

Beyond the Book

A Resource for Authors and Creators from Copyright Clearance Center



Taking on Technology: *Beyond the Book* Finds Changes and Challenges

SAN FRANCISCO – Innovation in technology aims at change for the better, one way or another. Yet on occasion, inventors and engineers will discover that not everything needs improvement.

“A book is infinitely portable, and in many ways the index in the back of a book can be faster [to use] than the search engine on the screen.”

Gary Luke

editorial director, Sasquatch Books

“As a technology, books have proven quite a trustworthy format,” **Gary Luke**, editorial director of Seattle-based Sasquatch Books, told an audience of writers, editors, and publishing staff attending the latest *Beyond the Book* conference sponsored by Copyright Clearance Center, and broadcast nationally on C-SPAN’s Book-TV.

According to Luke, the development of so-called “e-books” – a

term describing a variety of electronic formats that have in common an absence of paper and ink – has only highlighted the advantages of the printed page. Indeed, writers and publishers working in these early years of the twenty-first century still produce books the “old-fashioned” way, said Luke, and for good reasons.

“A book is infinitely portable, and in many ways the index in the back of a book can be faster [to use] than the search engine on the screen,” he explained.

From Clipper Ships to Silicon Chips

In December, *Beyond the Book* traveled to the San Francisco Maritime National Historical Park Visitor Center on picturesque Fisherman’s Wharf to offer authors and freelance journalists insights on the influence of new technologies on the business of writing and publishing, and how writers can benefit.

The Bay area, with Silicon Valley nearby, proved a fitting setting for such a discussion, given the local

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Bloggng – It Can Be Good for Your Writing Business

By Christopher Kenneally



Blogs, as we all have learned, are the latest Internet craze. The term is a contraction of “Web logs” – and “blogs” are essentially free-form online journals that are usually low on graphic design, but often are very high on personal opinion and insight.

Blogs provide handy shortcuts to a wealth of information – breaking news; “sneak” previews and advance word; and insider insights.

Inside and outside the so-called “mainstream media,” many observers regard blogs as little better than weapons of character assassination. If that association persists, however, freelance journalists and academic authors will have overlooked a new tool for exerting positive influence and, over time, reaping rewards for their efforts.

As an author, I know how critical it is to keep up with the latest in technology. Last fall, Copyright Clearance Center and I hosted an online Web seminar for

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history, noted **Glenna Matthews**, author of *Silicon Valley, Women, and the California Dream*, and a visiting scholar at the Institute of Urban and Regional Development, University of California, Berkeley.

As a result of the Gold Rush, Matthews explained, “Hydraulic mining... created a tremendous demand for technical capacity. There was a very precocious technical and scientific development here even in the late nineteenth century, long before Bill Hewlett and Dave Packard” began working together in a Palo Alto garage in the late 1930s.

“Writing is becoming more about the writer building a reputation, being embraced by community, controversy, discourse, and those things.”

Ken Goffman
author of *Counterculture Through the Ages*

Scientific expertise is hardly the region’s only advantage when it comes to generating innovative ideas and inventions. “The Gold Rush brought a mix of people to the Bay Area that had never been seen in human history before,” Matthews explained, “and even though there was racism, it was not possible for any single group to dominate, as often happened in other parts of the country and the world.”

Embracing Disruption

In barely more than a decade, the Internet has recast the shape of writing and publishing. Changes to every aspect of their profession require authors to make tremendous adjustments in their working lives. Not surprisingly, such “disruptive” technologies have not always enjoyed a warm welcome. In the early 1800s, Luddites were infamous for violent opposition to the introduction of industrial machinery to England.

Nevertheless, the great volume of all kinds of writing appearing online reflects what **Ken Goffman (a.k.a. R.U. Sirius)** called, “a great flowering of interest [in new technologies], with people wanting to embrace the contemporary world.” At the same time, he added, this information explosion has also led to what Goffman called “text inflation” – a condition that may lower the fiscal value of writing, while raising it in other areas.

