

BOOK MARKETING MENTORS

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BOOK MARKETING: How To Understand What You Need to Know About Copyrights Interview with Judy Weintraub

Susan: Welcome to Book Marketing Mentors, the weekly podcast where you learn proven strategies, tools, idea, and tips from the masters. Every week I introduce you to a marketing master who will share their expertise to help you market and sell more books. Today, my special guest is a multi-faceted expert. Judy Weintraub is an accomplished entrepreneur, business executive, attorney, and is a best selling author of *The Essentials of Negotiating Effectively* and the author of *How to Build Successful Business Partnerships*. She's the founder of SkillBites, providing book writing and publishing services designed to help authors get their books written and published easily and quickly. In addition to SkillBites, Judy runs Weintraub Legal Services, providing dispute resolution services and corporate law services to small businesses.

So Judy, what a pleasure it is to welcome you to the show, and thank you for being this week's guest expert and mentor.

Judy: Well, thanks for having me, Susan.

Susan: Judy, want to tap into your legal expertise and love you to put that attorney hat on and talk to us about copyrights. What can and should an author copyright?

Judy: When an author writes a book or article or anything else, they already own the copyright interest in what they have written, even if they don't put a copyright notice on it. Putting a copyright notice, however, provides that notice to others that it is copyrighted. In addition, if they were to register their copyright interest with the U.S. Copyright Office, that gives them additional remedies in the event that someone infringes on their copyright interest. Unfortunately, there are people out there who will go online, download an ebook, and then copy all of the information, use the same cover, and put their own name on it. If you were to try and go against them without registering your copyright interest with the U.S. Copyright Office, the cost of doing that would be much more than what you might be able to recover in a lawsuit. But if you register your interest, which doesn't cost a whole heck of a lot, then you get statutory damages, which make the lawsuit worthwhile so that you can enforce your copyright interest.

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- Susan: The idea of somebody infringing on your book by downloading it and just publishing it or republishing it under their own name, that just blows my mind that people would even think to do that.
- Judy: Well, unfortunately, it does happen. It's happened with two of my author clients. Fortunately, Amazon is pretty good about that. So if you were to go to Amazon and tell them about this, they will kick that other author off. That doesn't mean that other author can be on other platforms that you might not even know about selling your book under their name.
- Susan: They could actually though take your book and put another name on it, another title, let's say, and their name, that would be harder to trace.
- Judy: That would be harder to trace.
- Susan: What about the difference between a trademark and a copyright?
- Judy: A copyright exists in something tangible like a song or a book or something like that. A trademark protects a name or a symbol that is used to identify whatever the product is. So for instance, for SkillBites, the name SkillBites is trademarked. The logo of SkillBites is trademarked. But that wouldn't apply ... I wouldn't copyright those. Does that makes sense?
- Susan: It does because I actually went through that same process when I wrote my book *Riches and Niches: How To Make It Big In A Small Market*, and I created the word 'nichepreneur' or 'nichepreneur'. I didn't want anybody else to use that so I did exactly what you said. Just like you did with SkillBites, I did that with nichepreneur, so that has a trademark that I use every time I use the word. I add that little symbol.
- Judy: Now, one of the interesting things about trademark is you actually can trademark the title of your book if you are using that title for more than just the book. As an example, one of my authors was writing a book on the discussions that couples should have before they get married. So after they become engaged. Sort of like prenuptial discussions. She was going to title her book something like *Before the I Do's*. She had created the cover. She had sent the cover to me, as well as the manuscript for uploading to Amazon. Before I did that, I went on Amazon and just checked to make sure that that title hadn't been used before. I discovered not only had it been used, but the other author who used the same title that she was planning to use, had registered that title because he was using it in workshops and in group coaching sessions and things like that. Had she used that title, had she published it, she could have gotten into a big legal mess, but fortunately, we caught it before she published. She did

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have to change the title on her cover. She did have to change her title on the headings, the headers in her book. But that was a lot less expensive than she would have faced had she actually gone ahead and published the book.

Susan: So what that says to me, Judy, is that the author is responsible to do their own due diligence on and do some research when it comes to the title of their book. Is that correct?

Judy: That is correct. If it's a title that the author wants to protect and is planning to use in their business, they can trademark that. But, again, they should register that trademark to put people on notice that it's their trademark.

Susan: Yes. That's really important. Let's talk about what you can and can't copyright.

