

# Copyright, Internet and Family History



Utah Valley PAF User's Group

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BYU Copyright Licensing Office

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Web site: <http://copyright.byu.edu>

# Intellectual Property Laws

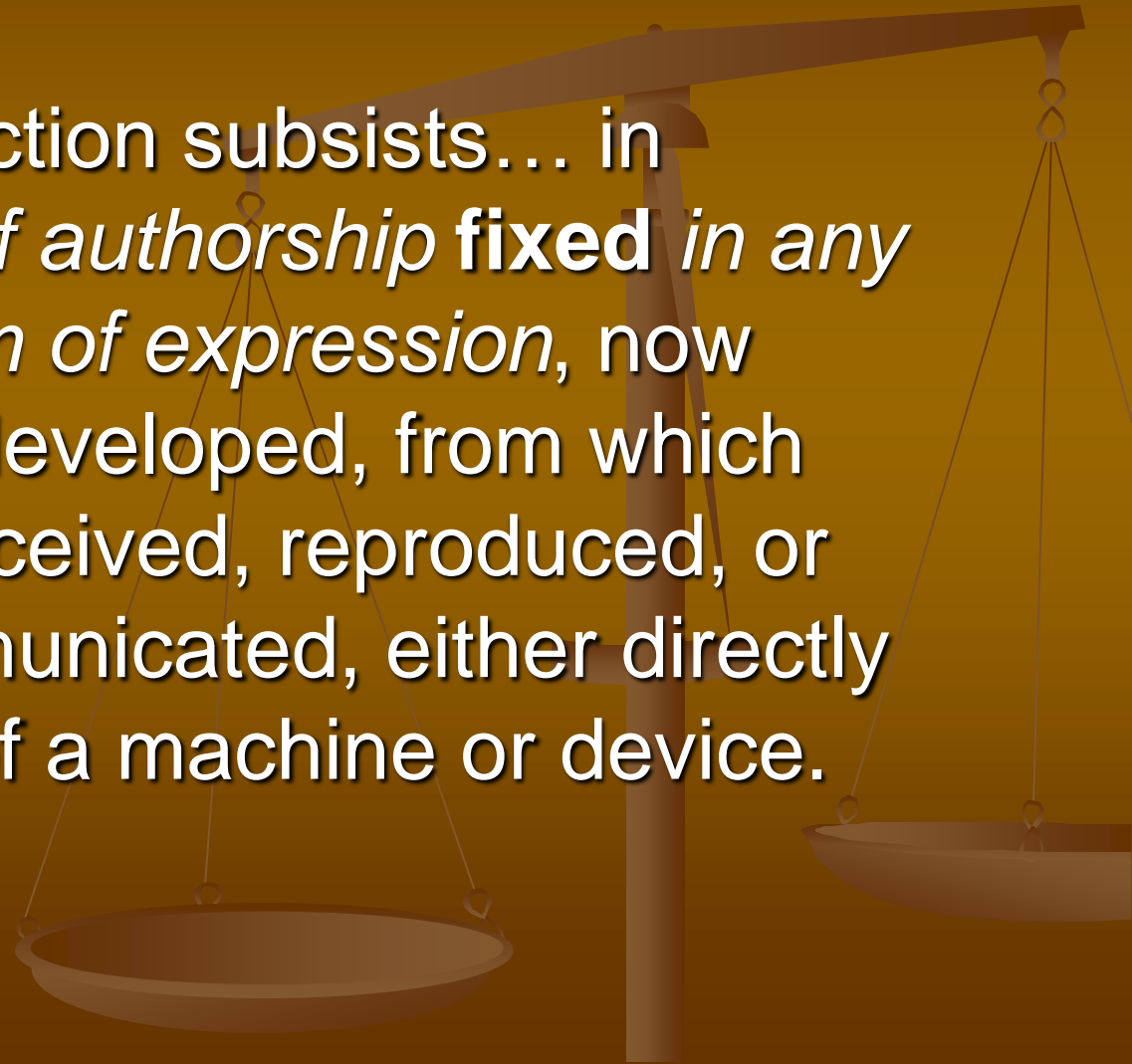


- U.S. Copyright Law
  - Title 17 U.S. Code <http://www.copyright.gov/title17>
- Privacy—right to control what personal information is made available to others
- Libel—injurious to the reputation of another
- Contracts—an agreement, expressed or implied

