Legal Disclaimer

Legal information

Not legal advice!
Protecting Libraries and Users

Copyright, Patent, Trademark
Let users take responsibility
Guide users to resources

Policies: 3D Printer et al.
Free speech, rules of conduct, guns, privacy, disability access

Legal Docs
Permissions, Liability, Permits and Partnerships
• Poll 1
Will 3D printers be used to infringe copyright, trademark and patents?

Wrong question.

Emphatic Yes.

Right question:
Whose problem will it be?
Protect the library
Copyright, Patent, Trademark

Is a library legally responsible when users make copies of someone else’s stuff?

- Copyright – expression (songs, videos, stories)
- Patent – applied ideas (inventions)
- Trademark – words or design to identify source
- Trade secret - secrets (can’t accidentally infringe)
Copyright: Library protected if “unsupervised” use

Notice: The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

we have experience … and the law

notice on equipment
Notice: The copyright law of the United States (Title 17, U.S. Code) governs the making of copies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

Uses push “print” “copy” “replicate”
Tip: Put notice on old style replicators: scanners, computers ...

Notice: The copyright law of the United States (Title 17, U.S. Code) governs the making of copies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.
17 U.S.C. § 108(f) Nothing in this section—(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: Provided, That such equipment displays a notice that the making of a copy may be subject to the copyright law

Recommendation:
Users push buttons to make copies
Girls
are like apples
on trees. The best ones
are at the top of the tree.
The boys don't want to reach
for the good ones because they
are afraid of falling and getting hurt.
Instead, they get the rotten apples
from the ground that aren't as good,
but easy. So the apples up top think
something is wrong with them when
in all reality they're amazing. They just
have to wait for the right boy to
come along, the one who's
brave enough to
climb all
the way
to the top.

Love Poem by Sue Moore (CC BY 2.0)
https://www.flickr.com/photos/alpenami/2502414859/

Character Reference Sheet: Alysan by jesterbells
Permission by artist Mira Singer
User uploads to library spaces

Love Poem by Sue Moore (CC BY 2.0)
https://www.flickr.com/photos/alpenami/2502414859/

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Permission by artist Mira Singer

Cool!
But what if there’s a copyright problem?

Girls
are like apples
of different kinds.
The men look for the
best apples,
but easiest,
something
in all reality
have the
Copyright
Law offers SAFE HARBOR to Library if:

“user generated content”

Register an agent with Copyright Office (one time filing)

Put notice on site
*agent contact info
*take-down policy

17 U.S.C. § 512

See also http://chillingeffects.org
Check to see if your institution already registered. If not, register.

$105 one page form at http://www.copyright.gov/onlinesp

More info at http://www.chillingeffects.org/dmca512

http://www.copyright.gov/onlinesp/list/a_agents.html
Copyright agent, procedures are readily findable on your site.

REMEMBER, USER UPLOADS CONTENT

http://www.columbia.edu/content/copyright.html

“copyright” or “terms” link in footer
Protect the Library user creations

• don’t “actively induce infringement”

• check carefully before taking user creations to city council
  – make sure original or licensed

• check really carefully before selling user creations in library store

INTELLECTUAL PROPERTY POLICY

The Company respects the intellectual property of others and asks that users of our Site and Services do the same. In connection with our Site and Services, the Company has adopted and implemented a policy respecting intellectual property that provides for the removal of any infringing or unauthorized materials and for the account termination, in appropriate circumstances, of users of our online Site and Services who are repeat infringers of intellectual property rights or who repeatedly submit unauthorized content.

Copyright Policy Pursuant to Digital Millennium Copyright Act

If you believe that one of our users is, through the use of our Site and Services, unlawfully infringing by submitting unauthorized content, and wish to have the allegedly infringing or unauthorized material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Content Agent:

1. your physical or electronic signature;
2. identification of the work(s) or rights that you claim to have been infringed;
3. identification of the material on our services that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright or other rights owner, its agent, or the law; and
7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright or other right that has allegedly been infringed or violated or that you are authorized to act on behalf of the copyright or other rights owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsehoods) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney’s fees incurred by us in connection with the written notification and allegation of copyright infringement.

