

## **Legal planning for 2019 - Copyrights (S3E67)**

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**00:06 Autumn Witt Boyd:** Welcome to the Legal Road Map® podcast for online and e-commerce entrepreneurs. I'm your host, lawyer Autumn Witt Boyd. I'm an experienced copyright and trademark lawyer, with my team at the AWB firm I leverage, grow and protect multimillion online businesses. My goal in every episode is to teach you about the sophisticated legal and business strategies to build your own seven or eight-figure business. If you're a new business owner, go back and listen to episodes 1-12. You'll learn the basics to set up a strong legal foundation. The Legal Road Map® podcast is sponsored by the AWB firm. You can find show notes for every episode, and learn more about how we help our clients achieve their next level goals at awbfirm.com.

**00:52 AB:** Hi everybody, lawyer Autumn Witt Boyd here, thank you for joining me for the third part in our series about legal planning for 2019. We are going to be talking all about copyrights today. So last week we talked about trademarks and we went through this really handy-dandy worksheet that I have created. This is our five-minute IP audit. It is available at the link right here, it's awbfirm.com/podcast. If you haven't already gone and downloaded that, go there, give us your email, we'll shoot it over to you. It will take, like I said, five minutes to walk you through what in your business may be protected by copyright or trademark.

**01:29 AB:** And as you are wrapping up 2018 and starting to prepare for the big things you have on the horizon in 2019, now is a great time to do this inventory so you can figure out now what kinds of legal protections your business is going to need. Because a lot of these... And especially with copyrights, as I'm gonna be talking about today, you have to put things in place early, probably before you think you need them to be able to take advantage of them if a copy-cat springs up later. So we'll get into more details about why that's so important in a bit, but go ahead and download that worksheet again. It's our five-minute IP audit, intellectual property audit, for your business awbfirm.com/podcast is where you can find that.

**02:08 AB:** Again, I am a lawyer, I will give my standard disclaimer I am not your lawyer, unless you have hired our firm and are working with us one-on-one. So everything that I'm gonna go over today is really just information. This is meant to get your wheels turning and help you plan and think about what you might need to do to protect your business. And everything I'm talking about today, I am licensed to practice law in Tennessee. We have attorneys with our firm who are licensed in Michigan and Georgia as well, but everything with copyright law is federal. So that means it is the same in all 50 states. Everything I'm going to be talking about today is based on US copyright law. It is a little bit different in other countries, we do have an international copyright convention that most countries have signed on to, but there still are minor differences from country to country. So if you are not in the United States, take this with a grain of salt. It may be a little bit different where you live.

**02:54 AB:** So today I'm gonna talk about four big topics when it comes to planning for your business in 2019 with regards to copyright. So I'm gonna go over what is a copyright, how is it different from trademarks? I went over this last week but just in case you didn't catch that one, this

is an area of a lot of confusion. There are a lot of similarities between trademarks and copyrights, but they are not the same.

**03:14 AB:** The second thing we're gonna talk about is what may be copyright-able or already copyrighted in your business. What kinds of content or creative things might you be able to protect with copyrights?

**03:25 AB:** We're gonna talk about some special issues that come up when you are using contractors or employees to help you create content in your business. So we talk about third party works when we talk about this. So that's gonna be our third topic.

**03:35 AB:** And then the fourth thing we're gonna talk about is the really major benefits that come with registering your copyrights and especially doing that early.

**03:43 AB:** So I am going to dive right in, I have my copy of this five-minute IP audit that I'm going to use to kind of guide this conversation, but first I really just wanna start with, "What the heck is a copyright?". And how is it different from a trademark? So when we think about copyrights in your business, this is really going to protect all of the creative work in your business, but not always things that we think about as super creative. So the core of copyright are gonna be things like movies, books, very creative things, photographs, sculptures, art work. All of those things that we typically think of as a creative work. But with your business it's going to go a lot past that, so it could include other things. And we'll get into that later when we look at the audit of what might be copyright-able in your business.