# Copyright Protection...

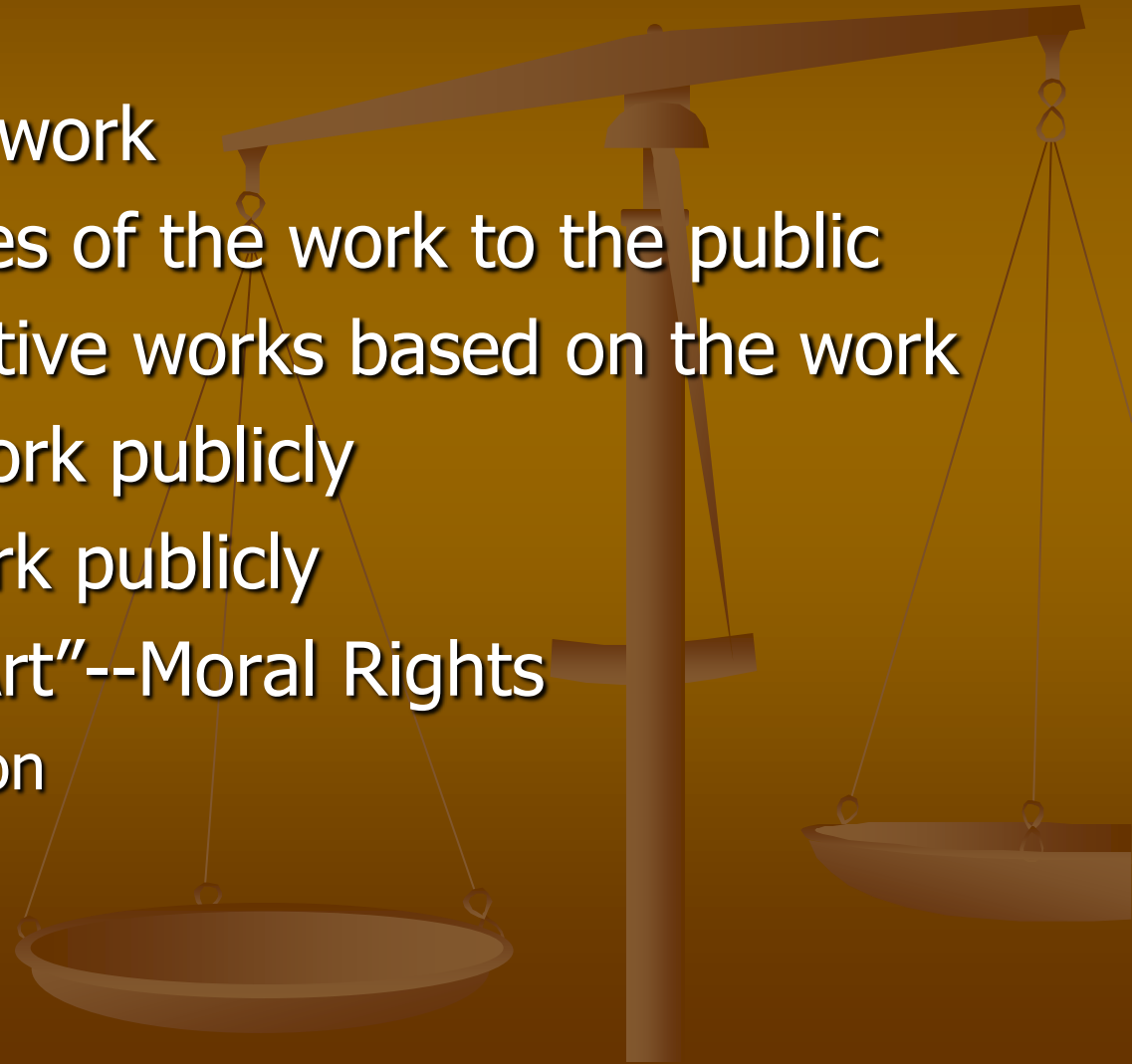
Copyright protection subsists... in *original works of authorship fixed in any tangible medium of expression*, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

U.S. Copyright Law, Section 102



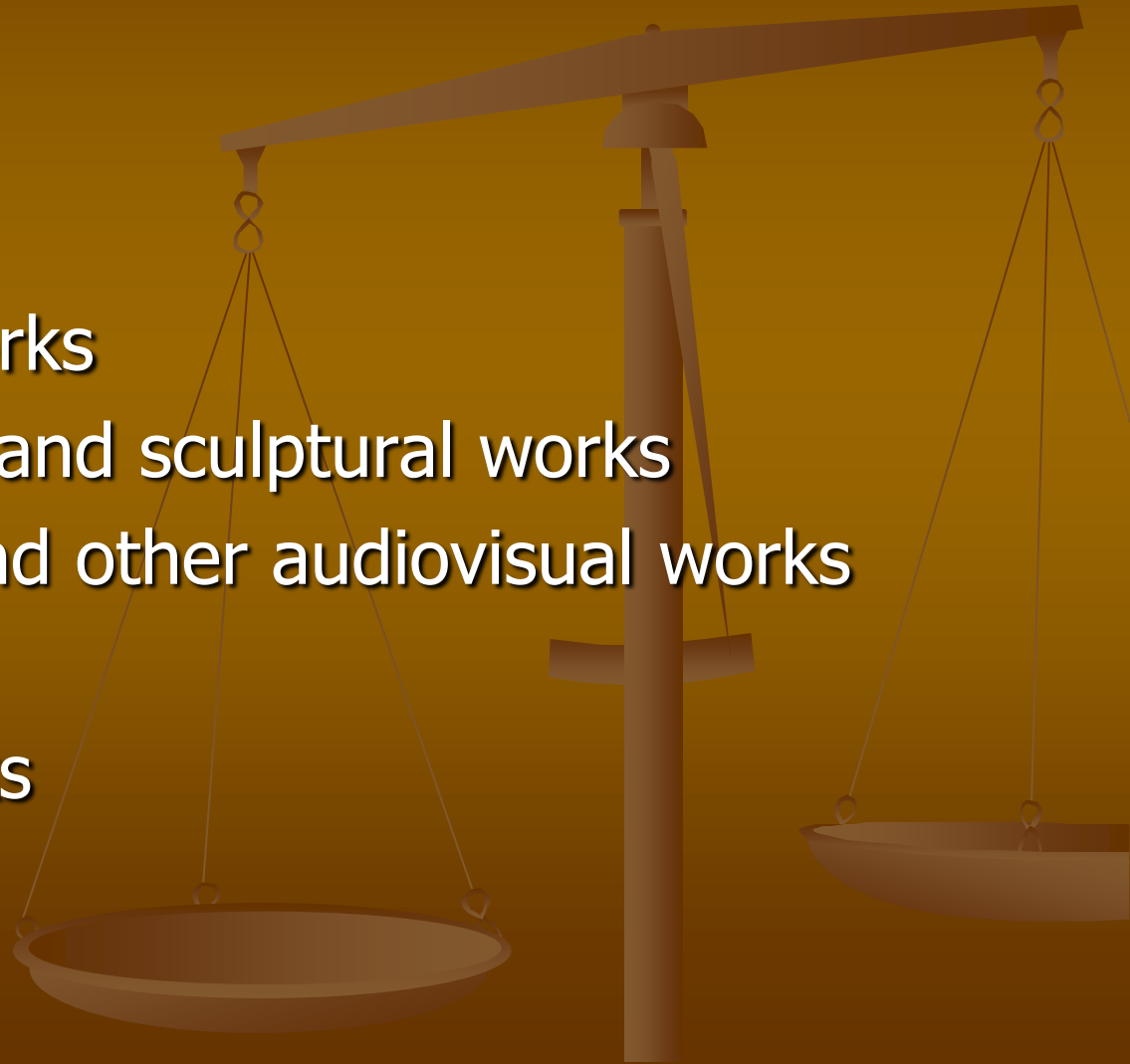
# The Copyright Owner's Rights

- To reproduce the work
- To distribute copies of the work to the public
- To prepare derivative works based on the work
- To perform the work publicly
- To display the work publicly
- "Work of Visual Art"--Moral Rights
  - Integrity/attribution



