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# UNDERSTANDING COPYRIGHT LAW IN ONLINE CREATIVE COMMUNITIES

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# LEFT SHARK VS. WRONG SHARKS?



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## Left Shark

by mstyle183, published Feb 4, 2015



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📦 Collect	36
💬 Comment	9
📄 I Made One	2
🔄 Remix It	0
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📄 Download This Thing!

# LEFT SHARK VS. WRONG SHARKS?



Steve Plinio  
(310) 586-7703 Tel  
(310) 586-7800 Fax

February 3, 2015

**CERTIFIED MAIL  
RETURN RECEIPT**

Shapeways HQ  
419 Park Avenue South  
Suite 900  
New York, NY 10016  
[www.shapeways.com](http://www.shapeways.com)

**Re: DEMAND TO CEASE AND DESIST INFRINGEMENTS  
OF KATY PERRY INTELLECTUAL PROPERTY**

Dear Sirs:

We represent Katy Perry, the owner of the intellectual property depicted or embodied in connection with the shark images and costumes portrayed and used in Katy Perry's Super Bowl 2015 half-time performance ("IP").

Our client recently has learned that you have been involved in the manufacture, sale, marketing and distribution of merchandise featuring a shark sculpture which embodies and uses the IP, and that you have displayed this product on your website, [www.shapeways.com](http://www.shapeways.com), in connection with such sale and distribution.

As you are undoubtedly aware, our client never consented to your use of its copyrighted work and IP, nor did our client consent to the sale of the infringing product. Your unauthorized display and sale of this product infringes our client's exclusive rights in numerous ways, including, but not limited to, infringement of our client's exclusive rights to reproduce, display, and distribute its copyrighted images under the United States Copyright Act as set forth in 17 U.S.C. §106.

Your infringing conduct entitles our client to significant legal relief against you, which may include actual damages, statutory damages, and punitive damages, as well as immediate and permanent injunctive relief.

Based upon the foregoing and to avoid any further proceedings in this matter, we hereby demand on behalf of Katy Perry that you and all others involved:

(1) Immediately cease and desist from all further commercial use or exploitation of unauthorized products bearing the IP and copyrighted images;

(2) Confirm to us in writing within three (3) business days of the date of this letter that you have done so;

(3) Turn over to this office all of the infringing merchandise in your possession, as well as advertising, packaging, or other materials which you have used to promote, market or distribute said offending merchandise within ten (10) business days from this letter; and

(4) Provide a complete accounting for all of the revenue you have received from the sale of the infringing products within twenty (20) days from the date of this letter, which must include copies of all of the sales and shipment records for the sale of this infringing merchandise.

Your failure to comply with our demands will result in our client's enforcing its rights against you. Further, your failure to comply with our demands will be viewed by the courts as willful infringement, which will entitle us to obtain statutory and/or treble damages against you.

Further, if you decide not to comply with our demands, our client reserves its rights to assert all claims and seek all remedies that are available under the law.

Please send your confirmation to my attention by fax or email, (310) 586-7800 or [plinios@gtlaw.com](mailto:plinios@gtlaw.com).

Sincerely,



Steve Plinio, Esq

cc: Steve Jensen  
Martin Kirkup  
Bradford Cobb  
Jay Cooper, Esq.

# COPYING: THEN AND NOW



**Casey Fiesler**  
Edit Profile

Research Assistant at Georgia Tech  
Post: Creative Commons and WhiteMarket  
Public Relations

Studies Human-Centered Computing at Georgia Tech  
Attending from 2009 to 2015

Lives in Atlanta, Georgia

From Augusta, Georgia  
Born on February 16, 1992 (32 years old)

Followed by 1 person

FAVORITES

- News Feed
- Messages 58
- Events 5
- Photos
- Browse

APPS

- Games 20+
- Games Feed 20+
- Links

FRIENDS

- Creative Commons 4
- Decatur, Georgia Area 20+

GROUPS

- XRDS: Crossroads, T... 2

Update Status Add Photos/Video

What's on your mind?

**Casey Fiesler**

I need a presentation slide image that illustrates sharing copyrighted material on social networks. So here's a picture of the Doctor and Amy.

Like · Comment · Share · 4 minutes ago

Write a comment...

DEFINITIONS

**REMIX**

making use of content  
created by someone else  
in new, creative ways

DEFINITIONS



**FAIR**

**USE**

the legal doctrine that allows for use of copyrighted content under certain conditions

## COPYRIGHT DECISION-MAKING



**What the law says**



**What people think the law says**



**What people think is ethical**



**Community norms**



**What people actually do**



## RESEARCH QUESTIONS

1

In online creative communities, how do people understand, discuss, and engage with copyright law?

2

How does the law and perceptions of the law impact technology use, creative activities, and online interaction?