The designated Content Agent for Company is:
Designated Agent: Richard McCarthy
Address of Agent: One MetroTech Center, 21st Floor, Brooklyn, NY 11201
Telephone: (347) 334-6800
Email: dmca@makerbot.com

User Thingiverse Accounts

MAKERBOT/THINGIVERSE CONTENT

* no commercial use
* no copying/modifying content
* no stealing code

USER CONTENT

* gives Makerbot permission
* suggests creative commons
* disputes are between users

**“bad” stuff may be removed and action taken against**

- Illegal, pornographic, threatening, abusive, hateful, obscene, and commercially exploitative material...

* user should backup content

Terms of Use http://www.thingiverse.com/legal
Copyright Remixes

enormous headache for unauthorized remixes especially if commercial use or potential market harm

Changes in the Future?

Disney decides to ‘Let It Go’ when it comes to copyright infringement

The movie studio relaxes its position on fan-created parodies and homages

BY RICH STEEVES
MAY 23, 2014

If you have kids – or a pair of ears, I suppose – you have likely heard the infectious song “Let It Go” from the mega-hit movie “Frozen.” The animated movie, based on the Hans Christian Andersen tale “The Snow Queen,” has won Academy Awards, raked in hundreds of billions of dollars worldwide, and sent toes-a-tappin’ with an Oscar-winning song.

http://www.insidecounsel.com/2014/05/23/disney-decides-to-let-it-go-when-it-comes-to-copyr
Your voice? Congressional Maker Caucus

https://twitter.com/MakerCaucus

Resources for library user

What if someone takes my idea?

How much of this song can I use?

Maker info on:

- Copyright
- Patent
- Trademark

http://clemakerhub.org/online-resources/

See also CakeBoss Software for Bakers interview with intellectual property attorney Michael Atkins on Selling Cakes with Copyrighted Characters http://www.cakeboss.com/Cake-Stuff/Articles/Copyrighted-Cakes Katie Long, Esq., Selling Copyrighted Character Cakes: Should you do it http://www.cakeboss.com/Cake-Stuff/Articles/Licensed-Cake-Pans
user ideas in makerlabs are **not protected** without effort

http://www.nolo.com/legal-encyclopedia/patent-copyright-trademark
WARNINGS:

INDEPENDENTLY CREATED
does not eliminate liability

ITEM MAY ALSO HAVE
COPYRIGHT
original creative expression
apart from useful article
lifetime plus 70 years

Licensed brands now MakerBot store

http://www.makerbot.com/blog/tag/licensed-brand/
Using trademarks

Test:
Is a consumer likely to be confused?
* ok to put MAKE magazine on table
* ok to license mini Maker Faire

http://makerfaire.com/mini/guidelines/
More trademarks

TechShop chain of for-profit spaces offering public access to high-end manufacturing equipment – membership fees

FabLabs, inspired by MIT, have core set of tools including lasercutter, vinyl cutter, space requirements 1000-2000 sq ft ...

http://makezine.com/2013/05/22/the-difference-between-hackerspaces-makerspaces-techshops-and-fablabs/
Choosing your own name

Check to see if already trademarked

Do your own knockout search
Attorney / professional search once you choose a name

Easier to use

http://trademarks.justia.com

USPTO - Official

http://tmsearch.uspto.gov/
“makerspace” is generic community centers, for-profit, nonprofit, schools, libraries ...

... but read Makerspace playbook before using their logos

Makerspace playbook (April 2012 draft)
• Poll 2
Makerspace Policies

Use existing policies to FEND off lawsuits

Free Speech
Equal treatment
Notice to users
Due process (appeals)

First Amendment and govt libraries

CONTENT NEUTRAL
Too loud (may enforce)
Not bad words (trickier)
Ok to ask for civility
Check with lawyer before removing someone for bad language

3D Printing Policies

- American Library Association is collecting policies and working on recommendations

- Remember First Amendment
  - Don’t prohibit “inappropriate for library environment”
  - Do prohibit “illegal”
  - Uphold agreement with 3D printer company (e.g. no guns)
3D Printing and Guns in California

June 25, 2014 – passed out of Assembly public safety committee, referred to Appropriations

Policies: Children and Privacy

Look at library’s policy
If collecting personal information online (e.g. for badges) use best security practices

LAW only requires commercial users to get parental consent

California Civil Code § 3344 parental consent for commercial use name, voice, photograph ..under 18

Federal Children’s Online Privacy Protection Act (COPPA) commercial use .. Under 13

California
New Guidance on Privacy Policies

Aimed at commercial sector but demonstrates best practices

https://oag.ca.gov/sites/all/files/agweb/pdfs/cybersecurity/making_your_privacy_practices_public.pdf
Medical Policies

Time to review and train staff on local policy

Band aids?

