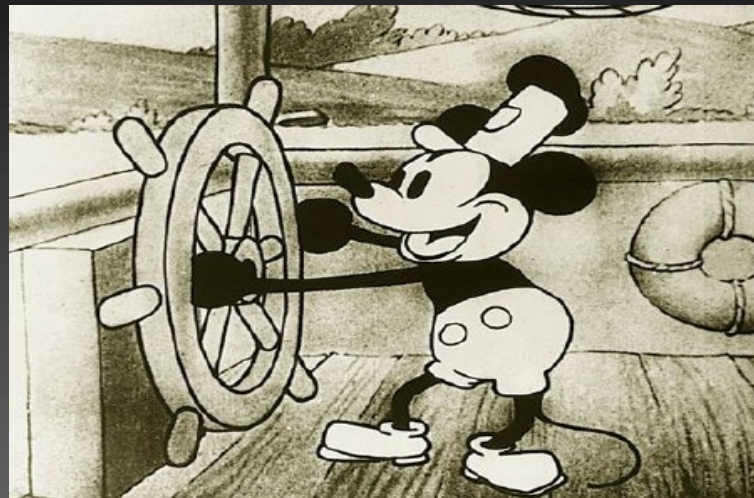


Copyright and Interlibrary Loan

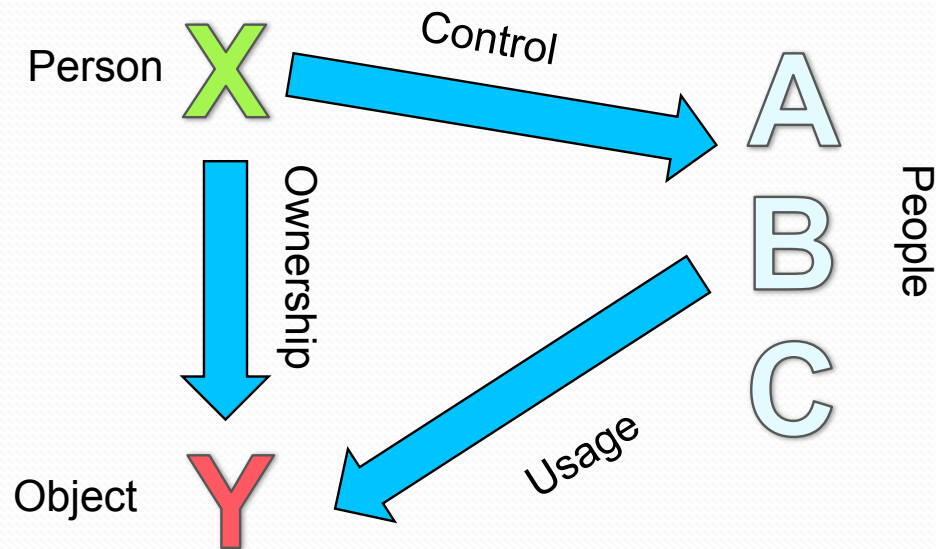


September 28, 2011

Jeff Brunner-Electronic Resources Librarian
University of Wisconsin-Oshkosh

Intellectual Property

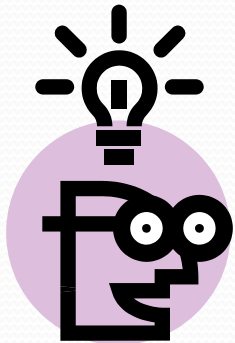
- Property
 - Something that is owned
 - Can be understood as a relationship between people in reference to things



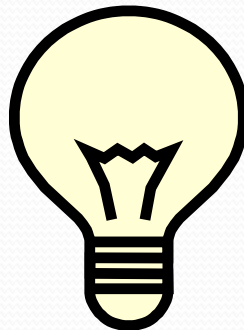
Intellectual Property II

- Intellectual property:
 - An *intangible* owned object
 - Could be an invention, creative work, or other expression of an idea
 - But *not* an idea itself.

Idea



Invention



Object





Copyright

- The legal framework within which certain types of intellectual property rights are protected
- Defined in title 17 of the U.S. code as applying to “original works of authorship fixed in any tangible medium of expression.”
- Includes:
 - literary works
 - musical works
 - dramatic works
 - pantomimes and choreographic works
 - pictorial, graphic, and sculptural works
 - motion pictures and other audiovisual works
 - sound recordings
 - architectural works

A Brief History of Copyright Law I

- Statute of Anne (1709)
 - Kingdom of Great Britain
 - First fully fledged copyright law
 - Protected works for fourteen years and allowed for a single 14-year renewal
 - Created the public domain
- U.S Constitution (1787)
 - Article I, Section 8, Clause 8

A Brief History of Copyright Law II

- Copyright Act of 1790
 - First exercise of the constitutional copyright provision
 - Virtually identical to the Statute of Anne
 - 14 + 14 years
- Revision of the U.S. Copyright Act (1909)
 - Major revision of the 1790 law
 - Included *all* works of authorship, not just books
 - Doubled the protection period

A Brief History of Copyright Law III

- Revision of the U.S. Copyright Act (1976)
 - The last major overhaul of U.S. Copyright Law
 - Extended protection period to the life of the author plus 50 years. Corporate copyrights were extended to 75 years
 - Also codified “fair use” for the first time in U.S. Law as a limitation on the rights of a copyright owner
- Subsequent revisions
 - Mainly concerned with the extension of the protection period and new mediums

The Mickey Mouse Shuffle

| <u>Year</u> | <u>Age of the Film</u> | <u>Legal Protection</u> | <u>How Close to Public Domain?</u> |
|-------------|------------------------|-------------------------|------------------------------------|
| 1976 | 48 Years | 56 Years | 8 Years |
| 1998 | 70 Years | 75 Years | 5 Years |
| 2011 | 83 Years | 95 Years | 12 Years |
| 2023 | 95 Years | 95 Years | 0 |



Copyright and the ILL Service

- Two kinds of Materials:
 - Loans
 - Copies
- Physical Reserves:
 - The object itself is owned
 - May be lent at will
- E-Reserves
 - Electronically scanned articles, chapters, etc.
 - The contents of a book or journal are *intellectual* property and therefore covered by copyright law



Copies....right?

- Rights of a copyright holder:
 - Reproduction
 - Creation of derivatives
 - Distribution or sale
 - Performance or display
- Limits on copyright holder rights
 - Time
 - Fair Use



Fair Use I

- “The safety valve of copyright”
 - Balances against the rights of the copyright holder
 - Upholds the constitutional purpose of promoting learning, science and the arts
- Title 17 specifically allows for the copying and distribution of copyrighted materials for:
 - Criticism
 - Comment
 - News reporting
 - Teaching
 - Scholarship
 - Research



Fair Use II

- How do we know if it's fair use?
 - Four factors to be considered
 - The purpose and character of the use
 - The nature of the copyrighted work
 - The portion of the work used
 - The effect on the market



Fair Use and ILL

- Is copying this ILL item fair use?
 - What is the purpose?
 - Almost certainly educational
 - What is the nature of the work?
 - Not usually applicable
 - What portion of the work is being used?
 - Usually an article or book chapter
 - What is the effect on the market?
 - This might be sticky!



What if it's not fair use?

- Try, try, try to get it under fair use.
 - This portion of the code is there for a reason, we have to make use of it
- If it's not justifiably fair use
 - Purchasing rights
 - Choosing a different article

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Questions?

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