“Good writing still tends to rise to the top, but the rewards are less and less monetary ones,” said the author of the newly-published *Counterculture Through the Ages* (Random House, 2004) and co-founder of *Mondo 2000*, a now-defunct magazine that pioneered coverage of emerging technologies. “Writing is becoming more about the writer building a reputation, being embraced by community, controversy, discourse, and those things.”

Caught in the Web

The accelerating velocity of communication affects the relationship of writers to their editors and publishers,

usually by bringing them more closely together.

“As a small press, Sasquatch Books invites submissions from individual authors – they don’t have to come through agents,” said Gary Luke. “Many authors have found me just through word of mouth, and I invite them to e-mail a proposal, which speeds up the response.”

The Internet also affords editors like Luke a window onto a writer’s past. Almost as soon as he has opened an e-mail containing a proposal or sample chapter, Luke will do a Google search. “If an author is sending me something, and I’ve never heard of [him or her], I want to figure out who this person is. Are we talking about an expert here, or someone who has developed one way or another a large following that demonstrates an interest among the public in the topic? That kind of stuff matters, and it’s pretty easy to find these days.”

Watch For Hype in the Road

The ubiquity and immediacy of news and information in the Internet Age does not always mean that what’s published is of the best quality, noted **Michael Kanellos**, CNET editor-at-large and a freelancer for many leading newspapers and magazines. “You get the news much quicker than you ever did before. At the same time, there’s slightly more of a chance for errors,” he said.

With technology reporting in particular, excitement surrounding a breakthrough can dissipate literally overnight. “Often you’ll find the analysis of an

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event will evolve over the first few days,” Kanellos explained. “People will downgrade it from the greatest thing since humans first chipped arrowheads out of obsidian, to, well, kind of an interesting development.”

For Glenna Matthews, replacing her typewriter with a personal computer has proven a boon in a number of ways – “I cannot tell you how many drafts I laboriously typed of my

doctoral dissertation at Stanford, which became *Silicon Valley, Women, and the California Dream*. It’s amazing to me that I survived that process because it was so traumatic to make a mistake.”

“And if you ever need to take a break from your writing, do you have a favorite pastime?” asked **Christopher Kenneally**, the conference moderator and director,

Author & Creator Relations for Copyright Clearance Center.

“I play computer solitaire,” Matthews admitted with a hearty laugh. “When I go back to work, I have some distance from my prose. I didn’t expect to make such a confession on national television, but there, I’ve come out with it – I play computer solitaire.” ■

Blogging – It Can Be Good for Your Writing Business

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authors called, “Blogs In Your Future – The Writing Is On the Web,” featuring Mitch Wagner, a long-time journalist and editor covering technology for *Security Pipeline*, *Linux Pipeline*, *InternetWeek* and other leading publications.

According to Mitch Wagner, blogs are important to all writers -- even if they don’t ever bother to create one of their own. Blogs provide handy shortcuts to a wealth of information – breaking news; “sneak” previews and advance word; and insider insights. The best blogs have potential to win enhanced professional reputations for their creators, as well as gain for them improved writing assignments and sometimes, even revenue from online advertising.

Many journalists and freelancers (including this one) wouldn’t think of starting the day without a click

to www.poynter.org, the Web site of the Poynter Institute, a Florida-based “school for journalists, future journalists, and teachers of journalists.” For more than five years, which is a generation in Internet time, Jim Romenesko has posted a blog he calls, “Your daily fix of media industry news, commentary, and memos.” In the virtual newsroom, Romenesko is an online water cooler.

Technorati.com, a self-proclaimed “search engine” for the blogosphere, currently claims to “watch” more than 4 million blogs, and posts a “top 100” list, as ranked by inbound hyperlinks. Heading that chart recently was Slashdot.com – “news for nerds, news that matters.” When I checked for this column, the group of IT insiders who post jointly on Slashdot were reporting on all things science and IT, from a Microsoft move to sell Windows XP in Russia,

to the latest NASA photos from Mars.