**04:28 AB:** But the general separation between copyright and trademark is that copyright is going to cover creative works. Trademarks on the other hand, are going to cover things that identify the source of products or services from a business. So when we think about trademarks, it's all business. Copyrights can be part of a business, and that's what we're talking about today, but they are more of the creative part of a business, whereas trademarks are things that we think about, like your brand. So common things that are gonna be trademarks will be your company name, if you have a slogan that you use. Nike is one of my favorite examples. So the word Nike is a brand name. The swoosh, their logo which is very familiar, any time you see it you know, "Oh, those shorts or those shoes are from Nike". You know the source of the product, that's what trademark law is meant to do. "Just do it", their slogan, is very popular. Again, when you see "Just do it" on a product you know where it came from, you know it came from Nike.

**05:20 AB:** So all of those things are going to be trademarks in a business. Things, product names. If you have an online course or a popular blog that has a name, all of those could be trademarks. You sometimes will have a URL, a website domain name could be a trademark if you're well-known by that domain name. So it... Trademark law encompasses lots and lots of different things.

**05:41 AB:** There is some overlap between copyright and trademark law, and I usually use Mickey Mouse as my favorite example of this, but there are lots of other creative things that people use in their business. I met with a business owner today who was showing me his new logo for a local event space here in Chattanooga. And it had some really creative elements in it. It was a hand drawn

and so that could be protected by copyright because it's creative, it's something... It qualifies as a creative work, but it also, once they start using it with the business, now when someone sees it they will recognize, "Oh, that's such and such event space". And so now it also signifies the source of a service which is an event space. So again, there's a little bit of overlap but if you think about trademarks as being basically protecting your brand and copyrights protecting more creative work, so that's gonna help you keep them separate, even though there is a little bit of overlap.

**06:30 AB:** So some more just kind of general background on copyrights to help get us moving in the right direction. The rights when you have a copyright though are again, a little bit different than your trademark rights. So with copyright, you get exclusive rights to use your copyrighted work and to stop other people from using it. So this is generally the things that we think about. You have the exclusive right to use it, to copy it, to display it, so like to hang it in the gallery, to sell copies of it, to make other works that are based on it.

**07:00 AB:** This is a right that's called the derivative work right, that you may have heard about. That means if I have an idea for a book and I wanna go make a movie based on the book, that would be what we would call a derivative work or if I create a doll, or something, and I wanna write a book about the doll. Again, it's not the exact same mark, it's something that is based on a prior work that is under copyright law, that's called a derivative work. So you do have the right to stop people from making derivative works of your work if you are the copyright holder.

**07:27 AB:** And then what we call public performance. This is usually with songs or plays, movies, things that are performed in public, you have all of those rights under copyright law.

**07:35 AB:** So let's dig in to this IP audit that I'm gonna walk you through a couple of the steps, so you've got a leg up if you are downloading this and you wanna listen as you go through it, this will help you. So last week, we went through the trademark parts of this audit. So I'm gonna skip over those. Go back and listen to last week's episode, if you're interested in those. But the basic question to ask is "What creative content have you, or your contractors or employees, created for your business?". So here are some ideas that you might not have thought of.

**08:05 AB:** It could be things like custom stock photos, really any kind of photos that you have in your business, your website photos, your head shots, product photos, if you, again custom stock photos, if you've had a photo shoot with your team and you are using those photos in your marketing efforts. Any kind of photos that you have actually created or hired someone to create for you, that would be creative content.

**08:26 AB:** Now, if you are just getting a stock photo from someone else, if you are what we call licensing that from someone else, you're not gonna own that, you just have permission to use it. But anything you've created yourself or you've hired or worked with someone to create for you, that's gonna be something to think about protecting.

**08:41 AB:** Your website, all of the content on your website is going to be covered by copyright law. So if you've got a blog where you're writing articles, that's all gonna be copyright protected. Any images, graphics, even perhaps the layout, if it's really creative and special, could be protected

by copyright law. So I have a lot of clients who wanna protect their blog content, especially if they are getting great SEO or if they're actually making money, if they're taking sponsorships on that, those could be things to think about.

