

The Price of Creativity

PMM5 Postscript[™] Number 46

Background Information: Tyra Hilliard discusses ethics in Chapter 39 of *Professional Meeting Management*[®], fifth edition. In that chapter she:

- Explains why a code of ethics is important in the meeting industry
- Applies ethical principals and tests to meeting industry practices
- Analyzes the role of ethics in establishing best practices
- Assesses the ethical foundation of common meeting scenarios

PMM5 Postscript[™] Use: A meeting manager's ethical responsibility extends beyond their own behavior. Meeting managers must plan meetings that are above reproach. One area of legal and ethical concern is copyright law. This PMM5 Postscript[™] specifically talks about copyrights, public domain works and intellectual property. The PMM5 Postscript[™] also includes additional group discussion or research projects to supplement the PMM5 chapter.

Learner Outcomes: At the completion of this reading, you should be able to:

- Explain copyright law.
- Describe the concept of public domain.
- Explain intellectual property.
- Outline appropriate actions for meeting managers.

Related PMM5 Chapter: Chapter 39, Ethics
Author: Tyra Hilliard, JD, CMP



The Search for the Next Creative Idea

Meeting managers are constantly challenged to create unique, new, different, innovative meetings or events. It can be a challenge and often a meeting manager will want to borrow from something done before. Many meeting managers have only a passing familiarity with the principles of copyright law and the area of intellectual property.

Professional Meeting Management®, fifth edition, addresses the need to obtain copyright permission from speakers in Chapter 21, Hiring Speakers and Working with Speakers Bureaus (Palmer & Jenkins, 2006, p. 314). But copyright issues extend beyond speakers; it extends to quotations, materials, themes, music and almost anything that has already been published. And a meeting manager must protect their organization by creating unique, new, different, innovative meetings that don't violate the law.

It's so Easy to Borrow

The Internet's technology, ease and flexibility has made it incredibly easy to have access to, copy or even forward information. For the first time, the average person sitting at a computer can gain access to a wide range of every type of copyrighted material and can easily copy or communicate that material virtually instantaneously.

In a digital format, it's not easy to determine if a work has been copied. Original photocopy machines left tell-tale signs that a work was a copy. Later, color copies created near perfect originals. Now it is next to impossible to ascertain whether and at what point in the process a copy has been made or a performance has occurred.

© Means

Copyright is a legal protection for authors. Copyright law affords protection from "copying" of material. Copyright laws allow authors to profit from their work.

Like many laws, copyright laws have been amended since they were first created in 1790. Some parts of the law are ambiguous or poorly written. And no law can cover all situations in all circumstances. Legal advice should be sought for questions beyond the scope of this document.

Meeting managers must be aware that these various works are protected by copyright:

- Writings
- Musical works
- Cartoons
- Plays
- Photographs
- Maps
- Artworks, sculpture
- Movies
- Pantomimes and choreographed works
- Recipes
- Architectural drawings

Copyright law protects published **and** unpublished works. Copyright protection for all works created after 1978 begins the instant a work is created — whether it is registered or not with the US Copyright Office. It is not even necessary to publish the copyright notice.

How Far Does the © Go?

Works are either considered copyright protected or in the public domain. Public domain works are available for copying or using without gaining permission from the author.

To understand if a work is copyrighted, a meeting manager must know when the work was published. The general guidelines are:

- Everything published in the United States before 1923 is in the public domain.
- Works published in the United States between 1923-1963 and not renewed are in the public domain.
- All unpublished works by authors dated over 70 years are in the public domain.
- Foreign works published before 1901 are in the public domain.
- Foreign works published 1909-1923 with copyright notice are in the public domain.
- Copyright protection for current works (published after 1977) generally lasts for the extent of the author's life plus 70 years.
- Works made for hire — that is works that are created as part of a job are protected for 90 years from the date of publication or 120 years from the date of creation whichever comes first. An example would be training manuals.

Ideas and facts are not protected by copyright laws. Copyright only protects the particular way an author expresses facts or ideas. The idea of “Employee Discounts” for any new buyer of a car could not and was obviously not able to be copyrighted.

Examples of public domain works:

- Louise May Alcott's *Little Women*
- Leonardo DaVinci's Mona Lisa
- The Lone Ranger
- Any facts

Examples of copyrighted works

- *Professional Meeting Management*®, fifth edition
- Rolling Stone's song, Jumpin' Jack Flash
- Ansel Adams' photograph Moon and Half Dome
- E.T. or Hopalong Cassidy

Another caveat — links to web sites may be freely reproduced for hyperlinking. However, a best practice for meeting managers is including proper citation and notifying the web page provider. Also avoid deeply linking to a specific page. Some websites prohibit deep linking which allows avoiding the home page.