# COPYRIGHT IN CREATIVE COMMUNITIES



**xXDrunk3nMast3rXx**

Thanks for the replies. Man youtube is such a pain now, it was awesome a year ago but now its copyright this and copyright that, I understand its illegal to take someone elses work and slap it on your movies but if anything, we're promoting it.

I tried saying that I dont own any song used in my video in the description box but that doesnt work either.

## Copying / The next Harry Potter

I've been thinking about this for a while, and I wanted to get my peers opinions. What would constitute copying of Harry Potter? (I'm talking specifically about harry potter). Magic schools aren't exactly a new concept, and it's definitely not invented my J.K. Rowling. I was thinking about what book phenomenon would be "the next Harry Potter", and whether it would be about magic/schooling. It's not Percy Jackson, the fan base just isn't loyal enough. If someone wants to create "the next Harry Potter", would they have to be similar (not completely, but in some ways)? What would constitute copyright infringement?

## Original Post



Sora from EmpyreanArtistry says

So... I've asked this question many times because I never can find the answer. So, here I am again. If I want to make something based off art from an anime/video game/etc, how can I find out if my work would be infringing on copyright? So... things like pins, which use pictures of that anime/video game?

Posted at 9:28 pm Oct 12, 2012 EDT

## Caesura

Sampling the original in a OC remix?

Hello, I am allowed to use snipits of the original song in an OC remix submission? Or is that illegal? I want to chop up the melody and play it with new rhythms and stuff.

Thank you



**~LittlebirdRen** Aug 22, 2012 | Professional Traditional Artist

If I use book pages in my artwork (as backgrounds or decoupage etc that I work on top of) then make prints from the final art piece, am I violating copyright?

Reply

# COPYRIGHT IN CREATIVE COMMUNITIES



xXDrunk3nMast3rXx

Thanks  
a year a  
its illegal  
if anything  
I tried sa  
descript

I got a copyright notice from something called UMG am I going to go to jail or something???

awesome  
rstand  
es but

Original Post



Sora from EmpyreanArtisty says

If I want to make something based off art from a game how can I find out if my work would be infringing copyright?

Copying / The next Harry Potter

I've been thinking about this for...  
What would constitute copying of...  
it's definitely not invented my J.K...  
would be about magic/schooling. It's not Percy Jackson, the fan base just isn't loyal enough. If someone wants to create "the next Harry Potter", would they have to be similar (not completely, but in some ways)? What would constitute copyright infringement?

What would constitute copying of Harry Potter?

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...the next Harry

Caesura

Sampling the original in a OC remix?

Hello, I am allowed to use snippets of the original and play it with new rhythms and stuff.

Thank you

Am I allowed to use snippets of the original song in a remix?



~LittlebirdRen Aug 22, 2012

If I use book pages in my art piece, am I violating copyright?

Am I violating copyright?

...al art piece, am I violating copyright?

Reply

FORUM DATA

DeviantArt

Fanart Central



Remix64

Overclocked Remix



YouTube

Warcraft Movies



HarryPotterFanFiction

Twisting the Hellmouth



FORUM DATA

DeviantArt

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attorney  
copyright  
copy  
copying  
illegal  
infringement  
lawyer  
legal  
license  
permission  
plagiarism  
plagiarist  
rights  
steal  
stole  
trademark

## FORUM DATA

DeviantArt

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Overclocked Remix

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HarryPotterFanFiction

Twisting the Hellmouth



>16 million

total public posts

100,000

scraped posts

339

posts in the data set

PROBLEMS



Content creators see  
copyright as a source of  
**problems.**

## PROBLEMS

# type of problems

1. avoiding trouble
2. dealing with consequences
3. fear of infringement
4. dealing with infringement
5. incomplete information





INFORMATION



These problems are most commonly caused by **lack of information.**

## INFORMATION

// Let's say that I want to use a photo of a celebrity in a piece of artwork. I realized (belatedly) that pictures of celebrities are copyrighted. I'm not planning to sell my work... just display it online. Is there any possible way to do this

**WITHOUT committing copyright infringement?**



## INFORMATION

“So I posted a video and used some music. I then got an email from YouTube saying it was copyrighted by SME.

**Will I go to jail or lose my channel?**



## MISINFORMATION



Within the communities, this problem is exacerbated by the **spread of misinformation.**

## MISINFORMATION

**“ There is really no such thing as fair use.**

If you use someone else property without permission it's still called stealing.



## MISINFORMATION

**" You need a LICENSE**  
in writing from the copyright owner or  
agent spelling out in nauseating detail  
what you can and cannot do with the  
audio. Nothing else matters.



TECHNOLOGY

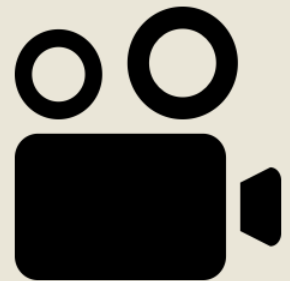


Lack of information is also often perceived as a **failure of the technology.**

## TECHNOLOGY

“I've looked all over YouTube. There is no place to report People Continually false copyrighting, and people who threaten to take channels down by False flagging. Am I supposed to sit here and watch my channel get taken down for lies? When you search through the report section, there is no option for these things.