**09:06 AB:** Any kind of marketing materials that you're using are probably going to be protected by copyright. So things like your brochures. If you have a sales page with really great sales copy, that's all protectable by copyright. If you do proposals and you have standard language that you use, some of this is not things that we think of as super creative, but all of this, any kind of written work really, once it's out of your head and onto a computer file or a piece of paper or a website, it can't be an idea. I talked about that last week a little bit. Copyright law does not protect ideas, so it has to be out of your head and into some sort of medium, but the way that you write it, the way that you do your proposals or the way that you have crafted your sales copy is going to be protectable by copyright law.

**09:51 AB:** Another item that is not something we think of as creative but is protected by copyright law would be if you have a handbook that you use in your business, or if you've created a manual or checklists, or you've written down some of your systems or processes into some sort of written form, that could be protectable by copyright. 'Cause that's kind of your secret sauce, you might not want anybody else to copy that.

**10:13 AB:** If you have graphics, blog posts we already talked about. This is not typical with my clients, but we may have some app developers in here or some people who are using technology or writing software or source code in their business, any kind of software is protectable by copyright law. So I get questions frequently from start-up clients about protecting software with a patent. But frankly, a lot of times things are moving so quickly that the patent process is just gonna take too long but you can protect it with a copyright registration. So that's something to think about there.

**10:42 AB:** If you are putting out podcast episodes, if you're making videos, any kind of creative content that you're creating for your business is going to be protected by copyright. Of course, if you're doing music that's kind of the core of copyright. But if you are a product-based business there may be some things you haven't necessarily thought of. So your product labels could be protected by copyright, if they are creative enough. Now if it's just text and a line or some very basic graphic elements, it probably isn't. But if they are creative those could be protected by copyright.

**11:11 AB:** Now, one trick here is those could also be protected by trademark because if you see something on the shelf and you recognize it immediately, now that is an indicator of the source. So now we have kind of some brand elements in a product label, so that's another area where we have some overlap between copyright and trademark. And then again, if you have designs that you print on things like coffee mugs or t-shirts, or if you have a really artistic creative logo for your business all of those things can be protected by copyright. So hopefully that has gotten your wheels turning a little bit about some of the things that might be protected by copyright law in your business that you hadn't thought about before.

**11:46 AB:** Also, a big thing for a lot of my clients are educational products. So, if you are selling an online course or if you have digital downloads for things like worksheets or checklist or guides, all

of that stuff is going to be protected by copyright law and for an online course since you're selling it all together, it kind of is one big copyrighted work. You think of all the videos, all of the different resources that you're giving to your students if you teach an online course or if you sell a program, that's all kind of one big copyrighted work. So something to think about, again, even if it's not a course, if you have a group program where you're using materials or you're taking people through the same system or process, all of those materials could be protected by copyright.

**12:27 AB:** And then what I have a lot of clients doing now, preparing for 2019, is writing a book. I don't think I've mentioned books but that's another core copyright-able asset in your business. So, if you are writing a book, especially if you're self-publishing, you wanna think about protecting that copyright. Now if you're working with a traditional publisher to sell it, they are probably going to take care of registering that copyright for you. You wanna make sure your contract says that they will or that you are gonna take care of it. But either way that is going to be something that is a copyrighted asset in your business.

**12:57 AB:** And then any of... If you are doing an online course but maybe you're not doing videos, maybe you're just using a slide deck with a voice-over, all of those slides could be protected by copyright. If you've got audio files, if you have an opt-in or a freebie, like this five-minute IP audit, this is a copyright-able asset of my business. So it really is very, very broad, the kinds of things that could be protected by copyright. So things to think about that could be protected in your business.

**13:24 AB:** Alright, so the third thing that I wanted to talk about today is going to be the special issues that pop up with what we call third-party works. So as your business grows, my guess is you probably do not have time to be creating everything all on your own. You are gonna run out of bandwidth and you may even, pretty early on, bring in some subject matter specialists, like a graphic designer, or a copywriter or a proofreader, lots of different ways that you can have help with preparing your content, getting it out into the world. Even video editing, podcast editing. There's lots of different ways that we use people to help us as we're creating our content for our businesses and especially if you're creating a course where you have a lot of different parts and pieces moving in that. You may need help with that.

