

# Law for Writers



From libel law to  
protecting your creations,  
here's what you need to know!

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# Key to a libel claim: Reputation

## Public Figures must prove *actual malice*

- Knowledge that the published material was false *or*
- Exercised *reckless disregard* for whether it was true or false

## Private Persons must prove *negligence*

- Sloppy research and reporting practices
- Did not call the party in question
- Overlooked or misread relevant documents

- Was the material **disseminated**?
- Is the plaintiff (or complaining person!) clearly **identifiable**?
- Is the material **defamatory** (damaging)?
- Is the material **true** or **false**
- Is the material **opinion**?

# The Ollman Test

- Legal case to determine whether material is fact or opinion
- *Opinion* is protected speech under the First Amendment and cannot be considered libelous!
- Can the statement be proved true or false?
- What is the common or ordinary meaning of the words?
- What is the journalistic context of the remark? (*is the work labeled as a column, for example?*)
- What is the social context of the remark? (*Conversation? Presentation?*)

# What is (and isn't) private?

- Does one have *a reasonable expectation of privacy*?
- Is the *release of* the information likely to offend a reasonable person?
- Is there a legitimate public interest?
- *Mark v. KING* precedent in Washington
  - 1980 Washington State case in which an intrusion is defined as “something which the general public would not be free to view.”
  - It's not intrusion if it's “that which any passerby would have seen.”

# Remember to ego surf!



- What is your “digital shadow”?
- Start with basic info only and go deeper
- Try several search engines/online sources
- Be aware of what’s out there about you...  
and who shares your name.

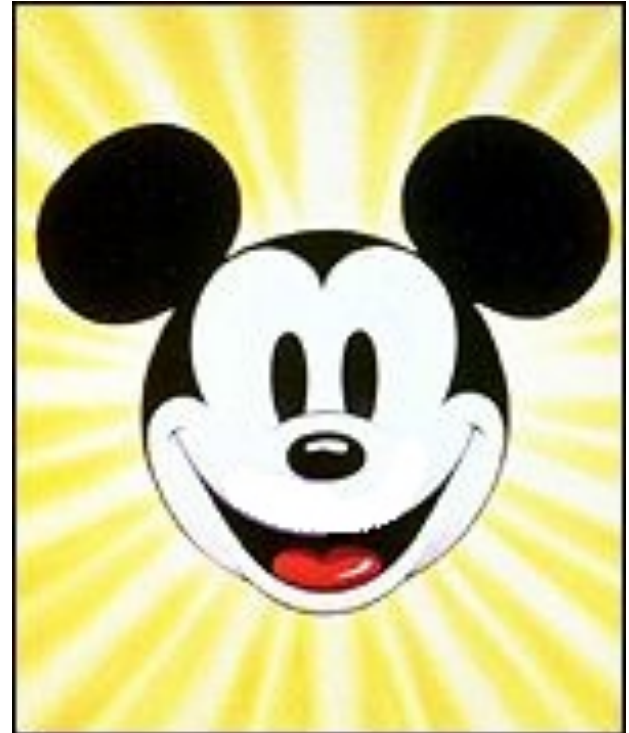
# How can I protect my material?

- Ripoffs
- Copyright
- Fair Use
- Creative Commons



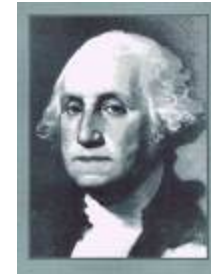
# Copyright Law

- 1790: 14 years
- 1791: 28 years
- 1831: 42 years
- 1841: “Fair Use” established
- 1909: 56 years
- 1978: Life + 70 years
- 1998: 95 years for corporation  
(employer holds rights as  
“work for hire”)
- 2003: *Eldred v. Ashcroft* –  
Supreme Court upholds copyright  
extensions approved by Congress  
at behest of Disney Corp.

