

Copyright Infringement (A Case Study)

What to do if someone publishes your material as his or her own

By Victory Crayne

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I discovered that a key article of mine, titled "How to Critique Fiction" (www.crayne.com/howcrit.html), was used by a professor of English at a university for his fiction writing classes. He used his own name as author and the vast majority of the body of his web page was taken word for word from my article. This is a clear case of copyright infringement.

I have to admit, I was ticked off. Plagiarism by a professor of English? What a shocking example of unethical behavior to his students!

That article is important to me. I wrote it in 1995 and 10,000 people a year currently (in 2003) access it. That's a lot of writers. In the opinion of some, it is THE online article on critiquing. My articles on my web site are important in my overall marketing plan to build readership for my novels. Since 1995, I have received many requests to use my articles in writing groups and classes all over the world.

I first learned of the infringement from a friend, Moira Allen (www.Writing-World.com), when Gwyneth Box discovered this professor had copied one of her articles, "Critiquing Poetry (Including Your Own)" at <http://www.writing-world.com/poetry/crit.shtml>, in his online course materials, without permission or attribution.

Moira wrote: "My understanding is that legally, the person whose work has been infringed needs to be the person to make contact and/or file a complaint." See "Protecting Your Work from Electronic Pirates" by Charles Petit at <http://www.writing-world.com/rights/pirates.shtml>. That article refers to Moira Allen's "Protect Your Writing from Plagiarism!" at www.writing-world.com/rights/protect.shtml, with its outline of methods to detect plagiarism.

Mr. Petit's excellent article gives two sample letters to use and defines three steps you can take if the copyright of your material is infringed upon: (1) Awareness, (2) Complaint, and (3) Contacting the infringer's ISP.

I followed his advice and wrote an email to the infringer. When I did not receive a reply in a few days, I wrote a second email to the head of the English department, using the second sample letter with stronger wording, including "Pursuant to the Digital Millennium Copyright Act, this letter serves as actual notice of infringement in the event of legal proceedings."

After the exchange of several emails, the infringer admitted he had used the article, but claimed he thought it was in "the public domain". I wrote back that he had a duty as a professor of English to perform due diligence in trying to find the author. A search on [Google](http://www.google.com) for "How to Critique Fiction" would have shown my article at the top of the list, where it has been for many years.

The head of the English department wrote that all copies of the article were removed from their university web site. I expect that this professor has lost some points on his reputation there. I am happy to report that further correspondence has led to successful resolution without recourse to legal proceedings.

Lessons to be learned:

1. Be diligent in protecting your copyrights. This includes periodic searches for infringement.
2. When you discover an infringement, copy the offending material to your hard disk, in case the infringer removes it and pretends it never existed. Make a copy of its web address or other source. If you can't find the copy, Google sometimes provides a link to "cached" copies.
3. Write directly to the infringer. The sample letters from Mr. Petit are excellent examples.
4. If the infringer does not remove the illegal copy, then write to the web or Internet service provider where the infringement occurred.
5. Even though you may feel angry, keep the tone of your correspondence polite and professional.
6. Many times the infringer will apologize and offer to make amends. If you lost royalties, you may be compensated. Otherwise, try not to seek punishment, but instead focus on promoting your own reputation.

Victory Crayne has been writing fiction since 1995. She has two web sites, at www.crayne.com and www.sfnovelist.com.

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