**14:10 AB:** So the trick under copyright law is that when you hire someone to help you, if they are not an employee, they own the copyright. So this kind of flips, it's the opposite of what most people think would be the default rule, but if you have an employee in your business working on something for you, you own it, the business owns it, because as an employee under copyright law, the business automatically is the owner. If they're doing a side project or it's something that's not at all involved in their day-to-day duties, then that would not be owned by the business, but if it's part of their... The scope of their employment with you, then you the business owner, are gonna own the copyrights and all that work. And that makes sense, that's how we think things probably should work.

**14:48 AB:** But the flip side of that is, if it's not an employee, if it's a contractor, if it's someone you hire for a project or you hire a subject matter specialist, like I was mentioning, you hire a photographer, you hire a graphic designer, you hire a videographer, they will own all the copyrights and whatever it is that they have created. And a lot of people are surprised by this because you think I am hiring them, I'm telling them what to do, I am paying them to create this thing, and then they

deliver it to me. But under copyright law, the copyright law sees them as the creator, they don't see you, the person hiring them, as the creator. So it's why it is absolutely critical.

**15:23 AB:** And as you're planning for 2019, I want you to be using contracts and this is a contract that I want you to really think about if you're not already regularly using it in your business, and that is an independent contractor agreement that includes a term relating to intellectual property.

**15:39 AB:** So when I write these for my clients, my favorite way to put these together is to include what we call a work for hire term. And if you're in the creative industry, you may have heard of this but you may not totally understand what it means. So this just basically means that the contractor is treated kind of like an employee under copyright law. So like an employees' work is automatically... It automatically belongs to the employer, they don't have to transfer it, there's nothing that has to be in writing, it's automatic. The employer owns it the second it's created, so if you have a work for hire term in your contract, it's going to do the same thing. It's going to mean that the second the contractor takes that picture or captures that video or creates that graphic that you, the person hiring them, own it.

**16:22 AB:** So you don't have to go back later and get what we call an assignment. You don't have to get something in writing, 'cause under copyright law it has to be in writing, it cannot just be in an email, it has to be in writing and signed. There's lots of hoops to jump through here. So this will save you a ton of time and trouble down the road if you get a work for hire agreement. And there are certain issues that come up if you're trying to register with the copyright office, which we're gonna talk about in a minute, where having a work for hire agreement will give you advantages, rather than having an assignment. So if it's something that you are using as an asset in your business, either as part of a course or in your marketing materials, or it's your logo, it's you know, part of your brand, I want you to think about having a contract with a work for hire provision.

**17:05 AB:** Now, I will tell you when I'm on the other side of this, when my client is the service provider, I don't really like work for hire terms. So you may get some pushback on this because what it does, since there's that automatic transfer or it's not really even a transfer it just automatically belongs to the person who is creating the thing, the contractor now has no leverage to make you pay them if you've got an installment payment plan or something where you're not paying them 100% upfront, they don't have any leverage to say, "Well, I'm not gonna transfer the copyrights if you don't pay me what you owe me". So there's definitely two sides to this issue but I will tell you, if you are the person hiring the contractor and you have bargaining power, I would ask for a work for hire term in your contracts. You're not necessarily gonna get it every time.

**17:52 AB:** And if you can't, then I would say the second best thing is to include a term that says "Upon completion and payment in full, that the service provider automatically assigns all of the copyrights to the person doing the hiring". Again, you don't have to go back to them later and get something in writing, but it does give them a little bit of leverage if something goes wrong or if they're worried about you not paying them in full, they do have some leverage there because the copyrights won't transfer until the project is paid for. And any expenses, anything else that comes up during the project. You wanna make sure that they get paid in full. So that would be my second choice would be to have a contractor agreement that includes an automatic transfer upon completion and payment in full.

**18:32 AB:** And of course, you know, we have contracts that include these terms in our contract template shop that is found at [awbfirm.com/contract-templates](http://awbfirm.com/contract-templates) and we'll drop that link in the show notes and on the Facebook Live page, where this is being broadcast. But it's super duper important, if you haven't already, year end again, is a great time to go back through your contracts, if you already have a graphic designer on your team or a videographer. Usually editors are not really creating things that are copyright-able, but if you do have someone who helps you with your podcast and maybe helps do intros and outros, or you know, they are creating some of that content instead of just splicing together things that you've provided for them, that could be creating copyright-able work.

