

## insights

TYPES NOT MAPPED YET December 04, 2019 | TTR not mapped yet | Mark Sableman

# Copyright licenses are as easy as a quick few words

It doesn't take any formalities to authorize someone to use your copyrighted work. Whether we call it a "license," "permission," "a grant of rights" or something else, this step is often taken very informally.

Consider a recent dispute between a writer and the Buffalo News newspaper. Joel Joseph wrote an article. He emailed it to the News. A News editor, interpreting it as a proposed op-ed article, wrote back, "I think I'll have a spot for this in our Sunday Viewpoints section on September 13. Thank you."

Mr. Joseph responded, "Great. Thanks."

That was the total exchange. And it was sufficient to show that Mr. Joseph granted a non-exclusive license to the News to publish his article. And because neither his original email nor his two-word reply imposed conditions, his license to the News was unconditional. So he was not entitled to compensation.

When Mr. Joseph later sued the News for copyright infringement, the district court dismissed his claim because he had authorized the publication of his article by offering it to the News without conditions. The Second Circuit U.S. Court of Appeals affirmed.

Nor did Mr. Joseph's complaint about the article being used in the News website work. The appeals court noted that when a copyright owner gives authorization to publish something, he bears the burden of providing any limits on the scope of the authorization. And Mr. Joseph could not point to having limited his authorization.

If you are thinking that copyright law includes many formalities that must be followed, you are generally right. A sale or other transfer of a copyright, for example, must follow particular requirements, including a signed document containing all the relevant terms.

But the mere authorization for someone else to use your work (a license, right or permission) can be accomplished quite informally. For example, by saying, "Great. Thanks."

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