

THE LIVINGSTON FIRM
ATTORNEYS AT LAW

PATENTS • TRADEMARKS • COPYRIGHTS
FRANCHISE AND RELATED BUSINESS LAW

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HANDOUT

FOR

GULF COAST WRITER'S ASSOCIATION

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A. Copyright Protection for Literary Works

1. Term – life of the author plus 70 years
2. Work for Hire, e.g., ghostwriting, illustrations, etc.- must be in writing
3. Copyright notice - © year, author
4. Importance of obtaining copyright registration
 - a. Prerequisite to filing suit
 - b. No need to prove lost profits, difficult and speculative
 - c. Availability of statutory damages - \$750. to \$150,000. if willful
 - d. Recovery of attorney's fees
5. Copyright infringement
 - a. Access to work
 - b. Substantial similarity
6. Applying for copyright registration
 - a. Online at www.copyright.gov
 - b. Fee for online application is \$35

B. Publishing Contracts and Agreements

1. Grant of rights
 - a. Territory
 - b. Types of Rights
 1. One-time rights
 2. First serial rights
 3. Second serial (Reprint) rights, paperback or hardcover

4. Subsidiary rights (translations)
 5. Dramatic, television and motion picture rights
 6. Merchandising
2. Approval rights of author
 3. Responsibility for costs – pre-production, printing and binding, marketing
 4. Royalties – usually based on “net sales”, watch definition.
 5. Accounting statements and auditing rights

C. Self Publishing through vanity or subsidy houses

1. Sometimes the only way to get published , especially if first book
2. You pay, they print
3. You also market it (Barne’s & Noble), sometimes with their assistance

D. Writing for Screenplays

1. Write treatment first
2. Shop treatment
3. If interest write script

E. Copyright and Trademark Issues related to characters and Author’s Names

1. Characters should be protected by copyright and trademark for merchandising purposes
2. Author’s names should be protected by trademark and domain rights secured