

Copyright

The most noise in the genealogy area of copyright express the idea or put forward the idea all of what they listed or assembled is copyrighted and not useable by anyone. Read their copyright notices. Rather than take the actual copyright law and read it and understand the important passages that relate to copyright of genealogy works. I feel they just accept what someone else has told them. Never taking the time to really understand what it is they actually have copyright of. Using a broad copyright notice to attempt to cover everything. Understand that every thing we are speaking about here revolves around the "original" in the work. Copyright protections extend only to those components of the work that are original to the author, not to the facts themselves! No one can use a broad swipec with the "copyright pen" and make whatever is on their site somehow special and immune from whatever the real copyright is in the law. So read for yourselves the law and know what is and is not! Below are the definitions of the word used in the context of copyright.

Original means:

1. Originating with the author, not derived from another source, and
2. Novel or new, not previously known or expressed.

A couple other definitions:

Public domain: that which is not copyrightable or copyright (95 years after original copyright)

Not copyrightable: Certain expressions cannot receive copyright protection, facts, events, news of the day, concepts, principles laws of nature, or discoveries.

Compilations: The originality involved in selecting, arranging, explaining, etc. is copyrightable, but the Supreme Court threw out the idea of the "sweat of the brow" theory in its decision "Feist Publications V. Rural Telephone Service (499 U.S. 340). Because a compiler went to the courthouse and found them does not make them his, they still are the facts.

The basic facts about someone, do not receive copyright no matter where it is obtained. Because it is a fact.

A pedigree that is filled in with facts is not copyrightable; it is the facts again and was not original to you!

Going back to the definitions again, it must meet the conditions to be original and still the facts within are just that and in the public domain.

Quoted from "Feist Publications v Rural Telephone Co."

"Article I s 8 CL. 8 of the Constitution mandates originality as a prerequisite for copyright protection. The constitutional requirement necessitates independent creation plus a modicum of creativity..."

...Although a compilation of facts may possess the requisite originality because the author typically chooses which facts to include, in what order to place them, and how to arrange the data so that readers may use the effectively, copyright protections extends only to those components of the work that are original to the author, not to the facts themselves."

Quoted from Ginsburg 1868

" No matter how much original authorship the work displays, the facts and ideas it exposes are free for the taking ...

...The very same facts and ideas may be divorced from the context imposed by the author, and restated or reshuffled by second comers, even it the author was the first to discover the facts of to propose the ideas."

Quoted from "Feist Publications v Rural Telephone Co."

It may seem unfair that others may use much of the fruit of the compilers labor without compensation. As Justice Brennan has correctly observed, however, this is not "some unforeseen byproduct of a statutory scheme." Harper & Row, 471 U.S. 589, 105 S. CT., at 2245 (dissenting opinion). It is rather, " the essence of copyright," *ibid.* And a constitutional requirement. The primary objective of copyright is not to reward the labor of authors, but "to promote the progress of Science and useful Arts."...

... As applied to a factual compilation, assuming the absence of original written expression, only the compilers selection and arrangement may be protected; the raw facts may be copied at will. This result is neither unfair nor unfortunate. It is the means by which copyright advances the progress of science and art.

The "Sweat of the brow" has numerous flaws, the largest being that it extended copyright to the facts. This allowed only independent creation to avoid infringement. "Sweat of the brow" eschewed the fundamental axiom of the law. That no one may copyright facts or ideas. Without a doubt the "sweat of the brow" doctrine was flawed and cried out to be corrected. Congress finally decided to overhaul the copyright statute and the did so enacting the copyright act of 1976. Congress dropped the reference to "all the writings of an author" and changed it to say "original work of authorship. 17 U.S.C. S102 (a). Congress said it was clarifying existing law: "the two fundamental criteria of copyright protection [are] originality and fixation in tangible form ..."

...Even if a work qualifies as a copyrightable compilation, it receives only limited protection. This is the point of s 103 of the Act. Section 103 explains that " the subject matter of copyright ... includes compilations" s 103(a), but that copyright protects only the authors original contributions -- not the facts or information conveyed:

The copyright in a compilation... extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in preexisting material." S 103(b)

When I read this it says to me most in the field of genealogy have no claim on any "facts" they have claimed to possess a copyright on. Because the facts came from before them and were established before them and are in the public domain.

People claim copyright where there is a limit and some feel very strongly about this one way or the other, and I suppose I do to.

But, I must also say without people to help you genealogy is very tough and giving out credit where credit is due, cannot be a bad thing.

Disclaimer: Of course I am not an attorney nor do I claim to have any legal knowledge or training. Any and all this information on this site cannot be considered legal advice.