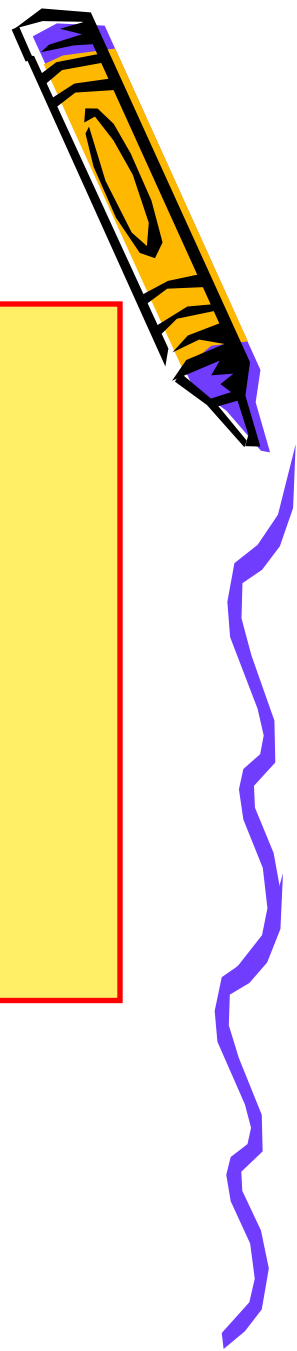


# Copyright and Publication Agreements...



Who owns  
your work?

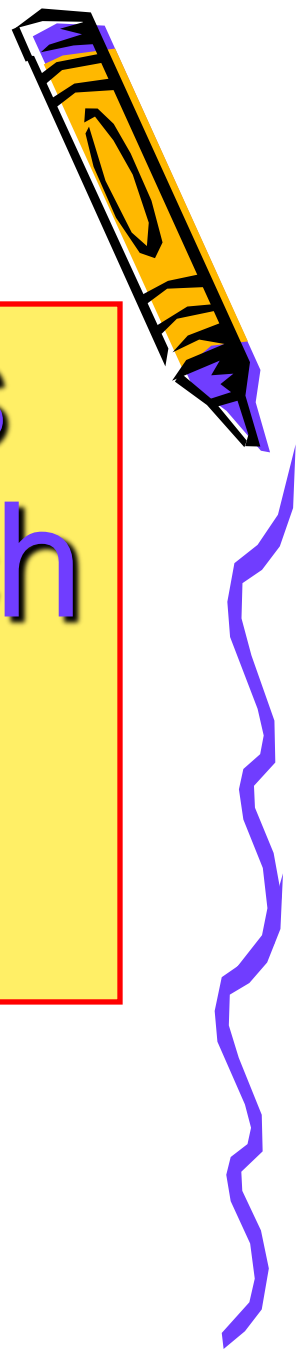
University of North Texas 18 May 2010



OR...

# South Park, Gilligan's Island, and the Search for Meaning in Copyright Law

University of North Texas 18 May 2010





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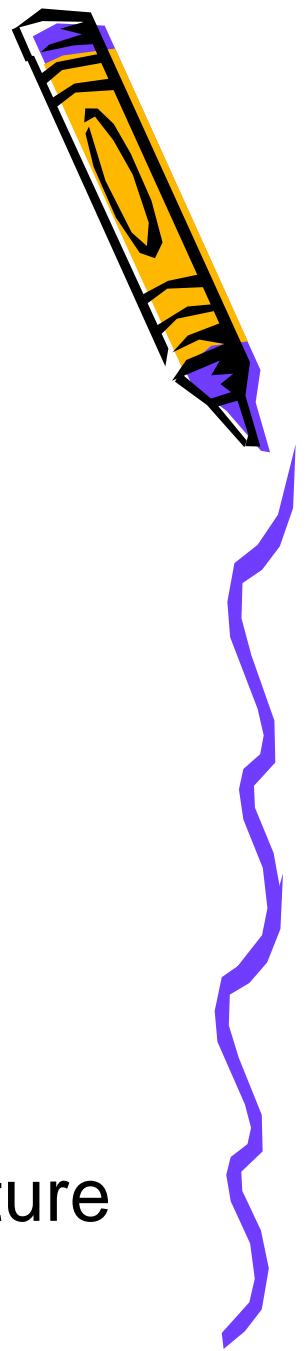


**You have the right to...**

**Manage  
your  
Copyright**

# Why is Copyright Important?

- Copyright is broad
  - protects “original works” fixed in a “tangible medium of expression”
- Copyright is long
  - lasts “life of the author” plus 70 years
- Copyright is pervasive (intrusive?)
  - governs the dissemination and use of most scholarship and other “creative expression” today and well into the future



