

The Eastern Script

Shameless self-promotion since 2011

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PRESIDENTIAL ADDRESS



We've got a lot going on this time of year. Summer is always very busy in our offices. So, we thought we'd add a massive technology conversion to our plate since, what the heck, why not tackle the biggest software overhaul we've ever attempted during the busiest time of year? (Lunatics!) Read a bit about our move to the "cloud."

Next: I came across a piece of clearance history a few months ago. Have a peek at a little article about Orson Welles' War of the Worlds broadcast and how clearances shaped its content.

Further: I thought I'd address copyright searching and what we do/don't do here since the question arises frequently.

Finally: speaking of copyright, read on to find 2 excellent tools for determining if a work is in the public domain.

I hope that you have all been able to stop and enjoy the greenest summer I can recall... see it from a canoe or a hiking trail or from an armchair on a sunny lake-side dock. This beautiful season comes and goes more quickly for me every year. I'm trying to find a machine that will slow down summer. Any suggestions?

Anne Marie Murphy
President



DO WE DO COPYRIGHT SEARCHING?



Photo by: Matt Briney

We get this question a lot. The answer starts with another question: *what kind of copyright searching?*

We go to the copyright office websites of both Canada and the U.S. for various reasons throughout the work week. The bulk of the copyright searching we conduct is for title searches and it consists of examining online records at the U.S. Copyright Office and Canadian Intellectual Property Office. We look to see how many other items have been registered with the same name/title as yours.

In the U.S. database, we look specifically in the 2 categories that include movie/tv projects: “dramatic works and music” and “motion pictures.” Let’s say we have been asked to do a title search on Gone With the Wind of Time. We’ll probably look for Gone With the Wind as one of the alternate titles in our search strings. Looking that up today in the two categories mentioned, I’m finding 39 registrations and not all of them are exact matches to the famous novel/movie. There is also Ghandi With the Wind, Gone With the Wind in Twenty Minutes, Gone With the Windshield, and others. Perhaps you and your lawyer are trying to put a case together that defends use of your derivative title; if so the more listings we find of that type, the stronger your case might be.

The search I have just described differs from the type of copyright search that an insurer may require for “chain of title” purposes. Chain of title copyright searching is needed when an insurer wants proof that there are *no other potential owners* of rights to your work, especially if the project is based on an existing work. If your work is original (and you can prove it) then you shouldn’t need that searching. That type of copyright searching also looks for who assigned what rights (and when) to registered works.

If your work is based on an existing property, the copyright search for “chain of title” uncovers the various potential owners of a work, such as in this scenario: magazine article written in 1955, adapted into a novel in 1974, rights for novel assigned to someone for a screenplay in 1989, and so on. This type of copyright search we do NOT provide. Electronically-available records only go back to 1978 in the U.S. and 1991 in Canada so you usually need a searcher on-site at those offices to go through microfilm and paper records as well.

For more on chain of title, here are some websites with good explanations:

“Attention, Filmmakers: Here’s What You Need to Know About Chain of Title (and Why You Need It)”

Written by Mark Litwak

www.indiewire.com/2015/10/attention-filmmakers-heres-what-you-need-to-know-about-chain-of-title-and-why-you-need-it-57004

“Film Chain of Title”

Written by Kamal Moo

www.johnson-moo.com/chain-of-title-for-films

“Chain of Title: What it is, why it matters.”

Written by Gordon Firemark

firemark.com/2012/06/15/chain-of-title-why-matters

MORE CLEARANCE HISTORY... WAR OF THE WORLDS

On the night before Halloween in 1938, in a prime Sunday evening time slot, 23-year-old phenom Orson Welles presented over the radio a new adaptation of the 1898 H. G. Wells novel The War of the Worlds. Here's a brief synopsis from pbs.org:

“Shortly after 8 p.m. on the Halloween Eve, 1938, a panicked radio announcer broke in with a report that Martians had landed in the tiny town of Grovers Mill, New Jersey. Although most listeners understood that the program was a radio drama, the next day's headlines reported that thousands of others plunged into panic. It turned out to be H.G. Wells' *The War of the Worlds* performed by Orson Welles.”

Young Orson Welles changed the novel's settings of Surrey and London, U.K. to a 1938 setting of New Jersey for his American (CBS Radio) audience. Welles worked with Howard E. Koch — an American screenwriter who later won an Academy Award for Casablanca — to create a modern re-telling with innovative news flash segments for a captive radio audience.

On a Sunday evening before a regular old work day in May 2017, I sat down for some television grazing and came across a show that detailed the circumstances leading to the hysteria created by the Orson Welles broadcast. I recommend watching this show (part of PBS' American Experience series) called simply War of the Worlds. It looks at how Americans were getting their news at the time, what the main news stories of the day had been (ascent of Hitler, explosion of the Hindenburg), and why so many listeners missed the fact that the program was fiction - not a news story. It also discusses the meteoric rise of Orson Welles, reminding me of his astounding talent at such a young age. The year after this radio broadcast, he would go on to direct his first distributed feature film, the masterpiece Citizen Kane.

