



KEEPING IT LEGAL

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GENERAL LAW OVERVIEW

- This is not intended as legal advice and does not constitute an attorney/client relationship. Each situation is different and an attorney consulted on your personal issues. Today we are doing a general overview of laws that may affect your art career



TOPICS

- Business Structures
 - Different Business Entities
 - How to create
- Copyright Basics
 - Obtaining copyright
 - Copyright coverage/exclusions

FINDING A NAME AND AVOID GETTING A CEASE AND DESIST LETTER

- Google the name and find out if in use
- Also search on the Secretary of State webpage, the link is below:
- <https://tncab.tnsos.gov/business-entity-search>
- Look on google and other domain registration sites to see if registered there
- Another good place to look is on social media platforms
- There are plenty of companies out there to take your money to look but buyer beware and know a lot you can do yourself



BUSINESS STRUCTURES

- Sole proprietor
- Sole proprietor d/b/a
- Partnership
- Limited Liability Company (LLC)
- Professional Limited Liability Company
- Nonprofit
- Sub Chapter S Corporation
- Corporation



SOLE PROPRIETORSHIP

- Most common business form
- Sole individual (or can be a married couple)
- Only need social security number



SOLE
PROPRIETORS
HIP D/B/A

This still qualifies as a sole proprietorship

Only need a social security number

Must check if someone else using name

All names registered with TN
Secretary of State good place to research

LIMITED LIABILITY COMPANY

- Now getting into entities which you use either a social security number or a FEIN (Federal Employee Identification Number)
- Even if you do not have employees can apply for FEIN
- The number obtained from the IRS website- the link below
<https://www.irs.gov/businesses/small-businesses-self-employed/get-an-employer-identification-number>
- Have to file with TN Secretary of State and renew every year – the link is below
- <https://www.tn.gov/revenue/for-businesses/for-new-businesses/general-business-set-up-information.html>
- This entity provides a corporate shield for your business

A blue ribbon with a gold laurel wreath is the central focus. The ribbon is draped and has a textured appearance. A white circuit board overlay with various lines and nodes is positioned on the left side of the image, extending towards the center. The background is a solid teal color.

WHAT IS A CORPORATE SHIELD?

- The "corporate shield" (also known as the "corporate veil") is a legal principle that protects the personal assets of a corporation's owners, officers, and directors from liability for the corporation's debts and obligations. This means they are not personally liable for the corporation's actions, including lawsuits or debts, as long as the business is run with care and integrity.



PLLC

This one is limited to professional services companies

Same requirements as an LLC with the addition of the professional service has to be provided

(6) "Professional service" means a service that may be lawfully rendered only by a person licensed or otherwise authorized by a licensing authority in this state to render the service



CORPORATIO N

Must obtain a FEIN and register with the Secretary of State

A little more complicated than LLC because requires corporate papers (articles of incorporation, bylaws, shares, etc.) and requirements (annual stockholders meetings, procedures for special meetings, etc.)

The yearly registration with the State is higher than an LLC

Provides the corporate veil for protection

Double taxation – the co pays taxes and then pay as employee

A white calculator is positioned on a document, with a white circuit board overlay on the left side of the image. The calculator's display is blank, and its buttons are clearly visible. The document underneath has some faint text, including a phone number '1-530-801'.

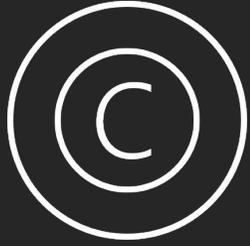
CORPORATION S CHAPTER

- Must have FEIN and register with the state
- The requirements set to help small business
- Single taxation
- Corporate View for legal protection
- Must still have corporate paperwork (articles of incorporation, bylaws, minutes, shares, etc.)
- Must register for S status at time of obtaining the FEIN



