Copyright for Quilters: Law vs. Mythinformation

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Quilting Guild of The Villages Member (April 2013)

I am not an attorney. I have never been an attorney and if I decided to become one, I'm pretty sure my chosen field would not be copyright law. Copyright is interesting to me, though, as a sometime poet, writer and quilter, as well as a lover of fine arts and crafts. Fascination for the language of law was etched into my brain during my tenure as a bureaucrat charged with the job of publishing my state's codes, rules and regulations. Ninety percent of what I've read about copyright and copyright infringement can be boiled down to one simple recommendation from the U.S. Copyright Office:

> "***The safest course is to get permission from the copyright owner before using copyrighted material.*** ***The Copyright Office cannot give this permission***."[1]

Obviously there is a whole lot more involved with copyright. There is the backstory and several important *caveats* (those pesky facts that twist and mutilate our thoughts about copyright law). You see, there are numerous conditions or limitations – and a whole lot of misinformation – swirling around in books, magazines and the internet. All of that "information" is only slightly more confusing than what types of things are or are not subject to copyright law in the first place.

We know that many quilt block patterns are old enough to be in the public domain but few among us would know how to verify the age of a particular block or its origins.

Quilters find inspiration from objects around us; or from seeing what other quilters have done. Some find patterns in ancient drawings and tile work. Many of us find patterns we want to use at quilt stores and in magazines or books. Sometimes we create a beautiful bed quilt, other times an artful wall-hanging. If you were to be charged with copyright infringement, even that distinction could come into play in your defense. But I get ahead of myself.

Why do we need copyright protection?

The concept of protecting originality goes way back in time. Our *Constitution* itself expresses the belief that to promote "the progress of science and useful arts" would be a public benefit. Our founding fathers wanted our then fledgling nation to create laws that would "give creators exclusive rights" to their creations for a limited time.

Copyright laws protect authors and artists in much the same way that patent laws protect inventors. After all, being rewarded for their efforts – their creative vision and talent – through the purchase of their work is a powerful incentive to share achievements for the

[1] U.S. Copyright Office, *Circular 92: Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code, December 2011*; 366pp; available online as multiple PDF files: one for the text of the Copyright Act itself, another for the Preface, and then separate files for each of the 13 Chapters and 14 Appendices (A-N); www.copyright.gov/title17/circ92.pdf.

public good. The balancing act comes into play as we feel the need to protect those who create new and original things while realizing that at some point, imitation is the sincerest form of flattery … and a good thing for society at large.

One of the clearest, plain language explanations I've found comes from a website known as New Media Rights:

> "To understand how the rules work, it's good to keep in mind that the *general policy of copyright law* is to encourage creativity so the public can benefit from that creativity. Because the law exists for the public's benefit, not to make creators rich, it strikes a balance between giving creators enough rights so that they'll have an incentive to continue to create, and making those rights limited and temporary enough so that the public can start adding onto the creations and advance culture, technology, and society."[2]

Who is responsible for copyright?

The U.S. Copyright Office was created in May 1790 and is a service unit of the Library of Congress. They maintain a catalog with the pertinent details of every registered copyright and are responsible for enforcing the mandatory deposit requirement of the Copyright Act of 1976.

For works first published on or after March 1, 1989, the use of the copyright notice or the copyright symbol – © – is optional. Today, as soon as your idea is translated into material form, that material form ("the copy") is protected by copyright even if you don't file for registration (or even publish the work). The law also requires two copies of every copyrightable work published in the United States be sent to the Copyright Office within three months of publication. The act of publishing triggers the need to send those copies whether or not the author files for copyright registration.

Take a moment to consider the magnitude of the information – our cultural and historical heritage – that has been compiled in the past 223 years. This is all made available by the Copyright Office, through the Library of Congress. They have something like 45 million cards in their index; and those are for works that predate electronic indexing!

You may apply for a copyright registration through the Copyright Office's website. The cost of that starts at a modest $35 for online registration of a basic claim and may be higher for special services or circumstances. Proving that bureaucrats do have a sense of humor, they "recommend that you read a few brochures first."