**YOUTUBE, DO SOMETHING!**





## TECHNOLOGY

”

I just finished a play and no one wants to look at it because they're busy. But for fear of copyright infringement  
**I'm not posting it here.**



COMMUNITY



Because of the lack of clarity, rules are often

**community constructed**  
and enforced.

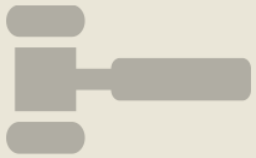
## COMMUNITY

“ Why exactly does it say [username] and have a link to [username]'s webpage by it? Explain that to me and I'll be happy to comment on your ALLEGED remix. Otherwise, nice try, genius.  
**Don't let the door hit you on the way out, music thief.**



## RULES CONFLICT

# Fan fiction: remixing remixes



Fair use does not require permission.



Follow authors' wishes when known.



No remixing other fanworks without explicit permission.

## POSITIVE OUTCOME

“Let me say that I'm really enjoying this conversation. I went to school for music business and I like honing my knowledge with this kind of academic discussion, especially when the result of the exchange can potentially help someone!



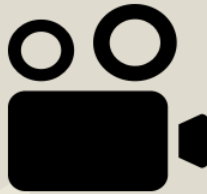
CHILLING EFFECT

**CHILLING  
EFFECT**

when you don't do something you should be able to do, for fear of getting into trouble

BAD OUTCOME

LESS CREATIVITY



## CAUSES OF PROBLEMS



### Lack of information

- Misunderstanding
- Confusion
- Ignorance of the law or site policy
- Difficulty finding answers when sought








### Perceived failing of site or technology

- Not providing needed information
- Policy or enforcement inadequacies
- Imperfect or overreaching enforcement tools



# advice for online community designers

-  Provide plain language explanations of copyright policies.
-  Monitor user concerns and questions about copyright.
-  Provide dedicated spaces for legal conversations and questions.
-  Consider existing social norms in the creation of policies.
-  Scaffold copyright knowledge into content upload tools.

# POLICY DESIGN

## Terms of Service

### Community Guidelines

#### 1. Your Acceptance

- A. By using or visiting the YouTube website or any YouTube products, software, data feeds, and services provided to you on, from, or through the YouTube website (collectively the "Service") you signify your agreement to (1) these terms and conditions (the "Terms of Service"), (2) Google's Privacy Policy, found at <http://www.youtube.com/t/privacy> and incorporated herein by reference, and (3) YouTube's Community Guidelines, found at [http://www.youtube.com/t/community\\_guidelines](http://www.youtube.com/t/community_guidelines) and also incorporated herein by reference. If you do not agree to any of these terms, the Google Privacy Policy, or the Community Guidelines, please do not use the Service.
- B. Although we may attempt to notify you when major changes are made to these Terms of Service, you should periodically review the most up-to-date version <http://www.youtube.com/t/terms>). YouTube may, in its sole discretion, modify or revise these Terms of Service and policies at any time, and you agree to be bound by such modifications or revisions. Nothing in these Terms of Service shall be deemed to confer any third-party rights or benefits.

#### 2. Service

- A. These Terms of Service apply to all users of the Service, including users who are also contributors of Content on the Service. "Content" includes the text, software, scripts, graphics, photos, sounds, music, videos, audiovisual combinations, interactive features and other materials you may view on, access through, or contribute to the Service. The Service includes all aspects of YouTube, including but not limited to all products, software and services offered via the YouTube website, such as the YouTube channels, the YouTube "Embeddable Player," the YouTube "Uploader" and other applications.
- B. The Service may contain links to third party websites that are not owned or controlled by YouTube. YouTube has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, YouTube will not and cannot censor or edit the content of any third-party site. By using the Service, you expressly relieve YouTube from any and all liability arising from your use of any third-party website.
- C. Accordingly, we encourage you to be aware when you leave the Service and to read the terms and conditions and privacy policy of each other website that you visit.

#### 3. YouTube Accounts

- A. In order to access some features of the Service, you will have to create a YouTube or Google Account. You may never use another's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify YouTube immediately of any breach of security or unauthorized use of your account.
- B. Although YouTube will not be liable for your losses caused by any unauthorized use of your account, you may be liable

POLICY DESIGN



**?** **FAIR USE**

**In the United States, copyright law allows for the fair use of copyrighted material under certain limited circumstances without prior permission from the owner. Under the law, determinations of fair**

2:48 / 4:39

POLICY DESIGN

You could get into a lot of trouble. That's how the law works.



THANK YOU!

## Acknowledgments

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Georgia  
Tech



@cfiesler