For technical and non-technical writers, a blog can be a golden opportunity to weave together events from their personal and public lives – all in the hope of engaging readers.

“I think it was a wonderful time when you could be like J.D. Salinger and publish something and hole yourself up in New Hampshire,” one author told the Associated Press, “but we have to realize we sell a product in the marketplace and the marketplace has a lot of competition.”

A former freelance journalist, Christopher Kenneally is director of Author Relations for Copyright Clearance Center in Boston. He may be reached at chrisk@copyright.com. ■



Protecting Your Ideas

By Howard Zaharoff



When that light bulb goes off — Eureka, you’ve got it! The most brilliant plot ever! — it’s understandable if paranoia

sets in. *What if I tell my writing group and someone steals my idea? Or who knows—maybe some agent will snatch my work right from under me when I submit the proposal!*

Copyrights, contracts and related laws all do, indeed, protect many aspects of what people call “ideas.”

These are common concerns among new writers. Great ideas are hard to come by, so it’s only natural to worry that some shady character might steal your concept for a book, article or TV show. How can you protect yourself?

The brief legal answer may surprise many: Copyrights, contracts and related laws all do, indeed, protect many aspects of what people call “ideas.” The key is understanding that copyright doesn’t stop at your words, but protects any original expression in your work, including detailed outlines, plots and characters.

The Boundaries of Copyright

As most writers appreciate, copyright protects original “works of authorship,”

that is, original expression the author fixes in tangible form, such as words penned on paper or saved to disk, images captured in photos or drawings, and sounds and music recorded on tape or digitized on a hard drive.

Copyright guards these works not only against copying and adaptation, but also against public sale, performance and display without consent of the copyright owner.

Section 102(b) of the Copyright Act states clearly what most writers have heard: “In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle or discovery ...”

... If you give an editor a detailed summary or full manuscript — as opposed to a two-paragraph description of your idea—the publisher’s use of your themes, mood and sequence of events may infringe your copyright in your original expression.

But this leaves undone a tricky task: drawing the line between a work of authorship and the ideas embodied in that work. That may sound easy, but it has plagued copyright lawyers for centuries and produces a surprising

array of copyrightable works that one might have assumed were unprotected ideas.

Detailed Outlines

In the 1960s, Harper & Row published an extremely popular child development textbook. Meredith Corp. created a competitive textbook using the Harper & Row book as the model by distributing detailed chapter outlines to freelancers, who worked from these outlines without seeing the original. When Harper & Row sued, the court found Meredith Corp. guilty of infringement, due in part to “an extensive taking of the entire structure and topical sequence” of the original.

So, if you give an editor a *detailed summary or full manuscript* — as opposed to a two-paragraph description of your idea—the publisher’s use of your themes, mood and sequence of events may infringe your copyright in your original expression.

Copyright: Well-Defined Characters

Another hidden strength of copyright law is that it can protect original characters.

Thus, if you describe in writing a unique and detailed character (“he’s a debonair, well-dressed, womanizing British secret agent with a 00 license to kill who likes martinis shaken, not stirred”), any publisher who reproduces a substantially similar character without your permission may be infringing your copyrights.

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Protecting Your Ideas

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Contracts: Written, Oral and Unspoken

Suppose we're not talking about a detailed plot or unique character, but just a concept. For instance, you have an idea for a sitcom about a middle-class black family (The Cosby Show was the subject of a suit) or a film about an African prince visiting the U.S. (Eddie Murphy's 'Coming to America' inspired an infamous legal battle). How can you protect those?

One option is a written nondisclosure agreement (NDA), under which the party receiving the confidential idea promises not to use it without consent. NDAs are widely used in business, and are occasionally found in Hollywood. Unfortunately for authors, they're rarely used in publishing.

Protecting Ideas

Finally we reach the extreme case: an idea alone. No copyright. No contract. Will courts recognize an idea as property, holding accountable a publisher who uses it without permission or payment?