What constitutes copyright law?

Copyright law begins with the broad terms of the federal law, the Copyright Act; grows to include the Copyright Office's rules and regulations; and builds on judicial findings that accept or reject claims of copyright infringement due to specific limitations or sets of circumstances, known as case law.

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[2] California Western School of Law: *New Media Rights*, a nonprofit program that provides legal services, education, and advocacy for Internet users and creators; http://www.newmediarights.org/business_models/artist/can_you_copyright_clothing_designs.

Often overlooked by those of us who are not attorneys is the influence of legislative intent. This is an underlying issue not spelled out in law or rules and regulations, but important to judges who need to come to decisions about specific cases. It is not unheard of to have courts in different jurisdictions (or levels) seemingly contradict each other, if not actually overturn prior findings. It is this tremendous volume of information that must all be pieced together to even come close to understanding copyright protection.

Do copyrights ever expire?

The copyright on all protected material will eventually expire and the material will fall into the realm of public domain. Right now, the law "automatically protects a work that is created and fixed in a tangible medium of expression on or after January 1, 1978, from the moment of its creation and gives it a term lasting for the author's life plus an additional 70 years."[3]

If a work is the product of two or more people, it expires 70 years after the death of the last remaining creator. For works made for hire – like some quilt patterns marketed by companies and some articles you may read in a magazine – the duration is 95 years from the date it is first published or 125 years from creation, whichever is the shortest ("unless the author's identity is later revealed to the Copyright Office" at which point expiration would be 70 years after that person's death).

For practical purposes, we'll just deal with current quilt patterns and inspirations our members are purchasing today.

> *"It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of copyright."*
> —From U.S. Copyright Office Circular 01, *Copyright Basics*

What types of work can be copyrighted?

Copyright is a form of *intellectual property law*[4] that protects original works of authorship including literary works like books and periodicals; and artistic works such as poetry, novels, movies, songs, computer software, and architecture among others.

Circular 40, Copyright Registration for Works of Visual Arts includes a list of examples of items stemming from original works of authorship that include two- and three-dimensional works of fine, graphic and applied art: including among many others, "needlework and craft kits", "***patterns for sewing***, knitting, crochet, needlework" and "weaving designs, lace designs, [*and*] tapestries." [***Emphasis added***]

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[3] U.S. Copyright Office, *Circular 15A: Duration of Copyright, 4pp;* *http://www.copyright.gov/circs/circ15a.pdf*

[4] American Intellectual Property Law Association (AIPLA): "…patents protect inventions of tangible things; copyrights protect various forms of written and artistic expression; and trademarks protect a name or symbol that identifies the source of goods or services." (www.aipla.org/about/iplaw/Pages/default.aspx)

What exclusive rights does a holder of a copyright have?

The owner of a copyright generally is given the *exclusive right* to do and to authorize any number of things, including the right:

- "to reproduce the work in copies …;
- "to prepare derivative works based upon the copyrighted work;
- "to distribute copies … of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- "in the case of literary … and pictorial, graphic … works, to display the copyrighted work publicly…"[5]

The copyright owner does not retain control over a work once it is legally obtained by another party. When you purchase a copyrighted book or pattern, for instance, you become the owner of that specific book or pattern. You may give or sell it to another person without asking for permission of the copyright holder[6] – this concept is generally known as the first sale doctrine. The law recognizes that the purchase of a book or pattern does not mean there was a transfer of copyright ownership anymore than the copyright holder has a right to govern what you do with that book or pattern.

A derivative is a work that has been transformed. The quilt you make from a pattern is not a derivative but if you modified the pattern, that would be a derivative of the original.

What types of work *cannot* be copyrighted?

