Copyright Term and the Artist

Leveraging Creativity

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Prologue

- Protectable?
- Infringement
- Term
- Permissible Uses
Our story today...
Term
Copyright or public domain?
Why I cared...

I wanted to know the boundaries—to make smart choices.
The Durationator® Copyright Experiment

Copyright or public domain?
Every jurisdiction in the world
Every kind of cultural work – including art, cultural artifacts, folklore, but also photographs, books, manuscripts, maps, periodicals, sound recordings...everything.

How did we build it? Over 70 students and 8000 student hours + lots of research + support from Tulane University + code
Samples

- MOMA
- Frick
- University of Michigan
- Amistad Research Center
- Jazz Archive and Newcomb Archive (Tulane University)
- Scholars, artists, writers, filmmakers, attorneys, etc.
20\textsuperscript{th} Century Artist

Goals of the Study

- Understand the relationship of copyright to protection of an artist’s body of works
- Could one create a copyright “biography”?
- Was the copyright status of an artist’s work (particularly a 20\textsuperscript{th} century artist) a knowable “fact”?
Why?

- Artist
- Content Holder
- New Artists
- Fair Use
- Permissions
- Public Domain

Public Domain: New Artists
Fair Use: Content Holder
Permissions: New Artists
Artist: Fair Use
Content Holder: permissions
New Artists: Public Domain
Kamil Kubrick
Our sample artist
A Twentieth Century Life

Pre-War in Czechoslovakia
Nazi Occupation
Escaping to the West & onward to Australia
The 1960s: To New York, Europe
After 1989
Yvette’s Kamil

The first of many of Kamil’s works Yvette’s father purchased.
The Geography of Copyright

Citizenship – key component to determining the copyright status of works, as is the country of origin. Countries change; how does copyright change as the politics change? A life lived over the 20th century can come into contact with a great deal of geographical differences with regard to copyright. This paper: thinking through the relationship between the life lived and the geography of copyright.
Painting landscapes (know where creation is)

Restoration issues might arise, depending on where first sale occurred

No restoration for US works (look to formalities and requirements, which change between 1963 and 1964)

Unpublished works treated entirely differently

Early 1960s

US (San Francisco and NY)
Germany (Essen)
United Kingdom (London)
Yvette’s sister plays Frisbee 1977; lower left corner
Time periods of copyright law

Published pencil drawing, circa 1972
Some thoughts on Duration

When viewed over a lifetime—can get pretty messy
Life + 70? Not quite
Not clear when works were created, published or unpublished, etc.
Impact of Sample on Durationator Work

- More evidence of very bumpy world of 20\textsuperscript{th} century copyright in action, especially for those of foreign background
- Complicated
- Confusing
- Sometimes unknowable
- Not universal
- Not merely “life + 70”
Artists

Think about your own works—your body of work
Copyright status of your works also can be complicated; understanding your own copyright profile

Use of Other’s work
Start with whether under copyright or public domain
The fair use or permissions, especially with 20th century art
Museums and Archives

Copyright becomes relevant

Digitizing
Cataloging
Patrons

Holder of the works; holder of the information about the works – key in determining copyright
Leveraging Creativity

The power of knowledge – knowledge of the law
- copyright or public domain
- copyrightability
- fair use

These can be legal tools just like your paint brush or canvas.
Leveraging Creativity

Some thoughts - or why I went to law school
Next Step

- Continue to code and research the laws of the world
- Find new Strategic Research partners to expand our samples to better understand the needs of the museum and artist communities
- Recruit artists for our next major project: demonstrating duration

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