

INTELLECTUAL PROPERTY FOR THE FILM WRITER AND SCREEN WRITER: HOW DO YOU PROTECT & PROFIT FROM YOUR SCRIPT?

YOUR PRESENTERS:

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Mr. O'Neill is a Partner at Damon & Morey LLP practicing in the Business Litigation and Insolvency Department and the Co-Chairman of the Intellectual Property Practice Group. He works primarily with corporations and professional clients in complex litigation involving trademarks, copyrights, patents, trade secrets, unfair competition, non-competition and confidentiality agreements, insurance coverage, commercial transactions, professional service contracts, fraud and other business torts.

MR. EDWARD SUMMER, FILM WRITER

Mr. Summer has contributed to the productions of Conan the Barbarian, Star Wars, The Dark Crystal, has worked with CBS, Walt Disney Pictures, Universal Pictures and in many other capacities in Entertainment and Publishing.



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Damon & Morey LLP regularly provides its clients, including businesses and individuals in the music and entertainment industries, with legal counsel and representation in connection with intellectual property matters and contracts. Our attorneys are skilled in the development of intellectual property protection strategies, registration and negotiating and preparing agreements for the exploitation of original works, performance rights, derivative works and "works for hire". We help clients navigate the multiple layers of statutory U.S. copyright laws and international conventions and treaties that govern the creation and ownership of copyrights, moral rights and performance rights, and avoid the shoals of trademark infringement and violations of rights of publicity and rights of privacy. Our attorneys are experienced in enforcing intellectual property rights through litigation and injunction practice. Our associations with attorneys in Canada and other foreign jurisdictions help us to better assist our clients with the development and maintenance of international intellectual property portfolios.

Basic Points

- **"IDEAS"** – are not protectable under the copyright law but your particular expression of an idea may be entitled to protection if it is sufficiently "original". The test for copyright infringement is "substantial similarity" between the works. Literary characters enjoy limited protection under the copyright law, however, rules of unfair competition and trademark infringement may apply in certain circumstances to protect distinctive characters. The rights of privacy and rights of publicity of individuals cannot be summarily disregarded and slanderous or "false light" portrayals of even famous people could result in legal liability.
- **GET AN AGENT** – who is experienced in the film industry to introduce your script and look out for your interests. Most professional producers will not even read a script unless it is submitted by an agent.
- **GET IT IN WRITING** – Be sure that you have agreements in place to protect your intellectual property interests in your work before distributing or sharing your script or reviewing or working on another person's work.
- **REGISTER YOUR SCRIPT** - with the United States Copyright Office or, at least, The Writer's Guild of America (East) Screenplay Registration Service. Registration with the United States Copyright Office is a pre-requisite to any legal enforcement action and makes available statutory damages and attorneys' fees depending on the circumstances. Registration with The Writer's Guild of America (East) Screenplay Registration Service offers a mechanism to assist in establishing plagiarism while maintaining the confidentiality of your script. This service does not establish copyright registration.

SCREENWRITER'S INTERNET REFERENCE LIST

Here are some useful links to basic reference information on copyright, trademark, the public domain, and screenplay registration. The material and content available on these sites were not prepared by the *Buffalo Niagara Film Festival*, Damon & Morey LLP or any presenter, and should be attributable to their respective authors. This reference list should not be construed as approval of any material or content posted on any of these sites by the *Buffalo Niagara Film Festival*, Damon & Morey LLP, or any presenter, or the association of any author or organization with the *Buffalo Niagara Film Festival*, Damon & Morey LLP, or any presenter.

United States Government Copyright Office

<http://www.copyright.gov>

Creative Commons Copyright Reference

<http://creativecommons.org/>

United States Government Patent and Trademark Reference

<http://www.uspto.gov/main/trademarks.htm>

Duke University reference on definition of Public Domain

<http://www.law.duke.edu/cspd/comics/>

Writer's Guild of America (East) Screenplay Registration Service

http://www.wgaeast.org/script_registration/