Works on the Internet do not automatically qualify to be considered public domain. Also, out of print does not mean out of copyright.

Meetings and Copyright

The purpose of this PMM5 Postscript™ is not to cover all aspects of an exceedingly complex area of law. It is to create awareness that professionally planned meetings will also be created ethically and legally.

People sometimes unknowingly violate copyright laws. The wide amount of information available via the web and electronic distribution makes it easy to have access to information and to add it to a presentation, brochure or other marketing information.

A meeting manager may not realize that they are infringing upon an author's rights. Here are some flagrant examples of violating copyright laws:

- Copying training materials (this is an example of a work made for hire) to reduce the cost of purchasing additional materials from a training company.
- Photocopying of articles from magazines for mass distribution.
- Using a song as background music.
- Using photographs or quotes in promotional materials without permission.

What To Do?

Copyright law is a complex issue. If a meeting manager finds a work that they want to copy, adapt or otherwise use and it is not in the public domain, they have three alternatives:

1. Find something that is in the public domain
2. Obtain permission to use the work
3. Use the work without permission relying on the principle of the "fair use" which allows copyrighted material to be used for free in limited situations. Fair use is a concept only legally recognized in the United States. No other country in the world gives the public latitude to use copyrighted works without permission. Under the fair use privilege an author is permitted to make limited use of another author's work without asking permission. It is considered "fair use" when the piece is used in the following situations:
 - For comment or criticism
 - For news reporting
 - For research or scholarship

There are three other considerations for fair use:

- The type of work – factual works (technical, scientific) vs. works of fancy (novels, poems, plays)
- The amount and importance of the material used
- The effect of the use of the material on the potential market or the value of the copyrighted works

There are different guidelines for education and the academic community. Fair use is unlikely to apply to most meetings.

Plagiarism is an ethical and legal issue. Unauthorized use of copyright laws can spell legal trouble for a meeting manager and their organization. When in doubt, ask permission to use the work. Meeting managers will need to allocate lead time for this process as it can be time-consuming.

Meeting Choices

Beyond asking for permission, a meeting manager can protect themselves and their organization by:

- **Using royalty-free content.** Meeting managers can purchase for a one-time fee for unlimited use (with some restrictions) music, stock photos or graphics in presentation materials.
- **Using works of the United States Government.** By statute, U.S. Government works are not protected by copyright. This would include photographs from NASA, database and statistics (like the US Census data).
- **Obtaining explicit agreements from your speakers** that protect your organization from claims that the speaker used copyrighted materials (e.g., in their PowerPoint® presentation) without permission. Speaker agreements also should ensure that the sponsor has the right to record and replay the presentation or reproduce the handouts for distribution or sale to non-attendees. Speaker agreements also should include language that allows the sponsoring organization to reproduce the presentation materials in any form or media (e.g., on the sponsor's Web site) (Mandel, 2000).
- **Obtaining music licensing.** Unless a song is clearly within the "public domain," any music—live or recorded—played at an event is subject to copyright protection. Event sponsors may need copyright licenses from one or all of the music licensing organizations (ASCAP, BMI, or SESAC). Each organization has a "playlist" of music for which it is authorized to give licenses on behalf of copyright owners. They can provide meeting managers with a blanket license tailored to the meetings industry.

Other Rights

Copyright law balances protecting the author's rights and yet still allowing the advancement of ideas. There are other rights beyond copyright that meeting managers want to be aware of including:

- Right of Publicity which on the state level prevents unauthorized use of a person's name or image for advertising or commercial uses.
- Trademark laws cover logos, slogans and brand names. Trademarks distinguish products and services and are protected under federal and state laws.
- Patent Laws protect inventions including in some cases design patents.
- Trade Secrecy Laws include state and federal laws protect some business information.

All these issues fall into the world of intellectual property. Intellectual property is defined as "any intangible asset that consists of human knowledge and ideas." Patents, copyrights and trademarks protect intellectual property.

Suppliers may protect their ideas, brand and creative work through copyrights, trademarks or even patents. While ideas are not protected by copyright law, there are ethical and relationship issues to gathering information through the proposal stage and then utilizing the ideas but not the services of the company advocating the idea.

In the world of grants, grant proposals are considered copyrighted. Re-using even just a paragraph of someone else's grant proposal without permission is considered copyright misconduct. And financial penalties apply if copyright law is violated.

The moral of the story: Don't copy written ideas and pass them off as your own ideas. And ethically, consider the impact of "borrowing" ideas from others and implementing them in a meeting.