# the Curious Case of Oscar Wilde...

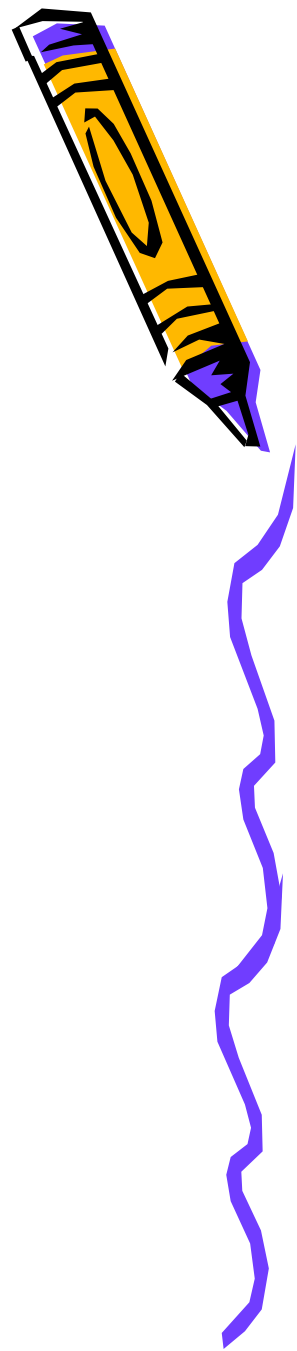
The Congress shall have  
Power To ...*promote* the  
Progress of Science and  
useful Arts, by securing for  
*limited Times* to Authors  
and Inventors the *exclusive  
Right* to their respective  
*Writings* and *Discoveries*...

Art. 1, § 8, Cl. 8.



# “Getting” copyright...

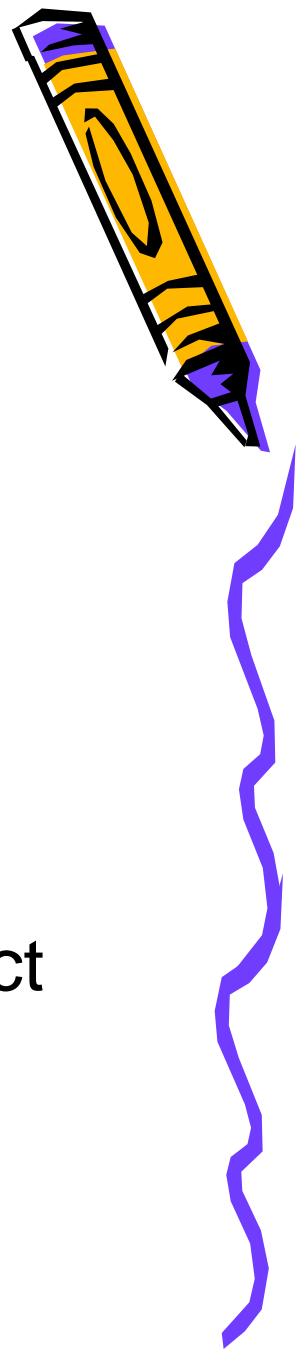
- original work of authorship
  - “modicum of creativity”
  - “human” author
- fixed in “tangible medium”
  - infinite range of possibilities
- automatic protection
  - no notice, no registration, no record





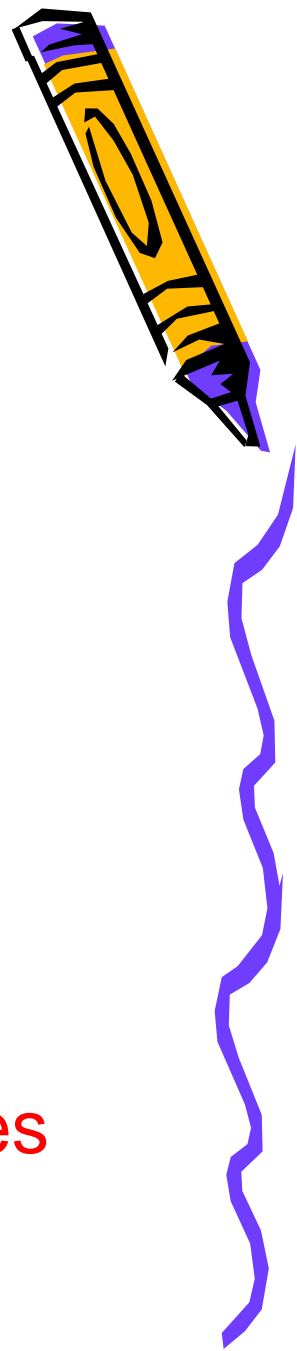
# the Unprotected

- facts
- ideas
  - “merger” doctrine (idea = expression)
- expired works
- statutory defects
  - notice and renewal under the 1909 Act
- U.S. government works



