

Webinar: Copyright & Social Media

June 26th, 2018

Questions and Answers

Question 1:

Can you redefine what you mean by individual character for a text tweet? Like a personal advice for example?

Answer:

The individual character results from the personal decision taken by the author and the surprising or unusual character that result from the work, as opposed to commonplaces or trivial elements. Most tweets should be considered as trivial.

An example of trivial tweet could be “@niceweather, today is going to be really hot, time to go to the beach”, “or @swiss_football, we gonna win tomorrow”.

An example of protected tweet is more difficult to find. However, we can think about some works that fit the limitations of a tweet: “another year is gone / a traveler's shade on my head, / straw sandals at my feet”, a haiku from Matsuo Basho could be considered as a work, and then a tweet containing such work should be protected.

Question 2:

Que se passe-t-il si en tant qu'auteur vous publier directement sur internet un de vos dessins? Doit-on partir de l'idée que vous avez donné votre accord? Et sur votre propre site?

Answer:

Answer by Vincent Salvadé during webinar in chat:

Sauf exceptions expressément prévues par la LDA, ces tiers doivent demander votre autorisation.

Vous avez bien sûr donné votre autorisation pour une publication sur votre propre site. Mais cela n'implique pas que des tiers (par exemple les internautes) puissent utiliser votre dessin. Sauf exceptions expressément prévues par la LDA, ces tiers doivent demander votre autorisation.

Complement by Yves Bauer:

In principle, the author keeps his rights, unless he expresses the contrary. You should base yourself on the idea that if nothing is mentioned, the author keeps his rights.

Some terms and conditions however state that by publishing your work, you agree to license some rights to the users. For example, Wikipedia's terms and conditions state that you agree to submit your work to the license Creative Common CC BY SA 3.0, which allows users to share and adapt your work, provided they credit you.

Question 3:

You said selfies are not protected. If I alter a selfie of someone and publish it on my FB, that's okay?

Answer:

Selfies are (usually) not protected according to copyright law, but other laws might be applicable.

The selfie as such can be considered as a work according to the CopA, but we must take a restrictive approach when assessing the individual character of the photography.

In the case where a selfie does not meet the criteria set by article 2 CopA (especially the individual character), the photo itself is not protected according to the CopA, thus author rights such as the right to integrity are not applicable.

Please note, however, that copyright law is not the only law that is applicable to what happens on social media. Other obligations such as obligations stemming from the protection of personality might enter into consideration and forbid this type of behavior.

Question 4:

Does it depend if you republish or share a work?

Answer:

The performing right encompasses each situation where the user makes the work available. In that sense, publishing or sharing the work within a circle of persons that are not closely related can be both considered as making the work available, and it is risky to consider that the author implicitly authorises anybody to use his work in that sense. For this reason, it is safer to use a hyperlink.