

# Copyrighting My Style



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### Education:

- Boston University School of Law, Juris Doctorate, May 2000
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### Admissions and Certifications:

- USPTO Certified Patent Attorney
- Texas Bar – 2002
- Massachusetts Bar – 2001
- United States District Court- Southern, Eastern and Northern Districts of Texas
- United States Court of Appeal – Federal Circuit

### Work experience:

- Stephens & Domnitz, PLLC
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# The BIG BOY - Copyrights

➤ 17 U.S.C. § 102 . Subject matter of copyright: In general<sup>28</sup>

- (a) Copyright protection subsists, in accordance with this title, 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. Works of authorship include the following categories:(1) literary works;(2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works.
- (b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

In English-

Works of art in a tangible medium. Which includes music, literary works, dramatic works, dances, pictures, sculptures, movies, sound recordings, and architectural works.

Note- It does not say **CLOTHING**.

# What are the rights of the copyright holder?

- Subject to sections 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:
- (1) to reproduce the copyrighted work in copies or phonorecords;
  - (2) to prepare **derivative works** based upon the copyrighted work;
  - (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
  - (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
  - (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
  - (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.
- 17 USC § 106

## IN English -

- Copyrights protect art in a tangible (physical) medium.
- Examples – A recording of the music for a Dr. Who episode, the screen play for an episode, a Dr. Who book, a video of an episode, potentially costumes, radio plays, a Tardis prop, the sheet music for an episode.
- **BUT NOT (always)**
- A story, or a character or an idea using a character. Why a story, idea or character, may not be in a TANGIBLE medium.

## Huh??? But you just said . . . .

### Copyright vs. trademark

A trademark protects a “brand”, a copyright protects an artistic work (note utility is not protected by a copyright or trademark)

So, if you come up with a new story involving the Doctor and Leela, it may not be actually copyright infringement, it might be trademark infringement, or no infringement.

Do not assume **NO INFRINGEMENT!!!!!!!!!!**

Each case is different, so consult an attorney.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Copyrighting My Style

Also available as part of the eCourse

[eSupplement to the 29th Annual Conference on State and Federal Appeals](#)

First appeared as part of the conference materials for the  
2018 Copyright and IP for Comic Conventions session

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