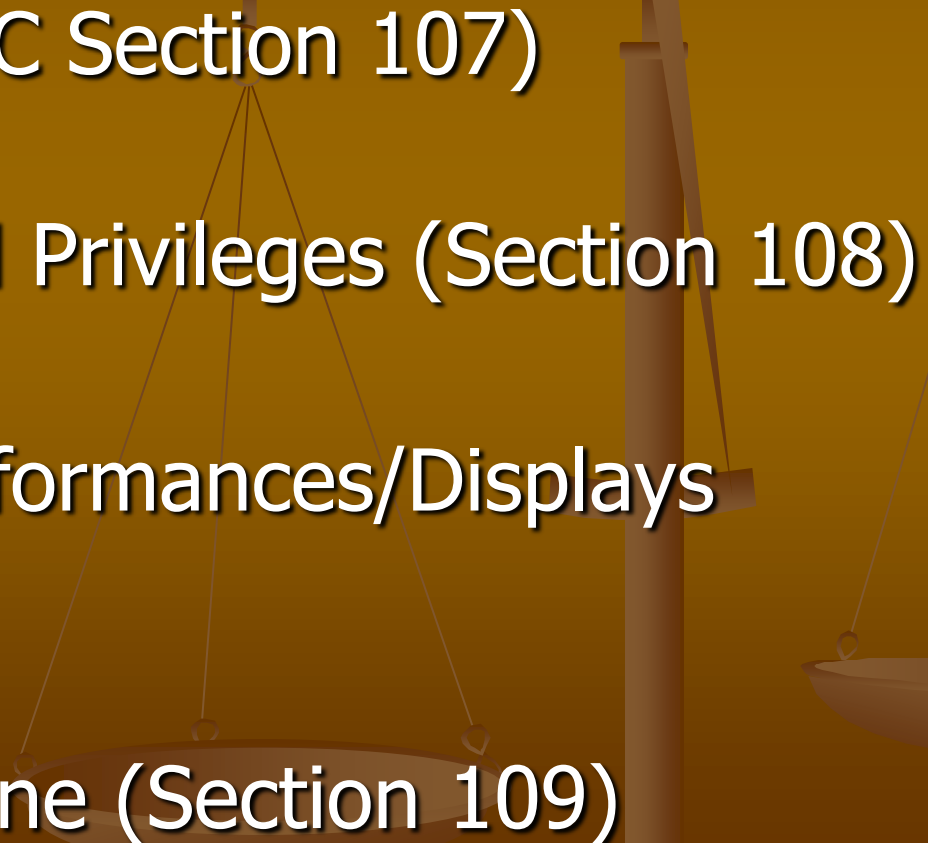
# Works Protected by Copyright

- Literary works
- Musical works
- Dramatic works
- Choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works



# Exemptions

## Limitations on Owner's Rights

- Fair Use (17 USC Section 107)
  - Library's Special Privileges (Section 108)
  - Educational Performances/Displays (Section 110)
  - First Sale Doctrine (Section 109)
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# Role of Fair Use



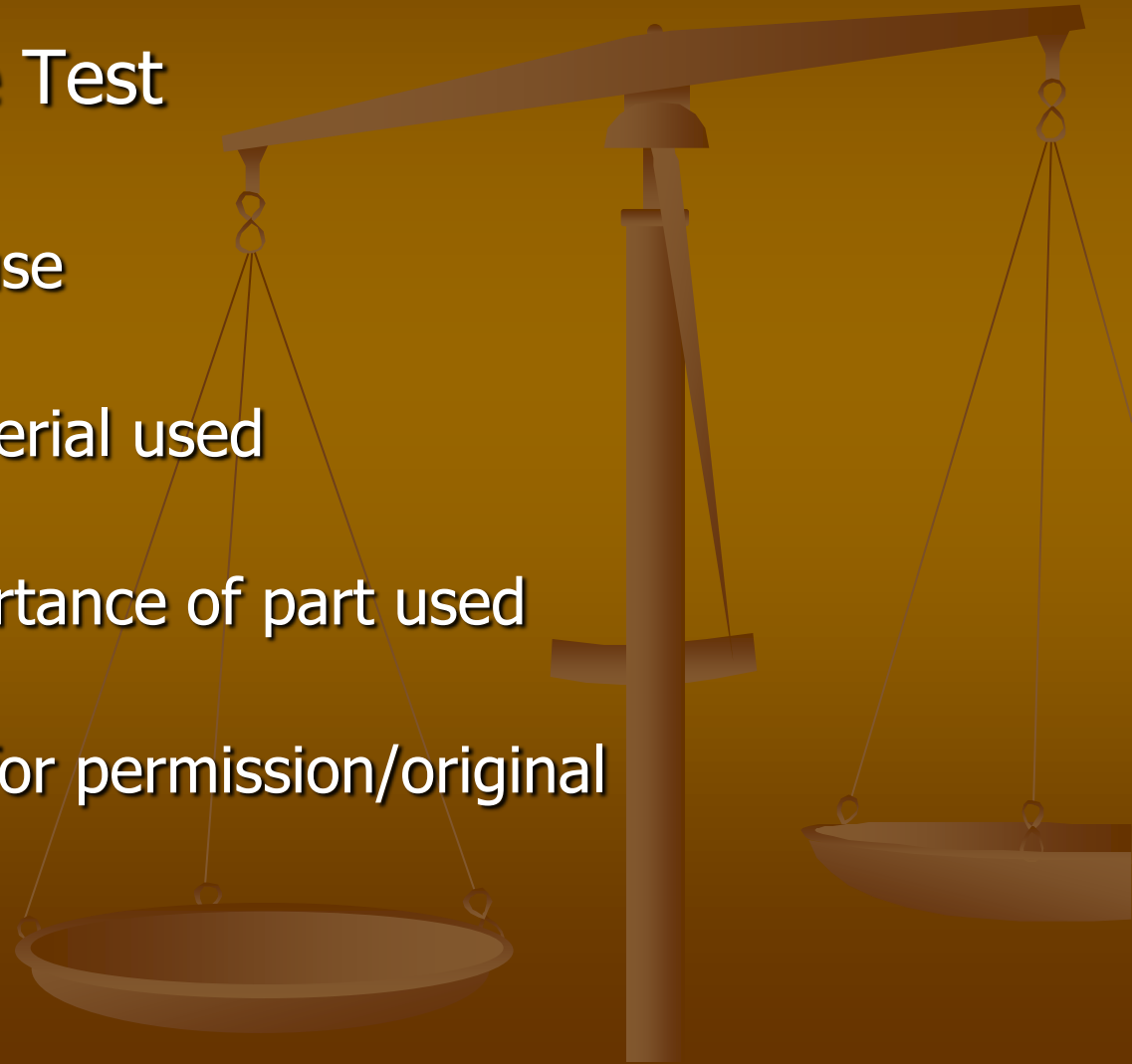
- Fair Use Achieves a Balance of Interests
  - Between owner control and public access
  - Between owner control and public's First Amendment rights
- Fair Use Addresses Market Failures
  - Facilitates good, but uneconomic uses