**19:11 AB:** I want you to at your contracts with them, and if you don't have a contract, I want you to think about for 2019 going ahead and getting an independent contractor agreement. It is gonna have some sort of term dealing with the intellectual property, so that you make sure you own it. And I'll tell you where I see this come up a lot with my own clients. They maybe haven't paid attention to this issue, and then they have now a million dollar course, or a really profitable digital product, and they're ready to register the copyright for it. And I have to ask all these questions about, "Did you create everything yourself? Are there any third parties whose rights we need to worry about?" And they all say, "Yeah, yeah, but I hired them, and I paid them." And then we dig into this issue, and nine times out of 10, I'm not sure I've had one yet, honestly, that we haven't had to go back and hunt down the graphic designer or hunt down the person who wrote some of the copy or who took some of the pictures and try and get an assignment of rights after the fact.

**20:04 AB:** So, it's much, much simpler to just get it on the front end. I haven't yet had a content creator ask for more money [chuckle] for that transfer rights, but it wouldn't surprise me if they did. Because they've finished the project. They don't really wanna be dealing with this paperwork, and especially if they haven't heard from you in a while, or if it was a long time ago, they may be a little bit annoyed and they may ask for payment of something to transfer those rights. So, it would not surprise me at all. This is just one of those things that as you are really growing your business and setting yourself up for success, these are the kinds of things you need to start thinking about earlier rather than later. So that's my third point. If you are working with contractors in your business to create any kind of content that could be copyright-able, I want you to make sure that you actually own the rights.

**20:47 AB:** And if you can't get a transfer of rights, I at least want you to have permission in writing. Because this is another issue that I sometimes see crop up. You know, if you don't own the rights that means you can't register them, which we'll talk about in a minute. That can be an important issue. But if you don't have permission in writing you could have a dispute and you could have... If something goes sour in your relationship or there's hurt feelings about something or a misunderstanding, you could have someone hold you hostage and say, either revoke those rights, or say they never gave them to you in the first place and now you've got all these things that you wanna be using in your business that you can't, and that can be a real problem.

**21:22 AB:** Let's say someone designs a logo for you, and then they say you can't use it and it's how everyone identifies your business. Or someone has done photos for your website and they say, "You have to take them down." I think you can start to see how much we rely on visual and creative

content in our online businesses and this can be a real problem. So, even if you are not able to get that work for hire provision or an assignment of all rights, those are my two preferences, I would at least want you to get something in writing saying, "You do have permission to use it, how you can use it, how long you can use it." I prefer in perpetuity, that's basically forever. I don't like a lot of limitations on these kinds of licenses where you have paid someone to create something for you.

**22:00 AB:** Now, if you're licensing a piece of music or a stock photo or something else that someone has created and they're selling it to lots of different people, that's a little different scenario. There might be more restrictions on what you can do with those. But if you are paying someone to create something custom for your business, I want you to make sure you get permission in writing at the very least to use it with your business and all the things that you think you might wanna do with it.

**22:22 AB:** All right, so the fourth thing that we are gonna talk about with regard to copyright planning for 2019 is registration. So I mentioned at the beginning of this episode, all of the different rights that you have in the copyrights in your business, you have this right to distribute, to copy, to stop other people from doing those things, to stop people for making works based on your work. But the trick is in US copyright law, you cannot actually file a lawsuit for copyright infringement. So if someone knocks off your course or you see their logo, and it looks an awful lot like yours, or I have had clients whose entire websites have been copied verbatim, photos, words, the whole layout, all the design, it's crazy what people will do, as far as copying your work.