Judy: In the area of writing, you can copyright anything that you are doing that's original. If you are taking material that's somebody else has written, you can't copyright that. But if it's original work that you're drafting, that can be copyrighted.

Susan: What about getting permission from other people if you want to quote them or use some aspect, a story, a vignette, an example, a case study about them or their business, what's the process with regard to getting permission?

Judy: If you are merely quoting a sentence or two, you don't need permission. You just need to put what you are quoting in quotes and you need to site where it's coming from. If you are using something much more extensive, say an assessment form that somebody else put together or maybe several paragraphs or something like that, then you ought to seek permission. That's a matter of getting in touch with the creator of that material or the author. If it's from a book and you don't have their contact information, you can follow up with the publisher, which you can usually find on the copyright page, or look online if you might be able to find the author that way by just plugging their name into a Google search or maybe a LinkedIn or a Facebook search or something like that and hoping that not too many people have the same name.

I have found so far that it's not been difficult to obtain consent for things like that because authors actually really like it when their material shows up in multiple places. They'll get attribution to it and the more people will learn of their expertise.

Susan: I have an interesting situation that has cropped up that I am taking on an author who was originally published through a traditional publisher for her particular work. The publisher has decided no longer to publish that piece, but yet she

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believes that there's a market for the book still. So she's going to self publish under Aviva Publishing. For the traditional publisher, she had to get signed permission to use certain examples, like you said, quotes from people. Do those automatically revert now to Aviva Publishing that or does she have to seek that permission again? I mean, she got this permission maybe 10 years ago. Some of the people have passed away since she got that permission. What's the position in a situation like that?

Judy: I can't tell you definitively because I haven't researched that particular issue. But based on the experience that I have in that area, I would feel pretty confident that she would not need to re-solicit approval. If she has the original approval, preferably in writing, that should hold for a republishing that book.

Susan: Even though that permission was for the traditional publisher to publish the work?

Judy: Right. It's the same book.

Susan: Correct. It hasn't changed in any way and the quotes haven't changed in any way.

Judy: Right.

Susan: That's very helpful. Thank you.

When would an author need to hire an attorney? I mean, would they need one to do the copyright for them or is it something they can do themselves? How does that work?

Judy: It's definitely something they can do themselves. There's a form that's available on the copyright site. It's a matter of filling in the form and sending in two copies of the printed work, if the book is in print, or if it's just an ebook, then you can fill out the form and you can attach the ebook file. But if the book is in print, then you must include two print copies. You don't have to include them with the copyright application. You can do the copyright application online and then you can send in the two print copies. In fact, on the online application, you can check a box saying that the book's in print and you can even print out a mailing label so that you can attach that to the package when you send in your two print copies. Exactly sure why they need to print copies rather than just getting the ebook, which is so much easier to send. But right now, that is what the law says. You must send in the print copies if the book is in print.

Susan: And if it is only in an ebook version, how does that work?

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- Judy: When you do the copyright application online, you can just attach the ebook file to the application. There's a place there where you can check the box and it allows you to include the ebook for the Copyright Office to download.
- Susan: What are some other legal issues that authorpreneurs should be aware of?
- Judy: There's a variety of ones. If you are working with a publisher, one of the issues you should be aware of is to know whether the publisher is demanding ownership of the copyright. There are many publishers out there that if you publish under their publishing house, then you're giving up your copyright ownership per your publishing contract. Be wary if you are publishing through somebody else that you're not giving up those rights or if you are, then you're aware of that and you're okay with it. What it means if you do give up your copyright rights, then you can't do anything else with that material, which can really restrict you from doing things that you might otherwise want to do.
- Susan: I have a story with Wiley. When my book Meeting and Event Planning for Dummies was going to come out that they decided because of 9/11 that they were no longer going to be any meetings and events, therefore, they weren't going to publish my books, which was literally ready to hit the presses. It was devastating, let me tell you. Any event, I worked really hard to make them understand that meetings and events were still going to continue. But what they actually told me at the time was that they have the right for 18 months to keep the material and change their mind if they wanted to go ahead and print it. Then after that, those rights reverted to me. But up until then, I couldn't do anything with the material. As it turned out, I did a lot of research and managed to convince the sales team that meetings and events were alive and well and still living in the rest of the world. The U.S. and the rest of the world and they did publish the book. I think it was a bout a year later, but I did go through a lot of agony with that, with regard to the copyright.
- Judy: Sorry to hear that.
- Susan: Yes. It was I. It went well and I'm still getting royalties from the book.
- Let's talk about mistakes that authors make probably without realizing that they're making it. What are some of the legal mistakes that people tend to make?
- Judy: I guess going hand in hand with what I was saying, not reviewing the contracts that you're signing. Don't assume that if something looks official that it can't be changed. Whether it's a copyright interest that you're giving up or movie rights or whatever, you should be familiar with what the terms are. If there's