The discussion about what cannot be copyrighted reminds me of Supreme Court Justice Potter Stewart's comment that described his threshold test for obscenity way back in the mid-1960s. He wrote that he would not attempt "to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But *I know it when I see it* …"

Copyright does *not* protect facts, ideas, systems, or methods of operation, although it *may protect the way these things are expressed*. This means you cannot copyright a technique but you can copyright the way in which you alone express that technique. This is an important distinction for quilters and a fine line for those called to judge the magnitude of a copying. Copyright does *not* protect things that have not yet been fixed in tangible medium of expression. For instance, you cannot copyright choreographic works that have not yet been notated or recorded, but you can copyright your choreographic notations once they are in material form. That elusive poem darting around inside my head cannot be copyrighted until I put the words onto some material form.

Copyright does *not* protect names, titles, slogans, or short phrases although it may protect logo artwork if it can be shown to contain "sufficient authorship." As cute as this article title may be, I cannot copyright it anymore than you can copyright the name of your "Golf Cart in Paradise" quilt. In some cases, the U.S. Patent & Trademark Office may be the more appropriate place to go to protect a name or slogan.

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[5] Section 106, Title 17 U.S.C., Exclusive rights in copyrighted works.
[6] Section 109, Title 17 U.S.C. Limitations on exclusive rights: effect of transfer of particular copy or phonorecord.

Copyright does *not* protect familiar symbols or designs. Proving that a star is a star is a star, and that shape belongs to no one person.

Copyright does *not* protect works consisting entirely of information that is common property and containing no original authorship; e.g., height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources. A mere list of items needed to make the item is not copyrightable any more than the list of ingredients for a recipe is copyrightable.

Almost all government work is not copyrightable either, but there are exceptions and in some countries, even government documents are covered under their laws.

My favorite "not" is that **copyright does *not* protect many patterns *in their entirety***. The packet we purchase may include a photo of the finished product, a list of required elements, a chart of bed cover sizes (from crib to king), one or more line drawings of all the shapes we need to cut out, written instructions, and more. Taken individually, not all of those elements may be copyrightable.

The list does not end with patterns alone because copyright does *not* protect things that are deemed to be *useful articles*.[7] This is another important distinction for quilters. Regardless of what part of a pattern may or may not be copyrightable, a bed quilt (like a dress or other garment) is not copyrightable.

The inability to copyright a dress is why the ready-to-wear garment industry can duplicate *haute couture* collections using cheaper fabrics and construction before those skinny runway models can mosey on home from Milan. Walk along the streets of any big city in the world – or through any American flea market – and you'll find knock-offs of every imaginable type and kind. *Relex* watches and *Channel* dresses are all around us.

The BIG BUT

Now for the fun part: even for copyrightable materials, there are limitations on exclusive rights. Honestly, you have to love the law. Even a term with the seeming strength of ***exclusive rights*** has boundaries.

The problem is that expressing every conceivable situation in print is not practical … as mentioned, every case is different. In 1976, with a mandate by Congress to do so, the Copyright Office adopted new regulations that included language about *fair use*. Their intent was to codify previous case law into some form of plain language. Not an easy task, but they did a pretty good job of describing the boundaries. Since then, several more amendments have been added to the federal law and the Office's rules to protect materials generated from new technologies as they were invented and have found their place in our lives.

The doctrine of fair use stems from the understanding of reasonable people that, in some cases, it is okay to copy a copyrighted item without seeking approval from the holder of the copyright. For example, how could a critic earn a living if s/he couldn't quote part of

[7] U.S. Copyright Office, FL-103, Revised December 2011; http://www.copyright.gov/fls/fl103.html

the book or movie without the author's permission? How could a teacher require every student to purchase every book containing just a paragraph or two of information required for a course? Or how could a librarian replace a torn page without photocopying a full one? As case law expands over time, the examples are legion and often complex.

What exactly does Fair Use say?

Section 107 of Title 17 U.S.C. states the four factors that will be considered to determine if a specific use is fair:

(1) "the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) "the nature of the copyrighted work;

(3) "the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) "the effect of the use upon the potential market for or value of the copy-righted work."

The distinction between what is fair and what is infringement in a particular case may not always be clear or easily defined. All four conditions are weighed in federal civil court cases. You could be in compliance with one or more elements and still be found guilty of copyright infringement if a violation of another condition is found to be particularly egregious. And do not think that the order of the four considerations is important; the potential market for a work may, if large enough, outweigh the others.