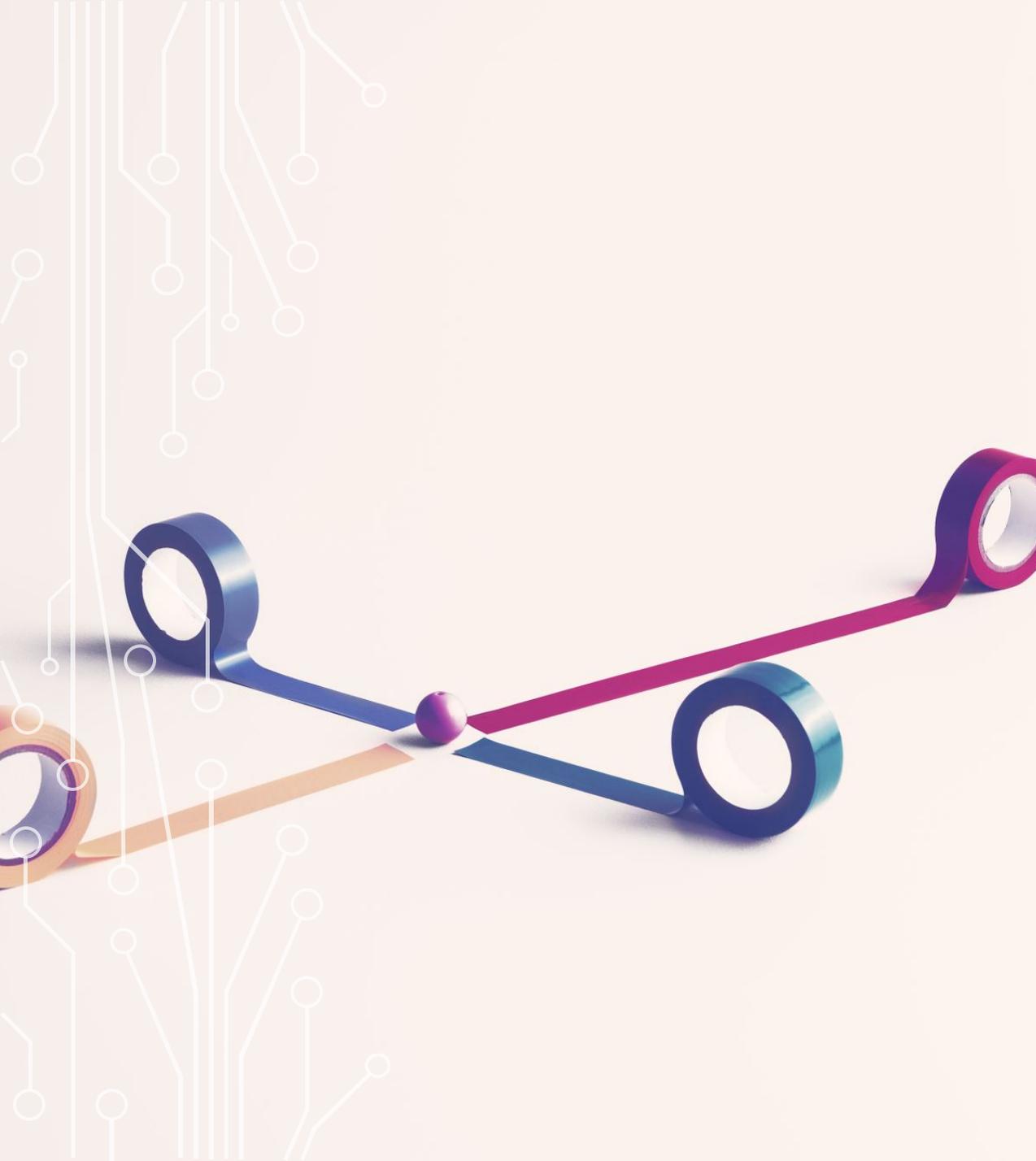
NONPROFIT

- Requirements have gotten much tighter over the years
- Now a 30 something page application
- Strict requirements for bookkeeping, company structure, boards, etc.
- This model requires some serious planning beforehand
- They do have tax exempt status from the IRS and people can write off donations to a nonprofit