# the Exclusive Rights

- reproduction
- distribution
- preparation of derivative works
- public performance
- public display
- **PLUS... the Digital Bonus**
  - “anti-circumvention” of TPMs sometimes

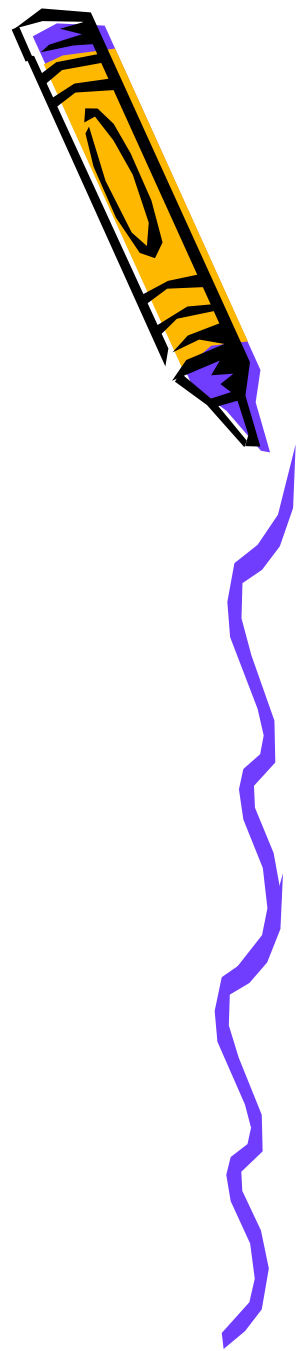


# Yours..Mine...Somebody's....



- Creator  
OR
- “W-M-F-H”  
OR
- “assignee”  
OR
- inherited





# Mine..Mine...Mine....?

- creator of the copyrighted work
  - no other relationships or conditions
  - “operation of law”
  - creator is “author”
  - academia and IP Policies
    - enforceability???
    - patent = university
    - copyright = language of policy?



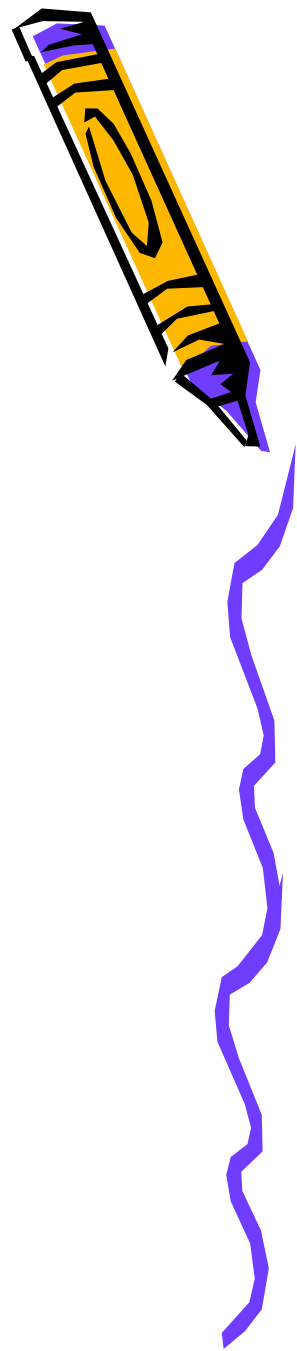
# what's mine isn't Mine?

- “work-made-for-hire”
  - employee
    - “acting within scope of employment”?
  - employer is “author” and controls rights
- OR
- “specially commissioned works”
  - 9 statutory categories...
  - must expressly agree in writing !!!



# what's mine isn't Mine either?

- independent Contractors
  - creator of work
  - Questions to ask. . .
    - who contracts the project?
    - who provides the tools?
    - who provides the work space?
    - payroll taxes deducted?
    - who controls the project?



# things you ought to know...

- “I hereby transfer, assign, grant, give...”
  - license give you more control...
- “I represent and warrant that...”
  - work is original
  - otherwise infringing of other works
  - defamatory statements
  - invades individual privacy
- “I hereby indemnify and ...”