When major cases make their way through the court system, the judges may well look at legislative intent as well as the body of written and case law. Records of both houses of the U.S. Congress are kept on file along with the signed copy of laws, just as records of public hearings and comments from interested parties are maintained by the department or office responsible for rulemaking.

Circular 92 is very informative should you have a few spare days to immerse yourself with the ins and outs of copyright law. One glance at the 366 pages was all I needed to get a deeper appreciation for those who take on the challenge – and *Circular 92* doesn't include the citations for every court case, much less the full text of the findings.

Yet another factor to be considered when determining if a particular copying was an infringement is the immediacy of the use. That concept is found in a study of legislative intent. The most common example is for a teacher who reads an article about a topic s/he intends to bring up in a classroom that day. The teacher may claim fair use and rightfully *copy the entire article for that one class*. To repeatedly do so term after term, however, would be another matter altogether as continued use would presume that the teacher would then have had the time to obtain approval from the copyright holder.

What fair uses can teachers claim?

Although neither the Copyright Act of 1976 nor Title 17 has language measuring specifics (like a number of pages that can be copied), there are guidelines available for

educators and librarians. Remember, both houses of Congress often start with their own forms of a bill that go back and forth before being enacted into law; and they both often seek information from interested parties. It is here that we'll find the basis for the guidelines available from the Copyright Office.

Circular 21: Reproduction of Copyrighted Works by Educators and Librarians,[8] centers on classroom reproduction. Now mind you, their language is directed to protecting school teachers and college professors; it does not specifically mention artists or skilled crafters teaching things like quilting, outside the confines of what most reasonable people would consider being an educational institution.

The full text of the Ad Hoc Committee's 1976 Agreement is so lengthy that I'm taking the liberty to list and paraphrase just the ones I believe most applicable to copyrightable work for teaching quilters. Pleases note that the emphases added below are solely for purposes of clarity and are not in the original:

- ***A single copy*** may be made of any of the following by or for a teacher for scholarly research or for use in teaching or preparing for a class:
  - A chapter from a book
  - An article from a periodical or newspaper
  - A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper
- ***Multiple copies*** (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher for discussion, provided that:
  - The copying meets the tests of brevity and spontaneity
  - Each copy includes a notice of copyright

The Agreement goes on to list special instances and establish limits depending on the type of original document – a poem, prose, etc. Even if a teacher's use is found to be brief and spontaneous, the guidelines go on to explain that "there should be no copying from works intended to be 'consumable' in the course of study … [*for example*] workbooks, exercises and the like." Further, **even by teachers and librarians copying shall not:**

- "substitute for the purchase of books, publishers' reprints or periodicals;
- "be directed by a higher authority;
- "***be repeated with respect to the same item by the same teacher from term to term***…
- "and no charge shall be made to the student beyond the actual cost of photocopying…" [***Emphasis added***]

There was a major case where someone other than a teacher copied just one chapter of a book but lost his infringement battle when the judge found that the one chapter he copied contained the *essence* of the whole book. And that is exactly why these are guidelines and not precise limits printed in law or rules and regulations. This is why case law is so important … it defines situational issues.

[8] U.S. Copyright Office, *Circular 21: Reproduction of Copyrighted Works by Educators and Librarians*; 24pp.

If challenged, why wouldn't everyone claim Fair Use as a defense?

It seems that the less specific the language of any given law, the more loopholes and twists abound. This is undoubtedly where most people get lost because fair use is more of a defense against a claim of infringement than it is a rule. The best examples of what you can and cannot copy from copyrighted material still come straight from case law. Many a quilter (and crafter) prefer to believe fair use is so broad that any copying is acceptable (i.e., legal) because their intent is to simply share it with friends, to teach a class to a nonprofit group, or to make derivatives for a charity. Lofty goals, but those assumptions are not always correct … or fair.