For me, though, the moment that resonated most for my line of work came when the narrator Oliver Platt explained that CBS Radio executives were so concerned about the possible fallout

from this broadcast that they took the red clearance pen to quite a few story elements to prevent identification of actual people and agencies. Writing for smithsonian.com, A. Brad Schwartz reports that “CBS's legal department reviewed Koch's script and demanded only minor changes, such as altering the names of institutions mentioned in the show to avoid libel suits.”

I went online and found part of the original annotated script to see examples of what he was describing. Specific agencies, institutions, and people were either given more generic names or had their names changed to ones that I presume had been determined to be fictional at the time. Some examples: “United States Weather Bureau, Washington D.C.” is changed to: “government Weather Bureau.” The “observatory at Princeton University” is changed to: “observatory at Princeton.” “Our commentator” Dick Philips was changed to Carl Philips. “Professor Morse of Magill University” is changed to “Toronto, Canada... Professor Morse of Macmillan University.” And so on.



Photo by: Miriam Espacio

I love finding evidence of clearance work back in time. If this interests you too, find more at the following newsletter links:

[SUMMER 2015 – “Changing the Character Name: Time”](#)

[NOVEMBER 2013 – “Risks & Rights Circa 1952”](#)

[FEBRUARY 2013 – “Some Clearances History – Wow!”](#)

NOW FLOATING ON A CLOUD



Photo by: Brady Bellini

Here's a challenge: try to imagine rebuilding your house somewhere else, an exact replica but somewhere far away. Another part of the challenge: when you get to the new place, everything has to work exactly the same way it did in the old place. The light switches have to be in the same places, the water has to flow with the exact same volume and with the same colds and hots, the heat must reach all the same corners of its rooms at the same temperatures as before. When you reach into the kitchen cupboard, the glasses and mugs must be placed in the exact same locations. The regular spot where you plant your coffee in the morning: that too must be precisely recreated.

Well, that's kind of how it felt to complete the challenge of migrating from our old server (black hardware metal box plugged into our wall) to a server on the "cloud." We had all our little electronic ways of filing things and finding things and we needed to make sure, before taking this leap, that all of that would be exactly the same when we got to our new house (a.k.a. cloud server). It's a move to make only after you have checked, re-checked, test driven, test exported, spent many long calls with tech support(s), made lists, added to the lists. Then you decide to go for it and you cross your fingers. You cross them hard.

We've got a huge advantage here of having a person on-staff who is both a title search researcher and in-house tech support. Jamie Desrochers typically uses his tech expertise for daily

minor complaints ("Why doesn't this thing do that thing this morning?") but this spring/summer he brought his A-game for overseeing our conversion to the cloud. Two weeks post-conversion, things are still running very smoothly. Aside from planned closing at 2pm on a Friday to get started early on what we thought might be a long day for him and our migration consultant, we did not lose a moment of work time. Kudos to Jamie and Kin Leung.

I did a little reading, yes, and it seems that this cloud to which many refer is in fact quite possibly a bunch of hardware in a massive rack in a huge building without windows somewhere in an arid remote location where property is presumably inexpensive and relatively safe from extreme weather. All our files back to Day One (September of 1993) are now living in anonymity on this mysterious "cloud server," it's like they're in a federal witness protection program somewhere. They are still working hard for us but we have no clue how to knock on their door.

We know they are in a safe place, though, and are glad to bring you this value-added feature of working from a cloud server. There will be no more down-time when the power goes out in the Sydenham ward of Kingston, Ontario. In fact, there should never be a down-time again (cloud buzzword: redundancy). Another scenario we won't miss: when the power goes out at the office but no one is there (e.g. Saturday afternoon) to push a power button on the server. And here's another plus: upgrading old server technology and software is off our plate. Someone else is doing that for us now.



Photo by: Jaroslaw Ceborski

WHO IS LOLLY GASAWAY?

If I could point at one clearance-related document that I have probably shared more than any other in the last 20+ years, it's a simple yet authoritative chart that shows you exactly what it says it will: *WHEN U.S. WORKS PASS INTO THE PUBLIC DOMAIN*. It can be tricky to determine an item's public domain status but with this little guide you too will quickly and confidently know how safe it is to use that reproduction of a Modigliani sculpture as set dressing.

DATE OF WORK	PROTECTED FROM	TERM
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation)
Published before 1923	In public domain	None
Published from 1923 - 63	When published with notice	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964 - 77	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2047 whichever is greater

www.unc.edu/~unclng/public-d.htm

I was curious about the creator of this document. *Who is Lolly Gasaway?* Her chart has been so helpful to us over the years and I have always wondered about that name... Turns out that “Lolly” is more formally known as Laura Gasaway, Paul B. Eaton Distinguished Professor of Law Emeritus at the University of North Carolina School of Law. According to her biography at the UNC website, “She teaches courses on advanced copyright law, art law and cyberspace law.” I emailed her to say hello and thank you for her helpful graphical aid.