Sources for Public Domain Works

Meeting managers can find works in the public domain that can be used freely for meetings without concern for copyright infringement. Some sources include:

- The on-line Books Page at www.digital.library.upenn.edu/books
- www.ibiblio.org contains links to many websites with public domain materials
- Wikipedia contains many links to public domain at http://en2.wikipedia.org/wiki/wikipedia:public_domain_resources
- Audiovisual and sound recordings at the National Archives and Records Administration (NARA) at www.archives.gov
- Maps at the US Geological Survey (USGS) at www.usgs.gov or the National Archives Cartographic and Architectural Branch at www.nara.gov
- Photos through the use of <http://www.public-domain-photos.com/> which includes over 5000 photos

Summary

Inappropriate "borrowing" of any published materials is an ethical and legal issue. Unauthorized use of copyright laws can spell legal trouble for a meeting manager and their organization.

Meeting managers must look at their meetings to ensure that all aspects of the meeting — speakers, materials, themes, music — are above reproach. Meeting managers should seek permission to use reprinted materials or find alternative sources (royalty-free materials, government materials or works in the public domain).

Just as meeting managers are often requested to create meetings with precautions to safeguard sensitive materials (security, shredding, avoiding competitors in house at the same time), the same meeting managers have a duty to extend the same rights to others around protection of names, trademarks, trade secrets, patents, and copyrighted materials.

Group Discussion or Projects

1. A meeting manager is working with in-house staff to create a multimedia video segment. What guidelines should the meeting manager provide to the in-house production team?
2. A meeting manager is planning on creating a closing segment for the meeting that will involve candid photos of participants from throughout the meeting. Is it acceptable to show these photographs of employees? Would your answer be different if it was an association meeting?

3. A meeting coordinator purchases a variety of commercial clipart and stores it on the company's shared drive thus making it accessible to everyone in the company. Have any copyright laws been violated?
4. An association has purchased the right to use the training materials in a face-to-face training session. The association plans to video tape this course that an internal staff member will lead. The association then plans to make the video tape available to other members of the association via their website. Is this allowed?
5. A meeting manager purchases a copy of the royalty free CD-ROM set for \$39.95. It contains:
 - Disc 1 – 25,000 Animated gifs
 - Disc 2 - 30,000 web objects (gifs and jpgs)
 - Disc 3 - 5,200 music tracks and sound effects (WAV, Midi, and Real Audio)
 - Disc 4 - 13,000 Java Buttons, Photos, and Video

Can the meeting manager use that set for production of meeting promotional materials? Can the marketing department use the CD-ROM set to create materials for sale from that meeting?

References

1. Cochran, J. (1999, August). Using Copyrighted Works for Meetings, Seminars & Conferences. Retrieved February 2007 at <http://www.unc.edu/~uncclng/copy-corner12.htm>.
2. Copyright website. Retrieved May 2007 from <http://www.benedict.com>.
3. Fishman, S. (2004, March).The Public Domain: How to Find & Use Copyright-Free Writings, Music, Art & More, *NOLO*; 2nd edition.
4. Hilliard, T. (2006). In G. Ramsborg (Ed.), *Professional Meeting Management* (5th ed.), pp. 591-602. Dubuque, Iowa: Kendall/Hunt Publishing Company.
5. Mandel, J. (2000, December 1). Copyright 101. *Association Meetings*. Retrieved May 2007 at http://meetingsnet.com/associationmeetings/meetings_copyright_8/.
6. Palmer, B. and Jenkins, D. T. (2006). In G. Ramsborg (Ed.), *Professional Meeting Management* (5th ed.), pp. 305-316. Dubuque, Iowa: Kendall/Hunt Publishing Company.
7. Templeton, B. A brief intro to copyright. Retrieved May 2007 at <http://www.templetons.com/brad/> <http://www.templetons.com/brad/copyright.html>.
8. Templeton, B. 10 Myths about Copyright Retrieved May 2007 at <http://www.templetons.com/brad/copymyths.html>.
9. Tinnish, S. (2005, November). The Price of Innovation. *Tips for Innovative Meetings and Events*. Retrieved May 2007 from <http://www.suetinnish.com>.
10. US Office of Copyright. Retrieved May 2007 at <http://www.copyright.gov/>.

Copies of *Professional Meeting Management*®, fifth edition, may be purchased through the PCMA Bookstore at [PCMA Bookstore](#) or http://www.pcma.org/store/index.asp?DEPARTMENT_ID=3.

Copyright 2007, Sue Tinnish. All rights reserved. The information contained in PCMA's PMM5 Postscript™ is based upon Tips for Innovative Meetings and Events. You are invited to become a subscriber to Tips for Innovative Meetings and Events by contacting Sue Tinnish at 847.394.9857, sue@suetinnish.com or at <http://www.suetinnish.com>.