# read what you sign...

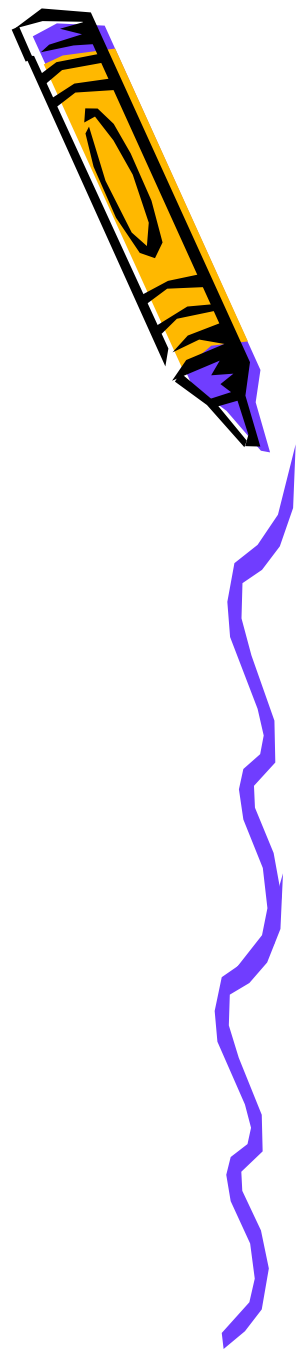
- assignment or “license” transfer
  - “assignee” acquires all rights...
  - “licensee “ is exclusive or non-exclusive?
    - exclusive nearly equals “assignment”
    - exclusive requires signed writing
  - nonexclusive (license)
- contracts
  - “publication agreements”





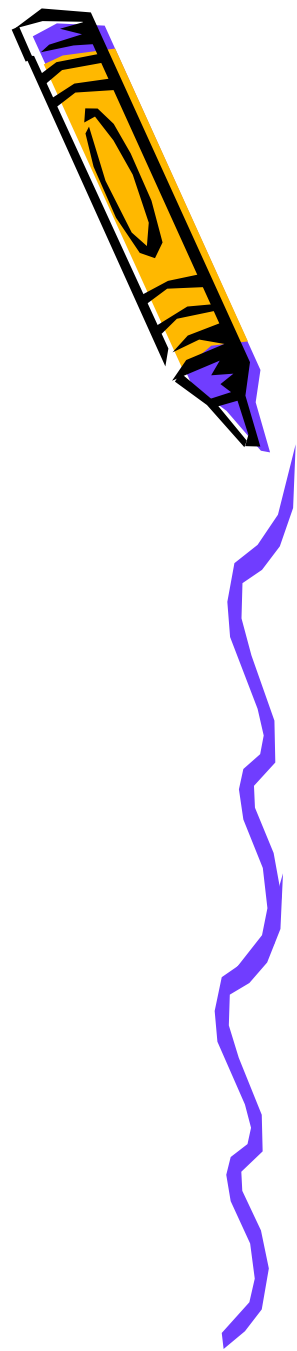
# things to think about ...

- content and quality
- future teaching and scholarship
- “open access”???
- credit
- money???
- language of the agreement...



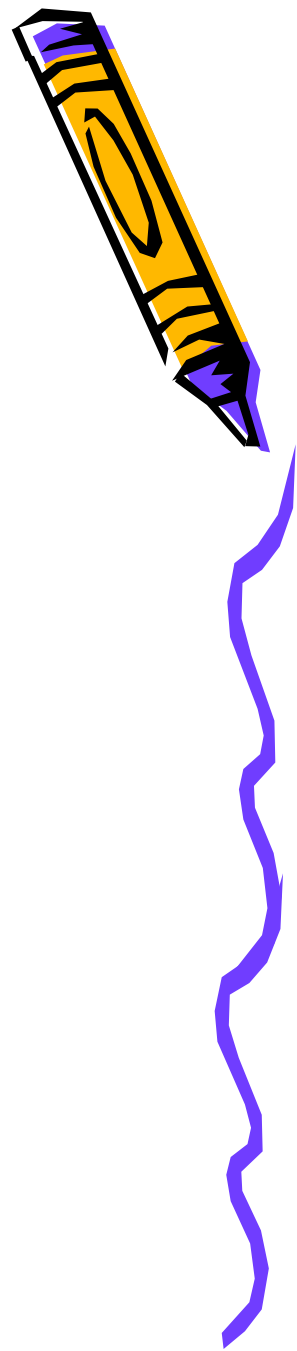
# things to look for...

- assignment or license???
  - license gives you more control...
- assignment w/reservations
  - copies for teaching
  - institutional repository
  - your web site
  - other colleagues
  - derivative works...
  - preprints/postprints



# things you should do...

- strive to avoid transferring copyright
- read your IP policy
- read your publication agreement
- understand your rights
- negotiate for better agreements
- think about long term possibilities
- share widely w/ knowledge



# Sec. 107 - the 4 factors

- **Purpose** and character of the use
- **Amount** of the portion used
- **Nature** of the copyrighted work
- **Effect** on the value or potential market