She promptly and graciously allowed me to reproduce the chart here. If you ever need it again, there is a link to it at our website page called [Articles](#).

The Canadian equivalent chart is also included as a link at our website's [Articles](#) page, this one courtesy of the University of British Columbia's Scholarly Communications and Copyright Office: copyright.ubc.ca/guidelines-and-resources/support-guides/public-domain/#Public_Domain_in_Canada

If you have consulted both charts and still can't figure out copyright status of an item you want to use in your project, the next step is to have a formal copyright search conducted. Compumark has extensive access to copyright registration information around the world, contact information for them is at www.compumark.com/contact-us.



Photo by: Ashley Batz

RECENT PROJECTS

ANGELIQUE'S ISLE "Angelique's Isle is a harrowing tale of perseverance and survival that unfolds during the great copper rush of 1845, when newlyweds ANGELIQUE, a young Ojibway and CHARLIE, her Metis voyageur husband, are left stranded throughout a brutal winter on Lake Superior's Isle Royale where Angelique is ultimately forced to face her inner demons and beliefs as the unbelievably beautiful, yet treacherous wilderness threatens to claim her."

Source: Michelle Derosier, imdb.com

THE CATCHER WAS A SPY "(Paul) Rudd will play Moe Berg, an Ivy League grad and attorney who goes on to play baseball for 15 years for teams that included the Chicago White Sox. What was unknown to his teammates was that Berg doubled as a top secret spy for the OSS (a forerunner for the CIA), who helped the U.S. win the race against Germany to build the atomic bomb."

Source: Justin Kroll, variety.com

CAUGHT "Set in 1978, Caught follows David Slaney, a man busted for smuggling a boat-load of marijuana into Newfoundland and Labrador. The role is going to be played by (Allan) Hawco."

Source: uncredited, cbc.ca

GARY AND DEMONS "Gary, a divorced, middle-aged father dreams of vacations on the beach and maybe starting a family in the suburbs. Unfortunately for Gary, demon hunting doesn't quite come with time-off... or even retirement. With a new Demon General planning to wipe out humanity once and for all, Gary and his Demon Hunting Ministry must buckle down in order to save the world from an evil it knows-not-of."

Source: uncredited, c21media.net

HIGHWAYS TO FAIRWAYS "Two ordinary guys search the world for the most unique golf adventures and everything else in between."

Source: highwaystofairways.com

ICE BLUE "Old Downtown Okotoks will be transformed into a movie set next week as filming for a dramatic feature film begins. The film, Ice Blue is set in the foothills, centres around a 16 year old girl who seeks to uncover secrets hidden deep in her family's isolated farm."

Source: Laura Bates, highrriveronline.com

THE JEWS WHO WROTE CHRISTMAS "Set entirely in a Chinese restaurant, THE JEWS WHO WROTE CHRISTMAS is an offbeat, irreverent musical documentary that tells the story of a group of Jewish songwriters, including Irving Berlin, Mel Tormé, Jay Livingston, Ray Evans, Gloria Shayne Baker and Johnny Marks, who wrote the soundtrack to Christianity's most musical holiday."

Source: riddlefilms.com

SECRETS OF THE RUSSIAN TEA ROOM "Acclaimed Danish director Lone Scherfig is making part of her next film in Toronto. Cameras are set to roll on Secrets from the Russian Tea Room, a feature Scherfig wrote about four people down on their luck in New York City who band together to change their lives, from May 15 to June 2."

Source: JRKM, popgoesthenews.com

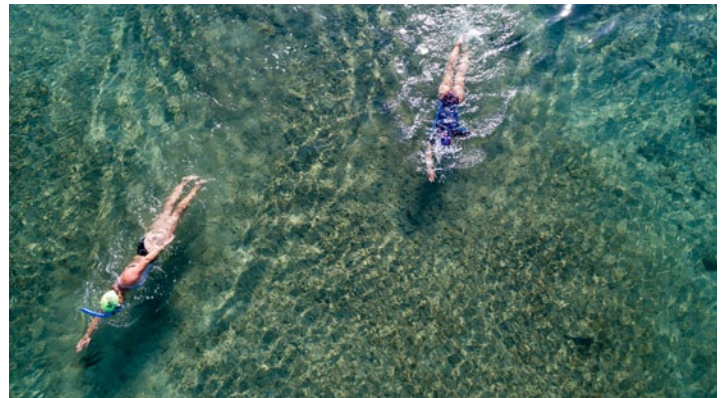


Photo by: Andreas Gucklhorn