of the original work unnecessary.

Brad gives a good and example of a case where someone quoted 300 words from a much larger biography of Gerald Ford. Since the 300 words chosen were the passage describing the pardon of former president Nixon, they were deemed the most important of the entire work, and fair use was deemed invalid. You can find more details of the case at [publaw.com](#).

In the same way, if I were to reference a blog post that illustrated a new javascript technique, and quoted the author's final code example illustrating the technique, I imagine I'd be in pretty risky territory, even if I referenced the original article.

There are a \*lot\* of good resources on the web involving copyright infringement, and web copy in particular. Some of the more interesting that I found are listed here:

<http://www.sitepoint.com/blogs/2009/03/11/what-it-means-to-copyright-a-website>

<http://www.piercelaw.edu/thomasfield/ipbasics/copyright-on-the-internet.php>

[http://bailiwick.lib.uiowa.edu/journalism/mediaLaw/copyright\\_main.html](http://bailiwick.lib.uiowa.edu/journalism/mediaLaw/copyright_main.html)

<http://smallbusiness.findlaw.com/copyright/copyright-resources/>

<http://www.techlawjournal.com/topstories/2007/20070524.asp>

<http://www.techlawjournal.com/topstories/2004/20040928.asp>

<http://www.templetons.com/brad/copy myths.html>