



North Carolina Law Life

But, Honestly, Copyright Protection is as American as Apple Pie, Even on the Internet

By: Donna Ray Chmura. *This was posted Sunday, November 7th, 2010*

Last week a blogger discovered her [online article](#) on the origins of apple pie in a regional print magazine called [Cooks Source](#). She had not consented to this [reprint](#) and emailed the editor for a written apology and a \$.10/word donation to the [Columbia School of Journalism](#) by way of penalty.

Here is Cooks Source editor Judith Griggs' astonishing response, according to blogger [Monica Gaudio](#):

Yes Monica, I have been doing this for 3 decades, having been an editor at The Voice, Housitonic Home and Connecticut Woman Magazine. I do know about copyright laws. It was "my bad" indeed, and, as the magazine is put together in long sessions, tired eyes and minds somethings [*sic*] forget to do these things.

But honestly Monica, the web is considered "public domain" and you should be happy we just didn't "lift" your whole article and put someone else's name on it! It happens a lot, clearly more than you are aware of, especially on college campuses, and the workplace. If you took offence and are unhappy, I am sorry, but you as a professional should know that the article we used written by you was in very bad need of editing, and is much better now than was originally. Now it will work well for your portfolio. For that reason, I have a bit of a difficult time with your requests for monetary gain, albeit for such a fine (and very wealthy!) institution. We put some time into rewrites, you should compensate me! I never charge young writers for advice or rewriting poorly written pieces, and have many who write for me... ALWAYS for free!

In actuality, The U.S. Constitution, Article I, Section 8, Clause 8, grants Congress the power to: Promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries. Our founding fathers believed the rights of authors and inventors to control the use of their works — and to prosper from their creativeness and inventiveness — is a founding principle of our nation. Copyright and Patent law come directly from the Constitution itself, while our individual rights (such as freedom of speech and the right to bear arms) are found in the Bill of Rights (the first ten amendments to the Constitution).

<http://www.nclawlife.com/>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [Mclean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.

[U.S. copyright law](#) protects original works of authorship, including those distributed on the Web, from the moment a work is “fixed in a tangible medium of expression” that is “perceptible either directly or with the aid of a machine or device” (i.e., written or recorded). There is no need to register or take any other action (including mailing a copy of your work to yourself) in order to have a copyright. Copyright protects literary, dramatic, musical, and artistic works, such as poetry, novels, movies, photographs, paintings, songs, choreography, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.

Copyright law gives the author an exclusive bundle of rights – the exclusive right to copy, distribute, make derivative works, display and perform the works. Registering a work with the U.S. Copyright office is not required to give the protection, but gives additional rights, such as the right to collect damages if someone infringes the work. [Penalties](#) for copyright infringement, such as using someone else’s online article or photograph, may include statutory damages of \$750 to \$30,000 per infringement, impoundment of the infringing works, and payment of the copyright owner’s costs and attorney’s fees.

For works created on January 1, 1978 or after, the copyright lasts the life of the author, plus 70 years. After that, the work is in the “public domain,” and is free to be used without permission. Works written by the US Government are not protected at all, and sometimes authors waive their copyrights and allow their work to be in the public domain.

Current U.S. law holds that the “c-in-a-circle” (©) symbol is not [required](#) to indicate that a work is copyrighted. The © notice was required prior to April 1, 1989.

It is therefore **imperative** that before you use any content from the Internet, you ask for permission. Articles, artwork, music and photographs may have copyright protection without having registered or without giving the © notice. To do otherwise is stealing.

Author’s note: As of this posting, Cooks Source has apparently taken down the first page of its Facebook magazine reposting of Ms. Gaudio’s article, and I have linked to the second page above, which was still active.

<http://www.nclawlife.com/>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.