# Fair Use Statute

17 USC Section 107

## Four Factor Fair Use Test

- Character of the use
- Nature of the material used
- Amount and importance of part used
- Effect on market for permission/original



# Character of the Use

## ■ Favoring Fair Use

- One of the listed uses
- Nonprofit educational
- Restricted access
- Transformative
- Parody

## ■ Favoring Permission

- Commercial use (profit)
- Entertainment
- Bad-faith



# Nature of Material Used

## ■ Favoring Fair Use

- Published
- Factual
- Nonfiction

## ■ Favoring Permission

- Unpublished
- Highly creative work
- Fiction



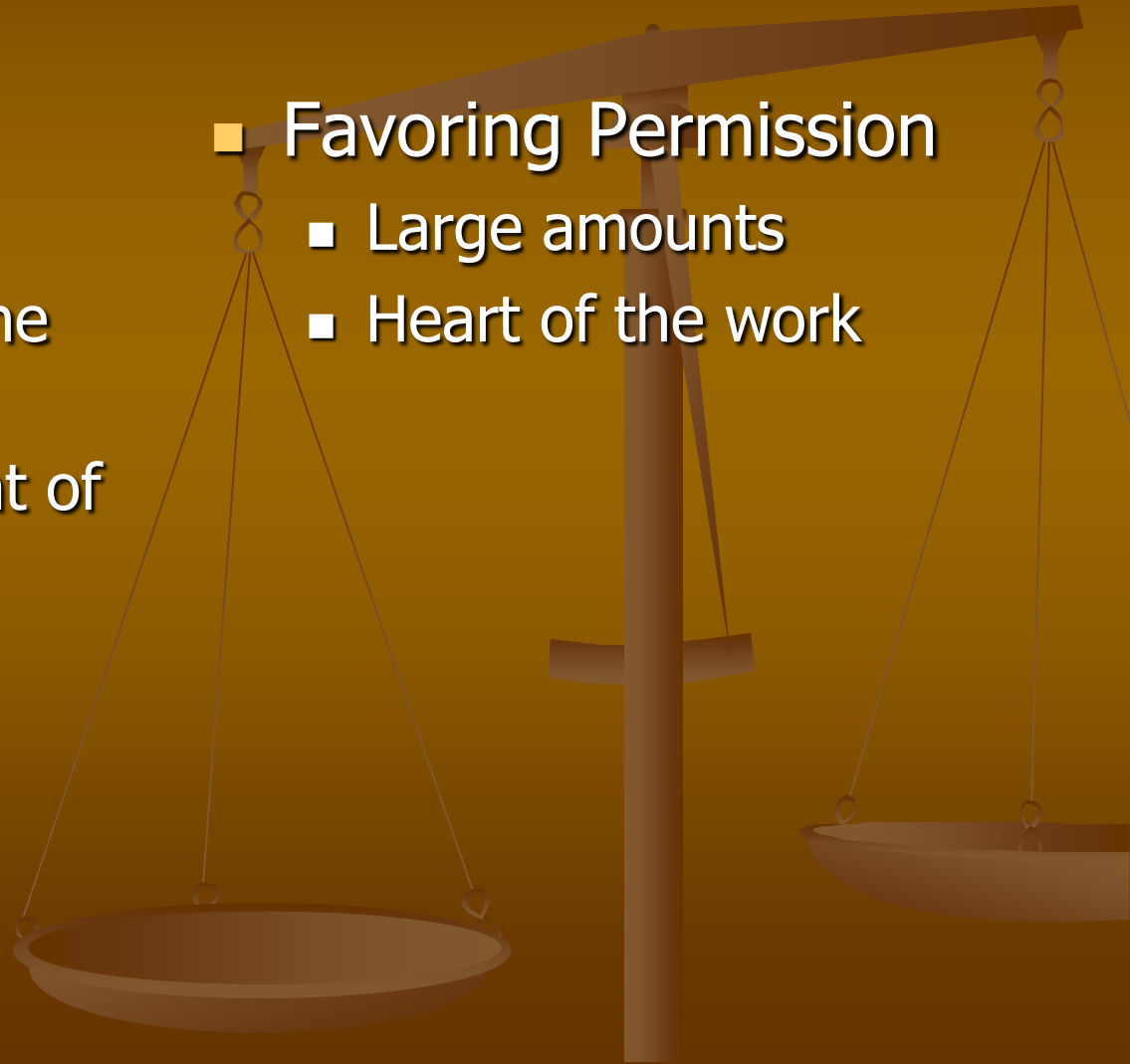
