

# Legal & Copyright Issues Facing Podcasters



## Corporate Podcasting Summit

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# Caveats

- ✓ I'm not a lawyer
- ✓ You should talk to your lawyer about legal issues **before** you podcast
- ✓ These issues vary by country and are interpreted differently by every company

# Mac vs PC



James Lewin, The Lewin Group

*You want to do cutting edge media, but you have to deal with corporate realities.*

This can make corporate podcasts:

- ✓ Slow, untimely
- ✓ Stilted
- ✓ Boring
- ✓ Lost forever in the bowels of corporate bureaucracy

You don't want to react to legal issues.



# Dealing with these issues

In order to make creative, innovative and timely corporate podcasts you need **to proactively and aggressively** deal with legal and copyright issues, along with issues of governance, company politics, justification, etc.

These legal and corporate challenges vary from company to company, but there are common things most corporate podcasters will need to deal with.

# Common challenges for podcasters

There are several legal issues that almost any podcaster must deal with:

- ✓ Copyright
- ✓ Trademark
- ✓ Right of publicity

# Common challenges: copyright

There are a lot of things you can do as a podcaster that raise copyright issues:

- ✓ Incorporating third-party content, such as music, into your podcast
- ✓ Adapting content for your podcast
- ✓ Publishing your podcast

# Common challenges: trademark

Trademark protects the rights of a company's brand. There's a long history of trademark problems in the world of podcasting

- ✓ Podcast pioneer Adam Curry basically killed his iPodder site because it infringed Apple's trademark
- ✓ Many other companies and individuals have had to deal with Apple because they used "iPod" in names.

# Common challenges: publicity rights

Publicity rights let people control how their voice or image is used for commercial purposes. This becomes an issue to consider when you do things like conduct interviews, video people and include images in enhanced podcasts.

# Copyright: When you can copy

You normally don't need permission when:

- ✓ Using facts, titles or ideas
- ✓ Using works in the public domain
- ✓ Using government works (in US)
- ✓ Making fair use (not cut and dry, though)
- ✓ Using content licensed for sharing, such as Creative Commons music

# Copyright suggestions

Some tactics that may make dealing with copyright easier:

- ✓ When using music, take advantage of works that are specifically licensed for sharing
- ✓ Get clear definition of how your company interprets fair use
- ✓ If there's a doubt, leave it out

# Trademark suggestions

Trademark is usually less of a problem for podcasters

- ✓ You can use trademarks for informative or comparative purposes
- ✓ Best practice would be to identify trademarks both verbally in your podcast and in show notes
- ✓ Other uses can cause problems - example of podcasts with iPod in the name

# Dealing with publicity right

If you have incorporate peoples images, voices or other elements of their identity in your podcast:

- ✓ Have standard release forms
- ✓ Make sure you have release forms for people before you interview or photograph

# Dealing with these issues

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# Dealing with these issues, continued

More suggestions:

- ✓ Define what the issues are in your company and hammer them out
- ✓ Have forms ready to deal with permission, etc
- ✓ Use music licensed for sharing, or commission custom music
- ✓ Identify a small group of people that can approve a podcast in a timely fashion

# Additional resources

Here are some great sites that discuss legal issues relating to podcasting:

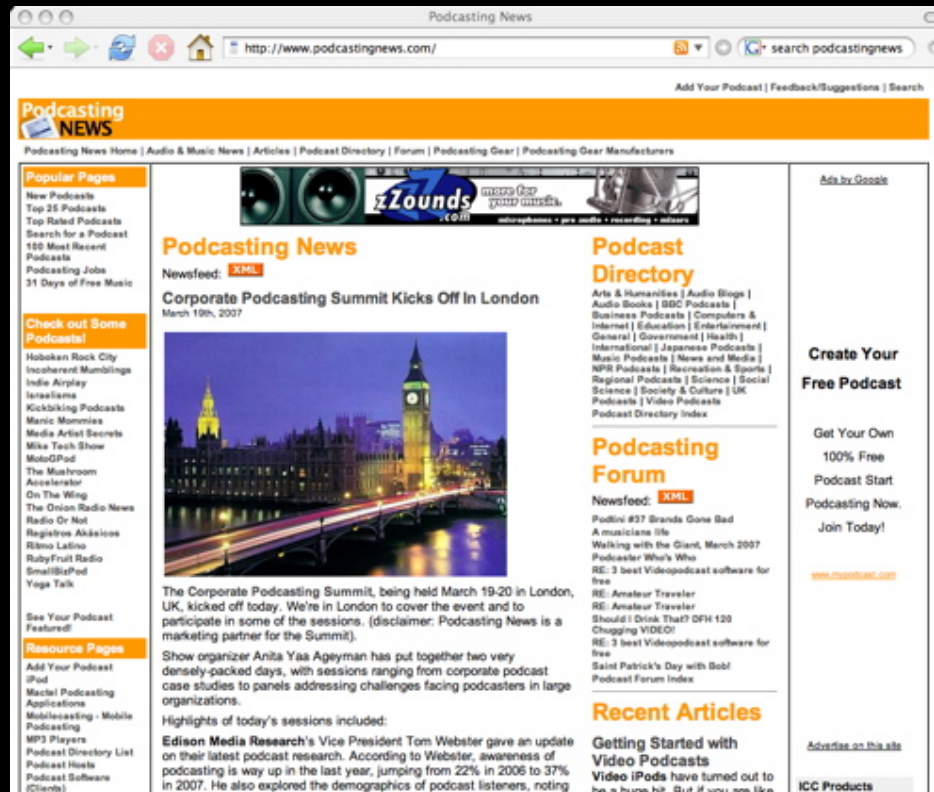
- ✓ [CreativeCommons.org](https://creativecommons.org)
- ✓ [Cyberlaw.stanford.edu](https://cyberlaw.stanford.edu)
- ✓ [www.eff.org](https://www.eff.org)

# Podcasting Legal Guide



[http://wiki.creativecommons.org/Podcasting\\_Legal\\_Guide](http://wiki.creativecommons.org/Podcasting_Legal_Guide)

# www.PodcastingNews.com



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