Another hidden strength of copyright law is that it can protect original characters.

Unfortunately, except in rare cases, the answer is no. The rare cases include relationships of special trust or reliance—e.g., the publisher is also your priest or paid adviser. Other rare cases, generally outside publishing, include ideas that are so unique and concrete that allowing use without compensation would reek of injustice.

Still, in planning your approach it's safest to assume that absent a contract or special relationship, if a publisher uses your underlying ideas, but neither solicited them nor agreed (expressly or by implication) to receive them in confidence or pay for their use, you won't be able to prove misconduct or recover damages.

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What's a Writer to Do?

Most advisers would say: Don't sweat it. What counts most in writing is executing a good idea, not necessarily devising a truly novel one.

Still, if you believe you've conceived that once-in-a-lifetime, barnburner idea and you're determined not to lose it:

- Don't submit this idea to any publisher who won't agree to treat it as a disclosure of proprietary information.
- At least be certain to tell publishers *before* submission that you expect to be paid if they use your idea. If they say "nyah," walk away.

- Don't submit the bare idea; instead, flesh it out to the point where a publisher who uses it will almost surely be stealing copyrighted expression. (If not done correctly this could backfire, so don't do this without first consulting a lawyer.)
- Mark any materials describing your ideas with both a copyright and "CONFIDENTIAL INFORMATION" legend.

Even these recommendations, however, won't always work. So perhaps the best advice, in all situations, is to investigate before proceeding to ensure you're always dealing with reputable publishers, producers and agents.

Howard Zaharoff is a lawyer who represents both writers and publishers from his offices in Waltham, Mass. He has spoken on publishing law issues for the National Writers Union, Society of Children's Book Writers and Illustrators (New England), and the Copyright Society of the U.S. (New England).

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The Title of this Article Is “Titles”

By Courtney Wegener, Author Relations representative

As rightsholders for a variety of published works, thousands of authors participate in Copyright Clearance Center’s licensing services and have listed their works in our title catalogue. The Author & Creator Relations team understands the large effort that goes into documenting a bibliographic list of works, especially for those authors who may own the rights to hundreds of works.

Because we strive to provide the highest possible level of customer service, I would like to suggest ways for authors to prioritize the titles you list with Copyright Clearance Center. By following a few easy-to-remember principles, you can ensure that your works are organized so that they may begin earning you as much as possible, and as soon as possible.

- Review, understand, and organize your publishing contracts for all of your works. In a phrase, “Be proactive.” Educate yourself about copyright, and about your and your publisher’s obligations under your contracts. If you are unsure of the rights status for one of your works, you should contact your publisher’s

rights and permissions department. Copyright Clearance Center, however, is unable to assist in the resolution of any disputes concerning the ownership of rights in general, as these are private matters between rightsholders.

Organize your title list to prioritize those works you think will reap the greatest number of copyright permission requests from content users.

- Organize your title list to prioritize those works you think will reap the greatest number of copyright permission requests from content users. You may also want to give priority to titles covering a contemporary topic or current event. Works most widely used by Copyright Clearance Center customers include academic, professional and scientific materials. Permission requests for pop culture, entertainment, and fictional content are much less likely.

- List titles of your most recently published works, along with those works you’ve identified as most popular. You can list other works progressively over time.
- If we receive a licensing request for one of your titles that is not listed with Copyright Clearance Center, we will attempt to contact you to obtain your permission for that specific use.

Finally, we urge you to work with an Author & Creator Relations representative at Copyright Clearance Center to select the licensing solutions that best meet your needs. Copyright Clearance Center provides a fast, convenient means of licensing the reproduction of your work, and collecting royalties on your behalf. Further information about our Rightsholder Authorizations Agreement can be found at www.authors.copyright.com. ■

To learn more about Copyright Clearance Center’s program for authors, please visit copyright.com/authors or call an Author Relations Representative at 978-750-8400.

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