# Amount Used

- Favoring Fair Use

- Small amounts
- Not the heart of the work
- Appropriate in light of purpose

- Favoring Permission

- Large amounts
- Heart of the work



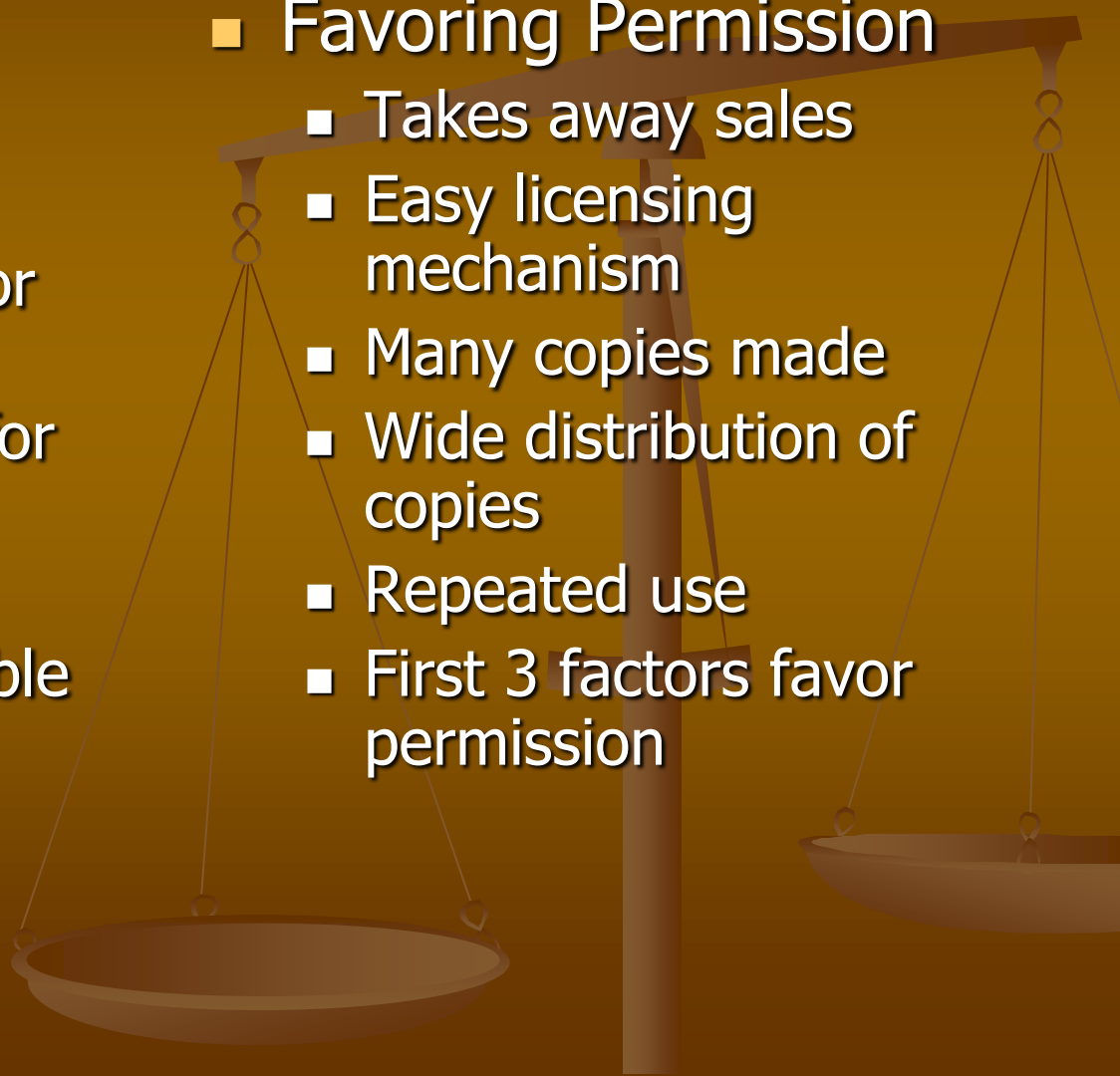
# Effect on Market

## ■ Favoring Fair Use

- Owning a copy
- Few copies made
- First 3 factors favor fair use
- No ready market for permission
- Out of print
- Owner unidentifiable

## ■ Favoring Permission

- Takes away sales
- Easy licensing mechanism
- Many copies made
- Wide distribution of copies
- Repeated use
- First 3 factors favor permission



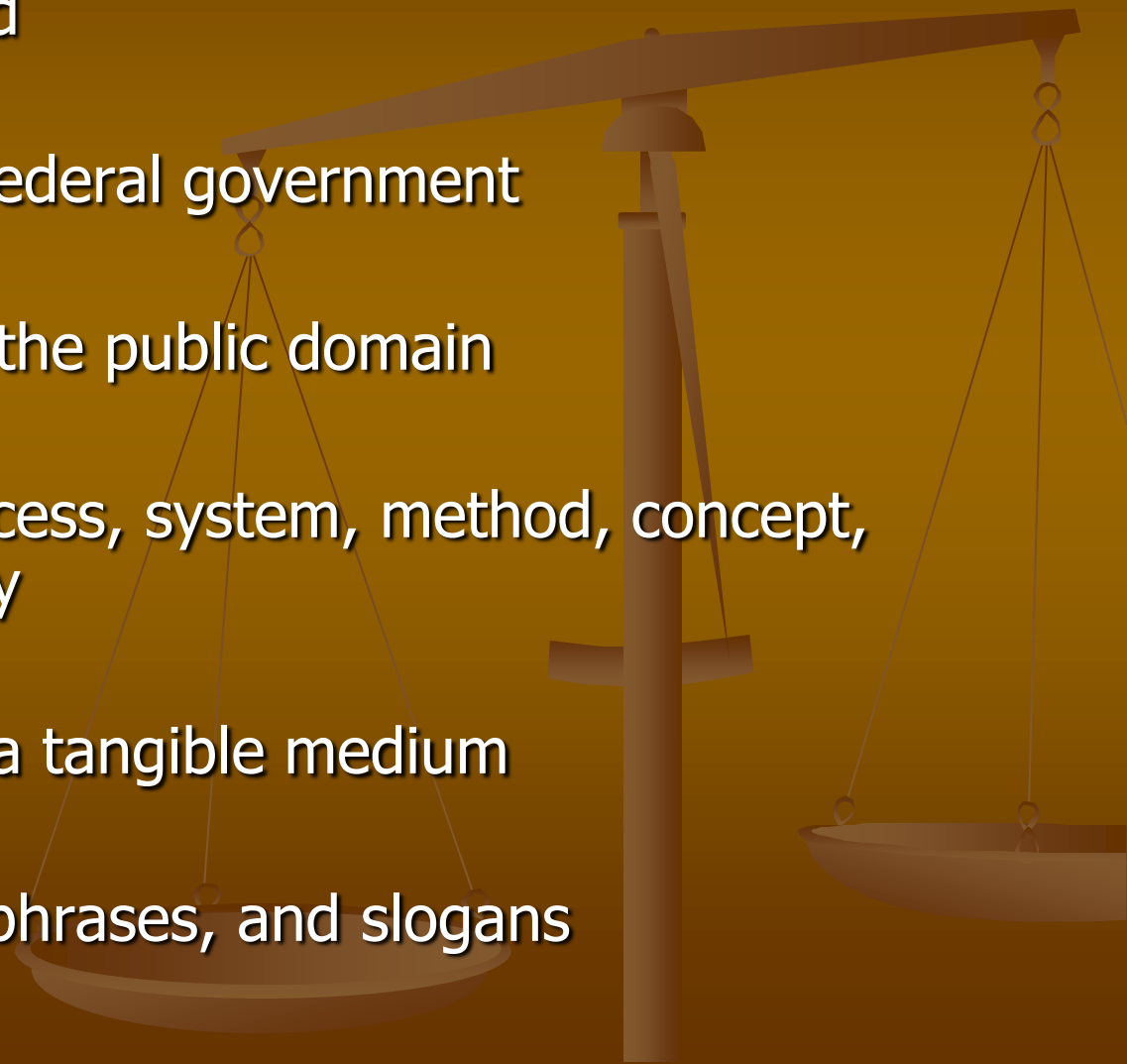
# Why Bother?