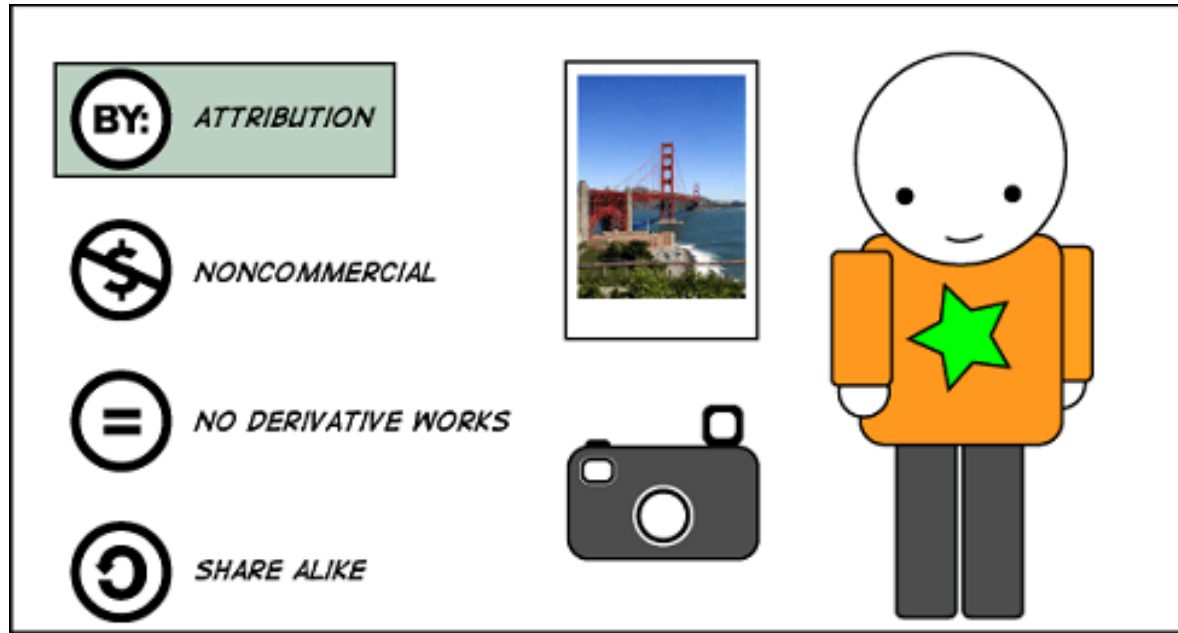


# Fair Use Doctrine

- Adopted 1841
- *Folsom v. Marsh*
- Amended 1976
  - \* purpose and character of use (commercial, nonprofit, educational)
  - \* nature of the work (fact vs. fiction)
  - \* amount and significance of portion used
  - \* impact of use







Creativecommons.org

*An alternative type of copyright –  
choose how you would like to share.*

# Legal Resources

- [Stanford Law School – Copyright & Fair Use](http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/index.html)

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- [Creative Commons](#) (alternative copyright)

- [Legal Guide for Bloggers](https://www.eff.org/issues/bloggers/legal) (Electronic Frontier Foundation)

<https://www.eff.org/issues/bloggers/legal>

- [Trademark Law](http://www.bitlaw.com/trademark/index.html) (Bitlaw)

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- [Banned Books Week](http://www.bannedbooksweek.org/) (celebrate the right to read!)

<http://www.bannedbooksweek.org/>

# Access Resources

(access to government materials for research)

- [Sunshine Week](http://www.sunshineweek.org/) <http://www.sunshineweek.org/>
- [First Amendment Center](http://www.firstamendmentcenter.org/) <http://www.firstamendmentcenter.org/>
- [Washington Coalition for Open Government](http://www.washingtoncog.org)  
<http://www.washingtoncog.org>
- [Investigative Reporters & Editors](http://www.ire.org/) <http://www.ire.org/>
- [Student Press Law Center](http://www.splc.org/) *(not just for students or press!)*  
<http://www.splc.org/>