



NYSFHC Session Syllabus

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Copyright Considerations for Genealogists

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DISCLAIMER: Nothing in this syllabus and the accompanying lecture constitutes legal advice! Please consult an intellectual property attorney if you have any questions or concerns. This lecture primarily focuses on United States Copyright Law, although many concepts are applicable regardless of jurisdiction.

Almost everything genealogists create is protected by copyright. Examples include client reports, case studies, ancestor summaries and notes, and much more.

There are also some notable exceptions for which there is no copyright protection. Since there is NO copyright protection in fact, a family tree in the United States has NO copyright protection. There may be some *limited* protection for family trees in jurisdictions in Europe, for example, but this is far from settled and is still being debated by professionals and the courts. Accordingly, while a decorative print-out of a family tree might be protectable, the facts within that tree (names, dates, and places) are not.

How can you protect your copyrights? More importantly, how *should* you protect your copyrights? Blindly claiming copyright and forbidding all copying is not a wise plan for genealogists. Instead, we will examine methods that enable others to use your work in ways that build your brand for you!

Most genealogists believe that copyright infringement is automatically a negative event. Often, it is a theft with no benefit. However, we can also create content that is intended to be shared in ways that build our brand for us. We will look at ways to share content, including the Creative Commons.

Here are a few questions we will touch on during this course:

- Is your family tree protected by copyright?
- Is your great-grandmother's 1892 photograph in the public domain?
- How can you own a letter, but not have rights to publish the content?
- Can you copy that newspaper article about your parent's wedding?
- Are the screengrabs in your presentation legal?
- Can a gravestone or a picture of a gravestone be protected by copyright?
- How can copying be plagiarism but not copyright infringement, and vice versa?
- What are the limits of fair use?
- Can you make copies of a scan of a census page?

Resources

General Information

- U.S. Copyright Office (<http://www.copyright.gov>).
- U.S. Trademark Office (<https://www.uspto.gov>).
- Creative Commons (<https://creativecommons.org/>).

Duration of Copyright (Copyright Term)

- Copyright Office Circular 15A, *Duration of Copyright* (<https://www.copyright.gov/circs/circ15a.pdf>).
- Cornell University Copyright Information Center (<https://copyright.cornell.edu/publicdomain>).
- Digital Copyright Slider (<http://librarycopyright.net/resources/digitalslider/index.html>).
- Copyright Genie (<http://librarycopyright.net/resources/genie/index.php>).
- Mannapperuma, Menesha A., et al. *Is It in the Public Domain? A Handbook for Evaluating the Copyright Status of a Work Created in the United States Between Jan. 1, 1923 and Dec. 31, 1977* ([https://www.law.berkeley.edu/files/FINAL_PublicDomain_Handbook_FINAL\(1\).pdf](https://www.law.berkeley.edu/files/FINAL_PublicDomain_Handbook_FINAL(1).pdf), [https://www.law.berkeley.edu/files/FINAL_PublicDomain_Flowcharts_FINAL\(1\).pdf](https://www.law.berkeley.edu/files/FINAL_PublicDomain_Flowcharts_FINAL(1).pdf)).

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- The Fair Use Checklist (<https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html>).
- Thinking Through Fair Use (<https://www.lib.umn.edu/copyright/fairthoughts>).
- U.S. Copyright Office. *Reproduction of Copyrighted Works by Educators and Librarians (Circular 21)* (<https://www.copyright.gov/circs/circ21.pdf>).