- Strict Liability Standard
- Penalties
  - \$150,000 per willful infringement
  - \$750 to \$30,000 per innocent infringement



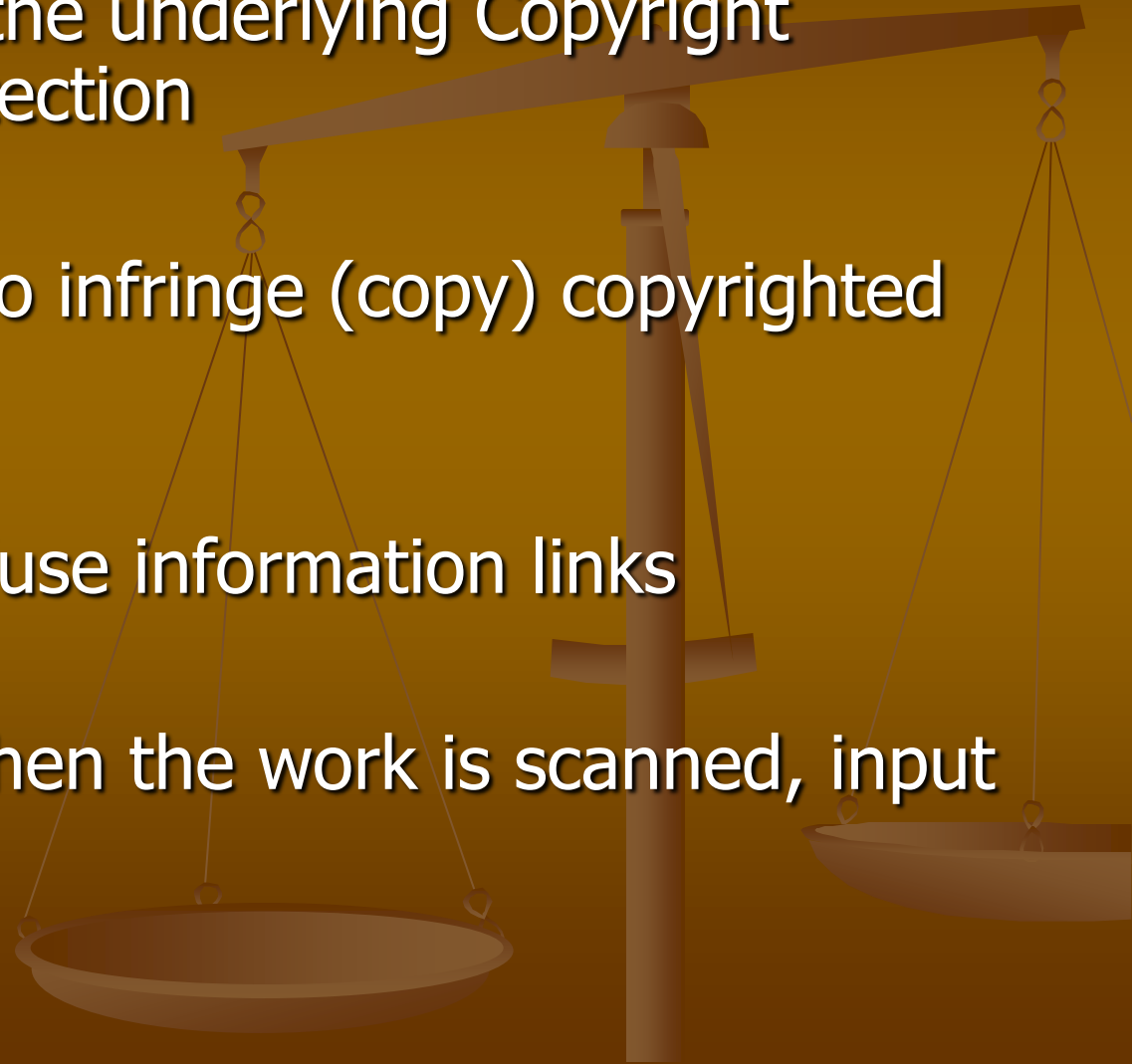
# Unprotected Works

- Copyright has expired
- Works produced by federal government
- Explicitly donated to the public domain
- Idea, procedure, process, system, method, concept, principle, or discovery
- Works not “fixed” in a tangible medium
- Titles, names, short phrases, and slogans