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something that doesn't sound right to you, then raise the question with the publisher and try to negotiate it. Worse comes to worse, if they say no, you're in no worse shape than before. Before you sign, you can make a decision. You can assess whether it's worth it to you to give up whatever rights you're giving up, or to say, "You know what, I think I'm going to look elsewhere." It doesn't mean you can't negotiate. Maybe with other players, that's a lot harder, but with some of the smaller players, you can expect that terms can be negotiated.

Another thing that comes to mind is with respect to work for hire. If they hire somebody, an illustrator, for instance, to create or maybe to provide illustrations for the interior of the book, they should have a contract with that individual that states that the work that the individual is doing is work for hire, which is a term of art in a copyright law that says that the author or the person who's paying, owns the work, not the person who's creating it. Likewise, if you're having a website designed for your book, the website designer should be signing a contract that contains a work for hire clause. Because if you don't have that clause, then the illustrator or website designer or whoever else you're hiring, owns what they are creating.

Susan: It's interesting that you bring up the illustrations because I had an author who was in the exact situation that the artist created work for her and then said that he owned the copyright of those pieces. She had to pay a lot of money in order to be the owner of the illustrations.

Judy: Unfortunately, you have no leverage if you don't get that upfront. So you need to have that in the contract, in writing, before the work is done.

Susan: What else comes to mind?

Judy: There's so many different scenarios. The main thing is just to make sure that you're protecting yourself. Whether it's in contracts with publishers or with people who are doing work for you, editing or illustrating or website design or layout cover design, whatever, whether it's work for hire or payment provisions, knowing exactly what you're supposed to get, how much you're paying for it, when you're paying for it. If you have contracts that aren't specific like that, you can get yourself involved in disputes, which are not only costly but they're time consuming and they're aggravating.

Susan: What's your worst dispute that you've had with regard to an author's publication?

Judy: I can't think of the worst one, but I've seen disputes through co-authors where in one case a client of mine co-wrote a book and she wanted to update the

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book, and the co-author wouldn't get back to her. So then she was trying to figure out can she update it herself? Can she take the co-author's name off? Does she keep the co-author's name on when the co-author hasn't reviewed or approved the updates? Lots of issues there. Issues with people who all of a sudden find that they can't publish a book that the publisher has stopped publishing because they no longer own the copyright. There's lots of things that have come up. I don't know if I can pick a worse case.

Susan: I like the fact that you talk about co-authors because I've had many colleagues who have been in disputes with a co-author for various reasons. The book may not actually have gone to press yet, but there's some issue that all of a sudden the co-author can't do what they had promised to do for the completion of the book. It really throws you right off kilter as to what do you do then.

Judy: Right. Yes. I have had that experience as well where the co-author has disappeared and there's portions that the co-author was obligated to produce. The rest of the book is done and one co-author can't get the other one to cooperate.

Susan: So be very careful when you co-author a book.

So, Judy, how can listeners contact you for more information about your services?

Judy: I have a lot of information available on my website, which is SkillBites.net. S-K-I-L-L-B-I-T-E-S.net. I also have my email if they want to email me, which is Judy@SkillBites.net. If they want to give me a call, that's fine. I have a toll free number, 855-SKILLBITES.

Susan: That's easy enough to remember. Excellent. Thank you.

If you were to leave our listeners with a golden nugget, what would that be, Judy?

Judy: Along the lines of what we've been talking about with the copyright protection, I would say if you are writing something that you definitely want to protect, it makes sense to register your copyright interest. The Copyright Office charges \$35 to register online, and I think it's more expensive if you actually register the paper version that you send in. Plus the two copies of the paperback book. So it's not a lot of money. It is a little bit time consuming to fill out the form, but it's not that bad. Or you can hire somebody to do that for you. We charge \$150 for the copyright registration plus the time in filling out the form and sending in the books. So it's not unduly expensive, but it can greatly protect your interest.

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Susan: That's so important. That protecting your interest. So thank you so much for sharing your wisdom, and thank you all for taking time out of your precious day to listen to this interview. I sincerely hope that it sparks some ideas you can use to sell more books. Here's wishing you much book marketing success.