If you are charged with copyright infringement and immediately say, "But what I did is okay under the fair use doctrine," what you really are doing is admitting to copying the material in question. That is a real Catch-22 situation when you have to admit to copying copyrighted material to use the defense that you had the right to do so!

The Supreme Court calls fair use an *affirmative defense*. That means the defendant is left with the burden of proving that the use was fair and not an infringement. This is akin to saying you shot someone but had the right to do so. Once you admit you did the deed, it is up to you to prove your innocence (your right to have done the deed). No longer are you innocent until proven guilty. The only way around that situation is to clam up and make the person bringing suit prove that you infringed on a lawful copyright.

All of this is why we pay our attorneys. People often threaten all manner of things in the hopes that saber rattling will scare others away. This is a time honored tradition. One needs only to look at today's headlines to realize how often children, even whole countries, do this all the time. Intimidation is often the first arrow to be flung … because it so often works. Some people print claims on their materials that are totally baseless in the hopes they'll ward off those who would use their work without paying them for their efforts. As to copyright, a lot of businesses and individuals believe that paying a royalty fee without questioning the extent of material covered by copyright (if any), may be preferable than paying legal fees for a prolonged courtroom battle.

What does all this really mean to quilters?

Instead of looking at copyright as a bunch of bureaucratic laws, it helps to get back to the basics. For quilters, copyright is about protecting the creative people who design and share their expertise in the form of quilt patterns. It is only fair that we buy those patterns and then point our friends to where they too can purchase patterns we have found to be good ones.

I have never known a quilter who would consider walking into a quilt shop to pick up a dozen patterns and walk out the door without paying for them. But isn't that pretty much the same affect if someone buys one pattern and then copies it to give to a dozen friends?

Quilt patterns vs. quilts. As mentioned, *items eligible for … registration as works of visual art* includes *patterns for sewing, knitting, crochet, needlework*. Lest we forget, quilts – like dresses – are mostly useful articles and as such are not copyrightable. A

quilt itself can be copyrighted only if it contains sufficient originality of authorship and is not a useful item.

Quilts may mean bedding to some, but there are thousands of quilted products. Let us not forget wall hangings, table runners, and the seemingly endless array of purses and carry-all bags of every conceivable size and shape. It would seem that not all of these are useful items: the odd one out for me is the wall hanging or art quilt. If you purchase a copyrighted pattern or a kit to make a decorative wall hanging, the presumption is you have the right to make and display the wall hanging. Obviously it would be as much an infringement to duplicate a kit and sell it to people as it would be to duplicate a pattern and sell it unless and until you have the copyright holder's permission.

Exclusive rights: copy or derivative. Not all design infringement cases revolve around simple photocopying of printed patterns. Sometimes people go to quilt shows or art galleries and take photos – or download images from the internet – of items that are copyrighted. There is a distinction between a copy and a derivative, but to produce either is an exclusive right of the copyright holder:

- Without permission, to create a duplicate of a photograph or a painting – or a fiber artist's unique art quilt – would infringe on the artist's exclusive right to reproduce the work in copies.
- Without permission, to use another person's copyrightable photo or artwork as the basis for producing a quilt would infringe on the person's exclusive right to produce a derivative.

Subtle as the difference may be, making an art quilt from a close-up of a flower in your garden is different from making an art quilt from a Georgia O'Keefe painting. As an artist, she'd most likely be flattered by a quilter's taking inspiration from her work to create a detailed flower wall hanging. She'd have a cause for action if you created a derivative by of one of her actual paintings without her approval.

No holds barred on techniques. The next thing to keep in mind is the *caveat* about teaching techniques. You have the right to share a technique because that, in itself, is not copyrightable. You cannot, however, photocopy and share the original drawings and instructions in a pattern because that takes the potential income from the original designer. Although you may, apparently, photocopy or share the list of "ingredients."

Many quilt designers would encourage you to create your own designs to pass among your students as you teach the technique you learned from them. This is probably how one lone tote-bag morphed into the hundreds of choices available today. Just be careful that your design is different enough to not infringe.