Defibrillators?

make sure everyone is on the same page
Disability Access

http://www.ada.gov/2010_regs.htm

Infopeople Webinar Feb. 16, 2011 ADA Update: Revised Regulations for Disability Accommodations for the Public
Stronger obligations for government

200+ settlements with localities in all 50 states

http://www.ada.gov/civicac.htm
Legal Docs: PERMISSIONS and WAIVERS

If I don’t have waiver form for craft sessions, do I need one for makerspace?

- Safety certifications (all ages)
- Permissions for minors
- Examples in resources handout
If renting or building new space, adding laser cutters etc., check with municipal inspectors. May need ventilation.

Hackerspaces have been flying under the radar for a few years, but now it seems as if they’re starting to encroach on the public consciousness in both good and bad ways. In the latter category, recently Nashua, NH’s MakeIt Labs was shut down for code violations. Recently I emailed Adam Shrey and Joe Schlesinger of MakeIt Labs to find out what was going on.

Legal Docs : PARTNERSHIPS

- Write memorandum of understanding
- Short timeframe (try six months)
- Example: TekVenture (501c3) and Allen County Public Library (handout)
  - Insurance, clear roles
Legal Docs: Liability and Insurance

- Check your library’s liability waiver forms
- Compare to samples in Resources handout
- Insurance – lots of online discussion; read and call your agent

“Product liability” murkier than traditional production Nora Freeman Engstron, 3-D Printing and Product Liability: Identifying the Obstacles (2013)
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Common Makerspace / Workshop Rules

The emergency phone number is 9-1-1
(or dial your emergency procedure here.)

Report all injuries.
- Do not attempt to remove any objects from the eye or body.
- Clean injuries with sterile gauze every 15 minutes in an open-faced, warm environment before proceeding for medical treatment.

Use protective gear. Dress right.
- Wear eye protection: safety glasses with side shields, goggles or face shields at all times, whether working or not.
- Do not wear loose-fitting clothing around moving or rotating machinery.
- Remove ties, jewelry, gloves, etc. specially around moving or rotating machinery.
- Tie hair or cover long hair to keep it away from moving machinery.
- Wear only shoes that cover the entire foot, no open-toe shoes or sandals.
- Wear suitable gloves when handling hot objects, glass, or sharp-edged items.
- Wear appropriate clothing for the job (i.e., do not wear short sleeve shirts or shorts when working).

Prepare.
- Safety is your top priority when using the shop. If you are not sure what you are doing, ask.
- Know all the locations of all safety signs, fire, and safety equipment.
- Never use a tool unless you’ve been trained to use it safely.
- Never work alone when using power tools. Two persons must be present and be able to see one another.
- Sign in before using any equipment.
- Do not work in the shop if tired, or in a hurry.
- Do not load around, start, or operate a machine (not even with a conversation) while another one of you is using a tool.
- Think through the entire job before starting. Prepare prints or drawings with all dimensions and specifications prior to using machines.

Use tools right.
- Use tools only as they were designed to be used. (A wrench is not a hammer.)
- Never uses broken tool.
- Report any broken tools or machines immediately.
- Do not remove tools from the room.
- Never walk away from a tool that is still.
- A hard hammer should not be used to strike a hand tool or any machine part. Use a soft-faced hammer.
- Operate machines only with all guards and shields in place.

Clean up.
- Clean up every time whenever you leave an area, including sweeping the floor.
- Clean and return all tools to where you got them.
- Use compressed air sparingly; never aim it at another person or use it to clean hair or clothes.
- Shut off and unplug machines when cleaning, repairing, or oiling.
- Never use any near moving machinery.
- Use a brush, hook, or a special tool to remove chips, sawdust, etc. from the work area. Never use the hands.
- Keep fingers clear of the point of operation of machines by using special tools or devices, such as push sticks, hooks, pliers, etc.
- Keep the floor around machines clean, dry, and free from trip hazards. Do not allow chips to accumulate.
- Map up spills immediately, and put a chair or cone over them if they are wet enough to cause someone to slip.

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Questions?

Comments?
Mary Minow
consult@librarylaw.com
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