**23:06 AB:** You can't actually take them to court until you have registered with the US Copyright Office. Now, I know what you're thinking, you're probably thinking, "I am never going to sue anyone for copyright infringement." It is very expensive, it's very time consuming, it is a huge distraction from the rest of your business and I get it. I don't... Probably don't want you to sue anyone for copyright infringement. But the trick is, if you want to actually stop someone from copying you, you want them to take down the copyright side, or you want them to take down your photos or change their logo or do whatever it is you want them to do, I'm gonna use that word, leverage, again that I used earlier. You want to be able to either threaten to do something they don't wanna do or give them a benefit that they want. You're gonna have to negotiate with them a little bit. This is what it looks like when we find a copycat, it's all a negotiation. And generally, you can be nice, but the thing that really makes people take action is, they don't wanna be sued.

**24:00 AB:** If you threaten to sue them, even if you're never going to, if they know there's a possibility that you could, there is much more likelihood that they will actually do what you're asking them to do. Because nobody wants to get sued, it's expensive, it's time consuming. Takes your attention off the ball where you wanna really be spending your time and energy. So, this is a long way of saying, if you are not registered, if you have not registered your copyright, then the person on the other side receiving that cease and desist letter, you can threaten all you want, say, "Oh, I'm gonna sue you, I'm gonna take you to court next week." But they know if you don't have a copyright registration, you can't. So, that becomes a very hollow threat and your leverage is pretty much gone. So, that is the big reason why I encourage my clients to register early and often. You cannot actually shut down an infringer unless you have a copyright registration.

**24:47 AB:** There are a couple of other really important benefits, so I would say that's the most

important one, but the other big thing to think about is the way copyright damages are calculated. And again, I know you're rolling your eyes and you're thinking, "This is so boring, I am never gonna end up in a lawsuit and if I am, I just don't really care how all that stuff is calculated, it's not that big a deal." Well, I will tell you, again, if... When you are negotiating and trying to get someone to take down to your photo or stop copying whatever it is that you want them to stop doing, if you can threaten them with a really high dollar amount that they're gonna have to pay you, then all of a sudden it makes a lot of sense for them to stop doing the thing that you want them to stop doing.

**25:24 AB:** So under US Copyright Law, if you register your copyright early, so before someone copies it, or within a very short time after, you can get up to \$150,000 per work in damages. So that means, if someone copies three photos, that's three times \$150,000. Someone copies six blog posts that six times \$150,000. You can see, those numbers add up really quickly. If you register after you find out that someone has copied you, so let's say, you didn't register early, but you find out that someone's copied you, you run, you get your Copyright Registration, now you can only get what we call your actual damages. So this is, if you actually lost any sales or if you can show that your reputation was harmed or there's a couple other ways to calculate. If you would have given them permission to use say, your photo, what would you have charged them? This is usually maybe a few thousand dollars.

**26:16 AB:** So you can see the economics of actually filing a copyright infringement lawsuit are vastly different, if you register early versus if you register late. The other big benefit in addition to damages is, you can actually require the other side to pay for your attorney's fees. And that really is where the bulk of the money is spent in copyright infringement litigation. It is really expensive, it is in federal court. It is big boy and big girl court. It is very serious. It's expensive. It will probably take several years if you actually go to trial and you are looking at multiple six figures, hundreds of thousands of dollars in attorney's fees and expenses, if you actually get all the way to trial. So that's a huge investment that most businesses cannot afford to make.

**26:58 AB:** But, if you know that at the end, you could be reimbursed for that or if the other side has insurance, their insurance company could be paying for that, again, it gives you more leverage when you're negotiating. So now you've got not just your damages, which up to \$150,000 per work, if you've registered early, but you can also ask them to pay your attorney's fees, if you've registered early. If you have registered after you find out about the infringement, you are out of that time period, you can't get your attorney's fee. So, these are again huge, huge levers that you can pull, if you find a copycat using your work.

**27:34 AB:** So, the US Copyright system is very heavily tilted. They really want you to register all your work, and they give you all of these really great benefits, if you register, and if you register early. So, if you've got something that's a really valuable part of your business, either it's something that has been great for you in the past, a successful product, a successful course or a book, a digital download, maybe you sell templates, there's all kinds of things that we talked about, that we identified already, through our five-minute IP Audit Worksheet that could be making you money in your business.