Guidelines for what is fair use. The American Sewing Guild produced "Guidelines for the Fair Use of Copyrightable Works by Chapters/Chapter Members of the American Sewing Guild, Inc."[9] From my reading, these guidelines were taken from the Ad Hoc Committee report circa 1976, discussed above. Again, copying one document for the teacher to use as reference or one chart to be shared may be deemed fair; copying the

[9] American Sewing Guild, Inc., Ocala Chapter (www.asgocalachapter.com/CopyrightGuidelines.htm)

entire thing is not. After all, copying 100 words from a 300-page book is not the same as copying an entire poem.

Facing copyright infringement claims. Copyright infringement is largely a civil matter although criminal cases occur. Obviously, mass producing for personal gain is neither fair nor legal; and using another person's copyrighted work with minor adjustments does not make it yours. Sometimes cases are more about misuse of trademarks than an actual copyright infringement. Attempting to defraud the public by placing designer labels into mass marketed garments in an effort to pass them off as originals is clearly illegal.

Although registration of a copyright is optional, before someone can file a claim for copyright infringement they must *at least have applied* for registration with the U.S. Copyright Office (if they are not already registered). To look up a registration, go to http://www.copyright.gov/; click on the "Search Records" button (top, right) and then click on the "Online Records" (left) option and follow the instructions. It is easy.

Penalties, if any, are determined based on the magnitude of the harm – mainly the loss of income or profits, sometimes attorney and/or court costs. In the case of quilt patterns shared in a small group, we may not be talking a lot of money; maybe not enough for the copyright holder to even consider taking legal steps to stop you. But we quilters are honorable, hard working people who understand the nuances of fairness. Just because one might not be caught is no reason to lie, cheat or steal; not even considering what a horrendous example that would be for the grandkids.

Restrictions on items made from patterns. I have a problem with baseless claims. When it comes to patterns, even fabrics, we often see: "Full rights reserved," or, "Sold for individual home use only and not for commercial or manufacturing purposes." The result of this language is that many quilters and crafters believe that they cannot make items for sale (even in local boutiques or for charitable purposes) using those patterns and/or fabrics.

Basically, I look at such claims as baseless. Why? Well, first, they fail to include a citation to a law giving them the right to tell me what I can or cannot do with the products I make; and second, buying a pattern or fabric does not mean I've entered into a contract with the designer or manufacturer. These claims have little to do with copyright law but apparently are an attempt to unilaterally establish some contractual obligation on the purchaser. Whether unilateral contracts are rarely or ever enforceable, I'll leave up to the lawyers to duke out in court. As to the exorbitant claims of monetary damages, from my reading, even those are grossly inflated from the perspective of any infringement that an average quilter's homemade items may entail. They have all the appearance of more bully-bluster than substance.

In most cases, designers and manufacturers of patterns and fabrics cannot limit your use of the items you make from a pattern – or from a yard of cloth – anymore than they can limit the number of items you make. If you search the government database, you'll see that the primary garment pattern manufacturers have registered copyrights on books and related items, but not on specific patterns. They know they have no control over that dress you'll make because a dress is a useful article. As to fabric, if you lawfully purchase fabric with copyrighted designs on it or even fabric with trademark designs, you

can sew that up into anything you want. What you cannot do is intentionally – or unintentionally – mislead the public by marketing such items as an official product of the holder of the copyright or trademark. The key element the courts look for in those cases seems to revolve around whether or not the labeling would cause confusion.

One case that shows the complexity of these issues is Precious Moments, Inc. v. La Infantil, Inc. (July 29, 1997; 1st District). Precious Moments was the licensor of a copyrighted fabric design; La Infantil manufactured baby bedding (for sale in their stores) using that fabric. The court found that the bedding made with lawfully acquired, authentic fabric was not infringing: "…the Court finds that the necessary element of originality is absent from the items manufactured for La Infantil from the Precious Moments fabric. They therefore do not constitute 'derivative works' infringing on Precious Moments' copyright."