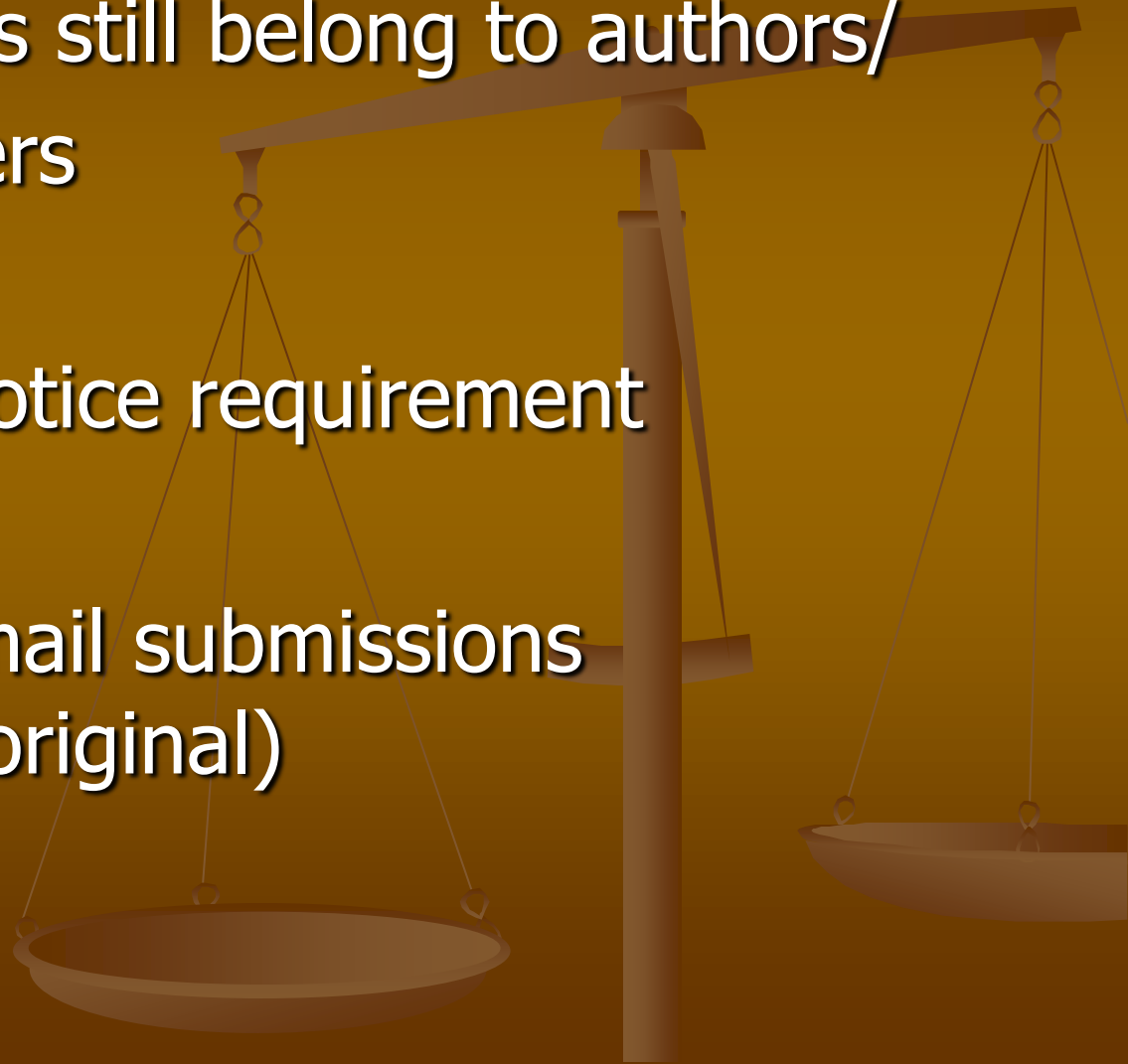
# Copyright and Internet Use

- Nothing changes the underlying Copyright concepts and protection
- New, easier way to infringe (copy) copyrighted works
- Review copyright/use information links
- A copy is made when the work is scanned, input or copied to send



# Copyright and Internet Use

- Copyright rights still belong to authors/  
copyright owners
- No copyright notice requirement
- Listserv and email submissions  
copyrighted (if original)



# Getting Permission

- Locate copyright owner  
Search web sites, directories, publisher's information
  - Identify correct contact person
  - Create and send licensing (permission) letter
  - Follow-up and sign license agreement
  - Organize and file copyright licensing documentation
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# Standards For Sharing Information With Others

*Recommended by the National Genealogical Society*

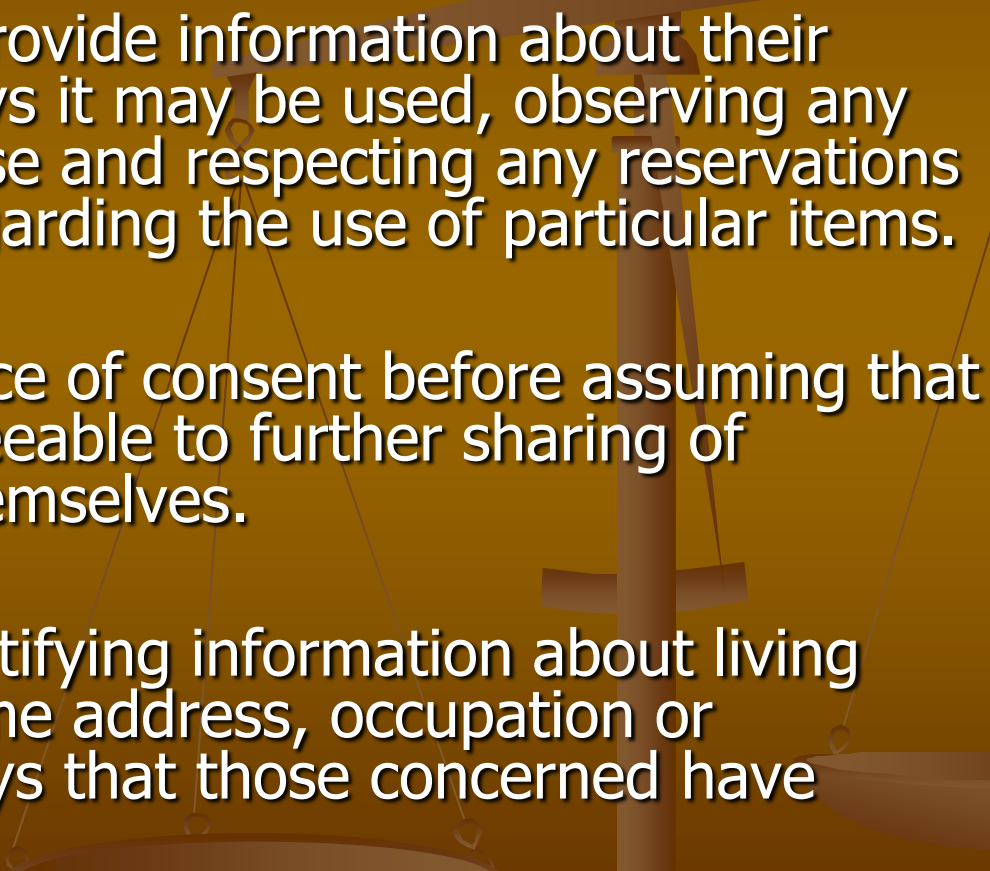
<http://www.ngsgenealogy.org/comstandsharing.htm>

- Respect the restrictions on sharing information from authors, originators or compilers, living private persons, or parties to an agreement.
- Observe meticulously the legal rights of copyright owners, copying or distributing their works only with their permission, or to the limited extent allowed under the law's "fair use" exceptions.
- Identify the sources for all ideas, information and data from others, and the form in which they were received, remember...the unattributed use of another's intellectual work is plagiarism.
- Respect the authorship rights of senders of letters, electronic mail and data files, forwarding or disseminating them further only with the sender's permission.