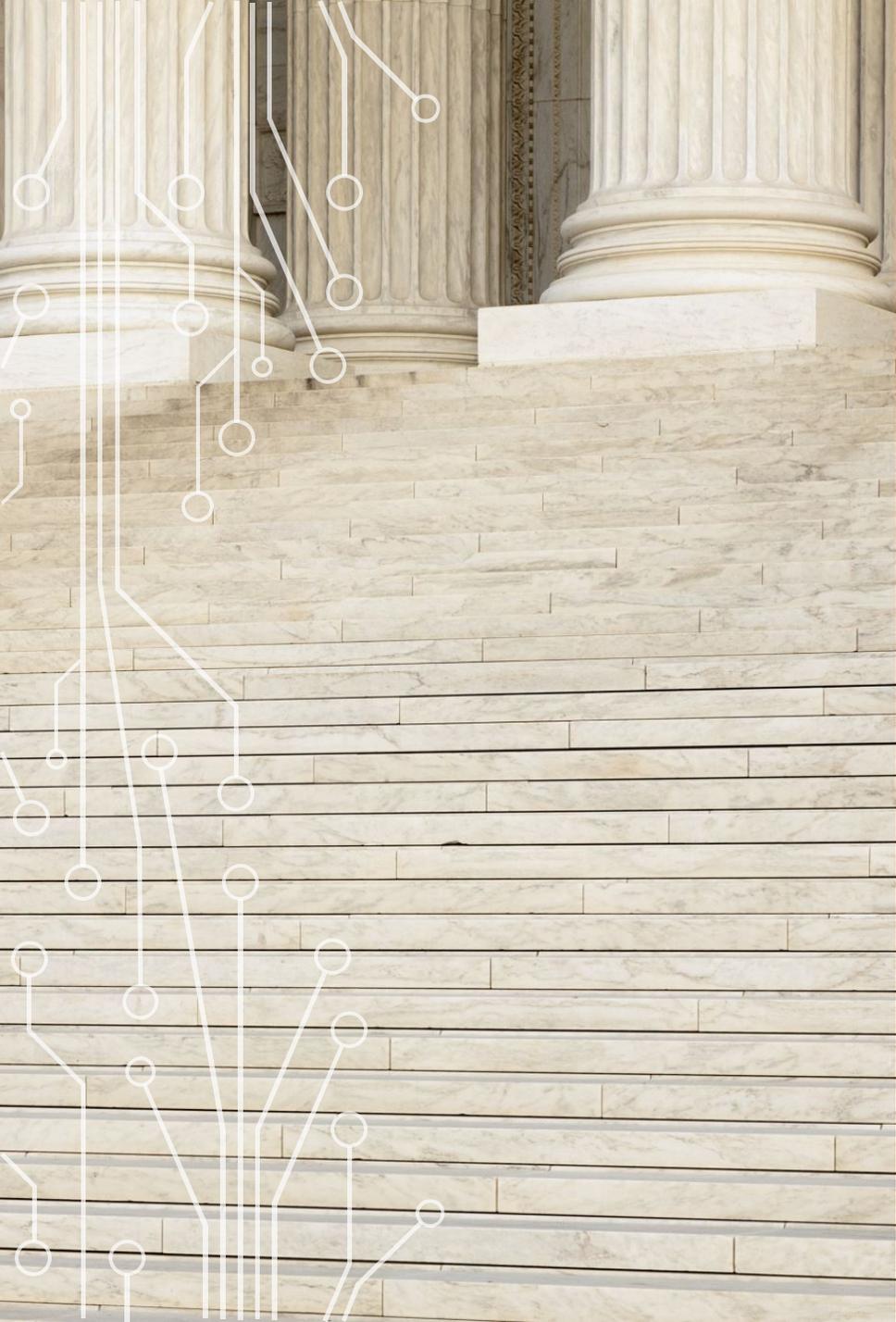
WHAT IS A COPYRIGHT? IT IS ACTUALLY A CONSTITUTION RIGHT

- The copyright office defines as “Copyright is a type of intellectual property that protects **original works of authorship** as soon as an author **fixes** the work in a **tangible form of expression**. In copyright law, there are a lot of different types of works, including paintings, photographs, illustrations, musical compositions, sound recordings, computer programs, books, poems, blog posts, movies, architectural works, plays, and so much more!”



WHAT DOES THAT MEAN CREATIVE/ORIGINAL?

- Works are original when they are independently created by a human author and have a minimal degree of creativity
- The keys are here: Are they original? Did a human create? Is there some degree of creativity involved in its creation?



ORIGINAL AND CREATIVE FOR COPYRIGHT

- The Supreme Court has said that, to be creative, a work must have a “spark” and “modicum” of creativity.



WHAT EXACTLY IS COVERED

copyright protects expression, and never ideas, procedures, methods, systems, processes, concepts, principles, or discoveries.

How long does it last?

Everything created after 1978 is covered for the life of the artist plus 70 years

WHAT DOES A COPYRIGHT PROTECT

U.S. copyright law provides copyright owners with the following exclusive rights:

Reproduce the work in copies or phonorecords.

Prepare derivative works based upon the work.

Distribute copies or phonorecords of the work to the public by sale or other transfer of ownership or by rental, lease, or lending.

Perform the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a motion picture or other audiovisual work.

Display the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a pictorial, graphic, or sculptural work. This right also applies to the individual images of a motion picture or other audiovisual work.

Perform the work publicly by means of a digital audio transmission if the work is a sound recording.

REGISTRATION OF A COPYRIGHT

- The registration application can be done online and the link is:
- <https://www.copyright.gov/registration/>
- The fees go from \$35 on up – to see the full fees here is the link:
- <https://www.copyright.gov/about/fees.html>
- To learn about the whole process, the Copyright toolkit can be found at this link:
- <https://www.copyright.gov/intellectual-property-toolkits/copyright-registration-toolkit.pdf>
- If in doubt contact a lawyer who specializes in copyright as the area requires expertise to navigate



EXCEPTIONS TO COPYRIGHT UNDER THE FAIR USE STATUTE

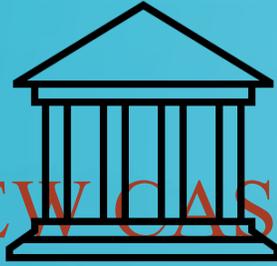
107. Limitations on exclusive rights: Fair use⁴⁰

Notwithstanding the provisions of sections [106](#) and [106A](#), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

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NEW CASE LAW FOR AI CREATED IMAGES

This case was from the Washington DC and was decided by the Court of Appeals – so it has not gone before the Supreme Court

It is the first case on copyrights for AI created works so the prevailing authority

- The Thaler v. Perlmutter case is a landmark ruling that established that AI-generated works cannot be copyrighted. In this case, Dr. Stephen Thaler sued the Copyright Office after they refused to register a copyright for an image generated by his AI system, "Creativity Machine". The court ultimately ruled against Thaler, reaffirming that human authorship is an essential requirement for copyright.

THANK YOU FOR COMING

The future of art with the advent of computers and now AI is rapidly changing – now the artist can have world-wide exposure, something unheard of in the past. What we have covered here is barely the tip of the iceberg. We have been discussing US rules and regulations, and if you plan on selling out of the US there are many more topics. Then with AI and other mediums the copyright landscape is quickly evolving and it will be interesting to see where we go from here.

Thank you for attending and it has been a pleasure speaking with you