

Tips for Presenting at SOA Meetings & Webinars: Copyrights and Content



Copyright Basics



What is a “copyright”?

- Copyright is a form of protection for “original works of authorship”.
- Copyright protection extends to:
 - “Free” and “publicly available” material on the Internet (YouTube videos, Google Images, etc.)
 - Newspapers, magazines, books
 - Photos
 - Cartoons
 - Graphs and charts
 - Movies and videos
 - Music
 - Computer programs and software

What is exempt from copyright protection?

- Materials produced by the U.S. government
- Titles, names, some short phrases
- Ideas and facts
- Materials that are so old they are considered to be in the “public domain”

Copyright Misconceptions



1. If there is no © symbol, the work is not protected.

- Not true! Copyright protection attaches to the “original work of authorship” as soon as it is in a fixed format.
- Materials do not need “©” to be protected.
 - Using the © symbol puts others on notice that the work is protected, who the owner is, and prevents use of the “innocent infringement” defense in copyright infringement suits.

2. As long as the work is cited, I am free to use the work.

- Not true! Citing the work's source does not substitute for obtaining permission.
- In a business context [nearly all SOA purposes qualify as a business context], you must **always** have the copyright owner's permission.

3. If the material is “freely available” on the Internet, I can use it without permission.

- Not true! Images, videos, and other materials available on the Internet (e.g. material from Wikipedia, Google Images, etc.) are protected by copyright. You must secure permission from the owner to use the material.

4. Since the SOA is a nonprofit organization, the “fair use” exception to obtaining permission from the copyright owner *always* applies.

- Not true! The SOA’s status as a 501(c)(3) organization does not exempt the organization, or volunteers acting on its behalf, from copyright laws.
- Likewise, the educational services provided by the SOA do not exempt the organization or our volunteers from obtaining permission.

(See slide 11 for explanation of Fair Use Exception)

Fair Use Exception for Copyrighted Materials



What is the “fair use exception”?

The “fair use exception” permits the use of copyrighted material without obtaining the owner’s permission. For the exception to apply, all four factors must be met:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
 - a) If the work being reproduced is factual in nature, the courts *may* treat such use more favorably (remember, you cannot copyright facts).
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.
 - a) Does your use of the work deprive the owner of income or hamper their ability to enter a new market?

Application of Fair Use to SOA Presentations

- Meeting all four factors is difficult, and there is no way to definitively know whether your use will qualify as “fair use”.
- SOA meetings and webinars are commercial ventures – while the presentation is educational in nature, there is a commercial element.
- 1) Depending on the amount used and 2) how necessary the copyrighted material is to illustrating an *educational* point (as opposed to being used for strictly entertainment purposes), the more likely it is that the use *may* qualify as “fair use”.
 - For help determining if your use could qualify as “fair use”, see Columbia University’s [“Fair Use Checklist”](#).

Bottom Line: Presenters should not rely on the “fair use exception” – obtaining permission is always the best & safest option.

Why Copyright Infringement Matters & How to Get Permission



Why should I care about copyright infringement?

- You are responsible for the content of your presentation, not the SOA.
- Copyright owners routinely send cease and desist and demand letters to infringers. The SOA has received these letters due to presenters incorporating copyrighted materials without permission.

Obtaining Permission from the Owner

- Start by checking the copyright notice – this will identify who owns the copyright.
 - Please note: Authors routinely assign their copyright to their publishers.
- If you cannot find the copyright owner, check this database: <http://www.copyright.gov/records/>.
- If there is no copyright notice and the work is not registered, contact the owner of the website where you found the work to see if they have more information. If you cannot obtain permission, please use your discretion on whether it is appropriate to use the work.

Content Tips



Presentation Content: Be Professional and Appropriate

- Use your best judgment when including any photos, cartoons or jokes in your presentation.
- Inappropriate content would include, for example, comments or materials that:
 - Are obscene, vulgar, or sexually charged
 - Discriminate or disparage others on the basis of race, religion, nationality, ethnicity, age, gender, gender identity, sexual orientation or other characteristic that is associated with systemic discrimination or marginalization

Thank you again for agreeing to present – it is individuals like you that make SOA programs the successes they are!

The information presented is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice. Please contact your legal counsel with any questions.