However, on the trademark side of the issue, the court sided with Precious Moments. You see, the court felt the bedding created the likelihood of confusion because the tags were not perfectly clear even though La Infantil had made no false representations and had, in fact, appeared to have attempted to identify the sources of the products accurately. (The label mentioned the source of the fabric and the sewing.)

The moral of this story may be that you can use lawfully acquired copyrighted fabric to make items for sale BUT you need to be aware of possible trademark infringements as well. If you use a collector's or sports team's fabric that includes a trademark, for example, be sure to affix a tag that clearly states the item is not affiliated with them even if the fabric has their name emblazoned all over it.

It's just sharing. If you do share copyrighted information, always acknowledge your source. This is a legal requirement. It does not, however, substitute for obtaining permission. Like the Copyright Office recommends:

> **"The safest course is to get permission from the copyright owner before using copyrighted material."**

The bottom line is that we should all be responsible quilters. Let us be willing to reward those who enrich our lives through their imagination, for the hours they spend creating new designs and instructions. Let us acknowledge that their efforts provide us with hours of fun and enjoyment; not even counting the beautiful products we make that are worthy of sharing with our families and communities.

Please remember, **I am not an attorney. I have never been an attorney and if I decided to become one…** Jokes aside, this article is intended purely to provide guidance and encourage discourse about copyright issues for quilters. If you have a complicated issue about copyright you should seek professional help from an intellectual property attorney. To paraphrase Dr. Phil McGraw, "Do not substitute my opinions for your better judgment."

Want even more information? There are several websites that have interesting information if you would like to know more. Search for Tabberone[10] and you'll enter a whole new universe. This includes reports of how giant sites like eBay and Etsy have implemented systems to ferret out copyright and trademark abusers and how those broad stroke eliminations affected those who lawfully purchased copyrighted fabrics and made items for sale using that fabric.

Another source is Brad Templeton's website. He is a software architect and businessman and is known because of Usenet and his writings, including my favorite: *10 Big Myths of Copyright Explained*.[11]

For fashion, check out the New York Law School website, *CaseClothesed.com* – "a fashion law blog focused on sharing a legal perspective on the happenings in the fashion industry. Created, edited and run by law students." Their essays are thought provoking and cover trademark as well as copyright infringement issues.

LegalZoom is a well known online resource, created to help individuals and small businesses by providing online legal documents and services. One particular article I found informative, by Marilyn Lindblad from Demand Media, is entitled, "Can I Make Items Using Copyrighted Fabrics?"[12]

Then there is Paul Rapp's article that originally appeared in "The Artful Mind" about his experience defending a quilter accused of copyright infringement.[13] He is a licensed attorney in the states of Maine and New York and specializes in intellectual property law. His account of the dueling letters was as informative as it was amusing. Besides, on his website's homepage I've learned he is an adjunct professor in my hometown's Albany Law School.

By the way … another "not copyright" issue is labeling. Some states have laws that require labels on certain kinds of items, including bedding and, of course, food. Florida law prohibits using second hand materials in bedding without a proscribed label. If you are part of a cottage industry, you need to check your state's laws.

> *You should not believe everything you read. Nearly every situation is subject to interpretation and people can (do) distort the truth for their own purposes, every day. When someone claims something to be true, look for a citation to a law, rule or regulation that you can research and read yourself. Meanwhile, happy quilting!*

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[10] Tabberone (aka/Karen Dudnikov); http://www.tabberone.com/Trademarks/CopyrightLaw/Patterns.shtml
[11] Brad Templeton; http://www.templetons.com/brad/copymyths.html
[12] LegalZoom is an online legal service designed for individuals and small businesses; they sell everything from standardized forms to legal advice packages and print plain language articles regarding many issues of interest to small businesses; http://info.legalzoom.com/can-make-items-using-copyrighted-fabric-21253.html
[13] "Wherefore Thou Art #6," The Law Office of Paul C. Rapp, PO Box 366, 247 Beartown Mountain Rd., Monterey Maine 01245; http://paulrapp.com/display_article.php?id=6