# Standards For Sharing Information With Others

*Recommended by the National Genealogical Society*

<http://www.ngsgenealogy.org/comstandsharing.htm>

- Inform people who provide information about their families as to the ways it may be used, observing any conditions they impose and respecting any reservations they may express regarding the use of particular items.
  - Require some evidence of consent before assuming that living people are agreeable to further sharing of information about themselves.
  - Convey personal identifying information about living people—like age, home address, occupation or activities—only in ways that those concerned have expressly agreed to.
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# Standards For Sharing Information With Others

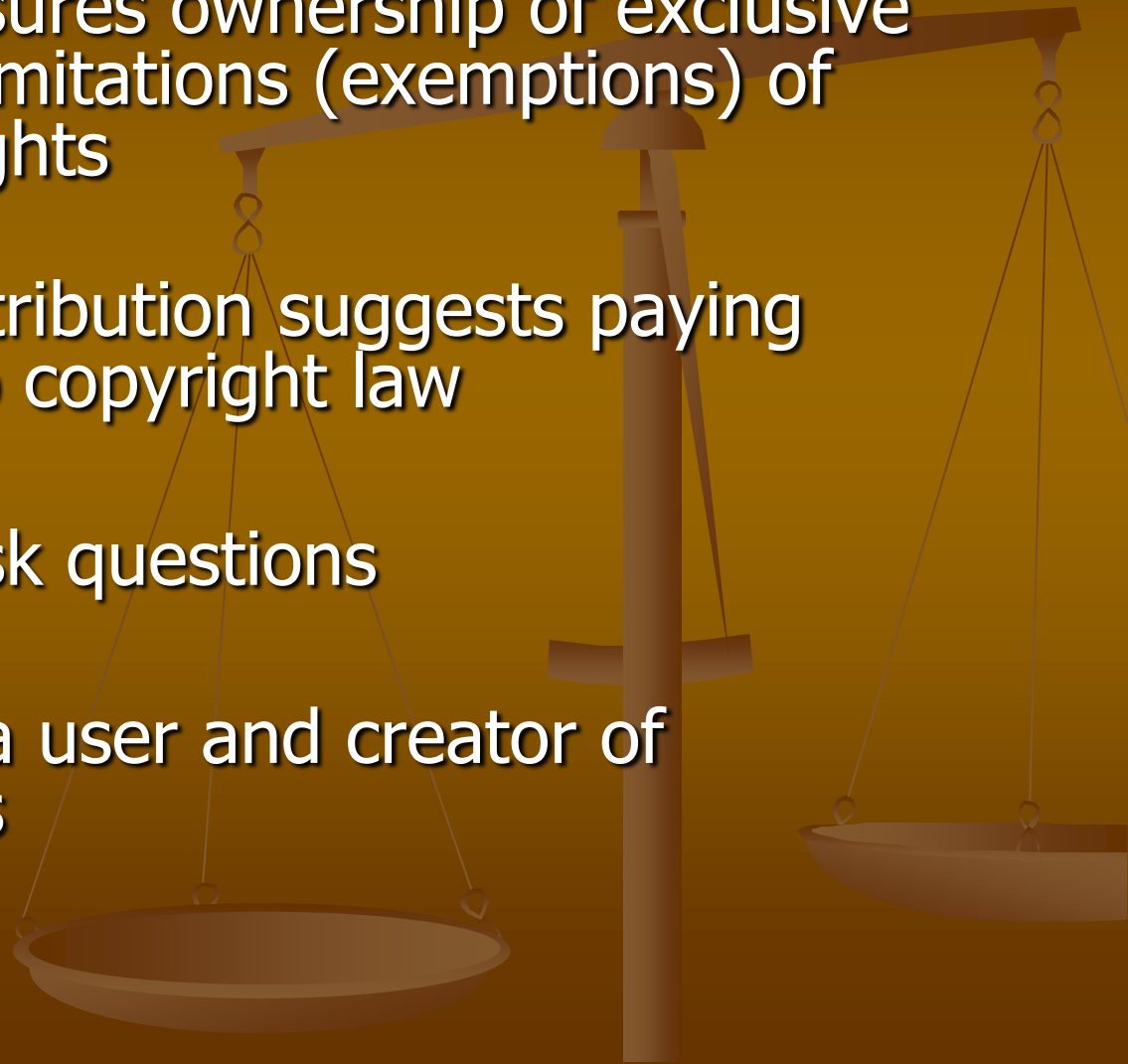
*Recommended by the National Genealogical Society*

<http://www.ngsgenealogy.org/comstandsharing.htm>

- Recognize that legal rights of privacy may limit the extent to which information from publicly available sources may be further used, disseminated or published.
- Communicate no information to others that is known to be false, or without making reasonable efforts to determine its truth, particularly derogatory information.
- Be sensitive to the hurt that revelations of criminal, immoral, bizarre or irresponsible behavior may bring to family members.

# Summary

- U.S. Copyright assures ownership of exclusive rights and some limitations (exemptions) of those exclusive rights
- Ease of digital distribution suggests paying closer attention to copyright law
- When in doubt, ask questions
- Everyone is both a user and creator of copyrighted works



# Additional Info...

- **BYU Copyright Licensing Office** <http://copyright.byu.edu>
  - **Online Tutorial** <http://www.lib.byu.edu/departs/copyright/tutorial/>
- **Family History**—The Church of Jesus Christ of Latter-day Saints  
<http://www.familysearch.org/> Conditions of Use
- **U.S. Copyright Office Website** <http://www.copyright.gov/>
- **Standards for sharing information**  
<http://www.ngsgenealogy.org/comstandsharing.htm>