**28:04 AB:** I want you to think about, if you haven't already, going ahead and registering those with

the Copyright Office. I do recommend working with a lawyer. The form seems pretty easy, but there's a lot of trickiness especially with what I mentioned before, if you've got third party works, you've got employees, contractors, work-for-hire, all of that is a little tricky on the form. So you can fill it out online yourself at [copyright.gov](http://copyright.gov), but I do recommend working with a lawyer. I will say the process is much simpler and the filing fees are much lower than for trademarks. So again, if you have to do it by yourself, I would rather you do it by yourself than not do it at all. The benefits are so great. The downsides are so huge, if you don't do this and you find someone infringing, it just makes it virtually impossible to go after an infringer, if you haven't done this early. So I want you to look at your business, see what is valuable, see what is making you money and think about going ahead and registering those things with the Copyright Office.

**28:56 AB:** And if you were launching something new, especially something you're putting a lot of money behind a big new product or a big new book, I want you to think about registering it before you put it out there. It just will make it so much easier if it's copied later on. You don't even have to think about it, again, you can do it early, you can actually register things before they're what we call published, and that means before they're put out into the world for sale or for license. So it doesn't have to be traditional publishing when you think about it. It could be putting out a course for the first time. You can register all of that stuff before it's actually put out, and that is a great idea, if you have something that... Even if it hasn't been proven yet, you are putting a lot into and you wanna make sure you can protect it. I definitely would recommend thinking about that for 2019.

**29:39 AB:** Alright, so that wraps up the four things I wanted to talk about with copyrights. We talked about what is a copyright, how is it different from a trademark, what kinds of things could be copyright-able in your business? Some of the issues with third-party works, and employees and contractors in your business and the big, big benefits that you get from registering.

**29:55 AB:** And I don't think I said this actually, under US Law, we do have automatic copyright protection. So, you automatically have these rights, but you can't do anything with them until they're registered. So, registration is not required, but if you ever plan to enforce your rights, it's virtually required because you can't do anything, you can't sue someone and you cannot effectively threaten someone, send a cease and desist letter without having that registration in hand. So, we do have automatic benefit, automatic rights in the United States. The second you create something, you do have rights in it and a lot of people think they don't need to register, because they have those rights. But the downside is, you can't do anything with them. So okay, that was our fourth topic was the benefits to registration early.

**30:34 AB:** Next week, we are starting to get into the holiday season, so this episode will go live on Monday and the following two weeks, are gonna be holiday weeks, so we will have replays from the archives of two really great episodes that you probably haven't listened to, 'cause they were from our first season. So we're gonna follow up some of this copyright and trademark planning talk with an episode that I call Copyright 201, Copyright and Trademark 201. So this is about how you can use other people's work in your business. So this is, if you are again, trying to find images for your website and you don't wanna create them or you don't wanna hire someone to create them, how can you do that the right way, if you're using music or videos, or any of that kinda stuff?

**31:16 AB:** Copyright and Trademark 201 using other people's work legally. And same thing, if you

are using other people's trademarks. I get a lot of questions, "I wanna do a course about Etsy, or I wanna do a course about how to use Trello. Can I use that trademark?" So we'll go into that in that episode as well. And in the following week, we're gonna do an episode from the archives about dealing with copycats. So, what do you actually do, if you find that your work has been copied or someone has created a business or a product name that's really similar to yours? So, look out for those episodes and I will see you in the new year. Have a great rest of your week, and happy holidays.

[music]

**31:54 AB:** Did you know that you could be making more money from your copyrights and trademarks? Intellectual property is probably the most valuable asset in your creative business, but most entrepreneurs don't know how to identify it and you can't monetize what you can't find. Download my free five-minute IP Audit Worksheet at [awbfirm.com/podcast](http://awbfirm.com/podcast). You'll find out what parts of your brand, logo, images, website, courses, digital downloads, or other content could be protected by intellectual property laws. And you'll create an inventory of your most valuable trademarks, copyrights, patents or trade secrets, so you'll know what's worth protecting as you build a more profitable and sustainable business. Get your five-minute IP Audit Worksheet now at [awbfirm.com/podcast](http://awbfirm.com/podcast).

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