videoblocks

Field Guide to Film Rights:

Privacy, Permissions, Parody, and Permits

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Why Worry About Rights?

If James Cameron can lead a $237 million budget for *Avatar* and still face lawsuit after lawsuit claiming copyright violation, it's safe to say no one is immune.

Whether your goals are to film the next blockbuster, go viral on YouTube, or grow a commercial audience, they probably lean upon a few joint strategies—like not going to jail, not getting shot or classified a terrorist, and not giving all your money to lawyers or legal opponents.

This guide is meant to help with those matters.

In the pages that follow, we've outlined key principles and resources for avoiding confrontation both in court and on location so that filmmakers can focus on what they do best: mastering the art of film—not rights and liabilities.

Joel Holland, CEO of VideoBlocks

PART I:

FILMING PEOPLE, PLACES, AND THINGS

Filming in Private Locations

It probably makes sense to start with the most black-and-white rules first: if you're standing on private property, you need the owner's permission to be there—as well as the owner's permission to film there.

Keep in mind that a lot of the places people might casually call *public* are actually private property. When your significant other advises you not to wear sweatpants in public, for example, their definition probably includes venues like shopping malls and retail parking lots, which are most definitely privately owned. Similarly, *property* refers to more than just solid ground you can stand on; intellectual properties like logos and music are also protected against recording.

If you live in a populated area like New York City—or, really, any area more populated than Death Valley—this can feel limiting. How can you go anywhere without capturing private property on camera? (E.g., skylines of privately owned buildings, joggers in privately owned running shoes, passing cars playing privately owned music.)

That's where one word becomes important: *standing*. You need permission to record while *standing* on private property; however, you don't generally need permission to record aspects of it observable to the public—provided they're captured incidentally and from a distance (meaning they become part of your background, not your subject).

The key concepts: always get permission and don't peer over fences, and you should do fine.

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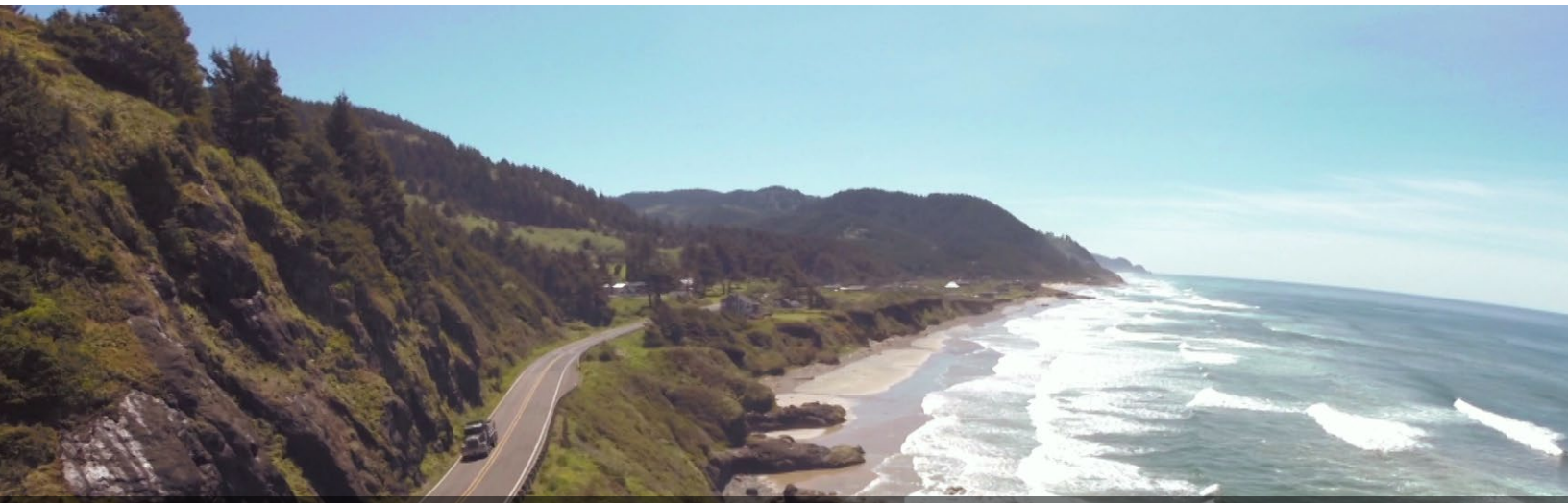

“Before you shoot in a public place that could be considered an iconic landmark, check if specific clearance rights are required. Even if you have the license to use an aerial video of the famous ‘Hollywood sign,’ for example, you still need a separate permit to use it in your new feature film. Usually, once you own a particular piece of content (i.e., have acquired a perpetual royalty-free license), you’re good to use it for personal or commercial purposes—but iconic landmarks fall into a separate category and often require additional permitting.”

TJ - MARKETING TEAM @ VIDEOBLOCKS

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Filming in Public Locations

As a kindergarten-level rule, filmmakers have the green light to record in public. What you see is what you can film—provided you follow a few kindergarten concepts like staying where you belong and respecting people's privacy.

(Privacy, for non-history-buffs, is an ancient concept that primarily existed prior to smartphones, tabloids, and reality television.)

You see, people have an expectation they'll be viewed when they go out in public, just like they expect their property to be viewed; however, they also have an expectation not to be showcased or exhibited, no matter how far removed they might be from private property.

If someone's face is going to be readable on film, you should probably obtain a readable release form. Likewise, anything they would reasonably want kept private (e.g., suggestive body parts, the contents of an unzipped bag, trips to so-called *public* restrooms) should stay private.

The key concepts: stay outta people's grills and don't be creepy.

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“Any time we record outside government buildings, we’re always careful to look as non-threatening as possible. Slow movements, bright clothing, and wide smiles are your bread and butter around high-profile locations.”

BRIAN - CONTENT TEAM @ VIDEOBLOCKS

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Filming in Sensitive (and Insensitive) Locations

Even if you're shooting from private property across the street—and filming them *incidentally*—certain subjects are off-limits for security reasons. This includes military installations, government buildings, and certain aspects of mass transportation (e.g., airports, tunnels, and train stations). Always look for signs that prohibit photography or recording devices, and don't be afraid to reach out to the affiliated media relations department, in advance of your arrival, if unsure.

On the other end, high-profile figures like celebrities and politicians enjoy fewer protections against being filmed. When public figures voluntarily operate in the public eye, they waive a certain degree of their privacy, which is why paparazzi footage of stars sunbathing and taking out garbage is a thing—and one that doesn't require release forms.

Still, people have a right to control how their likeness is used. Paparazzi footage of JLaw taking out her trash is kosher as long as it's documentarian and without commercial slant. But use that same footage in a commercial endorsing Hefty bags, and you might have a problem . . .

The key concepts: avoid barbed wire and be nice to JLaw.

PART II:

PROTECTING YOUR RIGHTS

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The Concept of Copyright

Simply put, a copyright is a protective right a creator holds over a body of work they produce, such as an audio track, video clip, or specific plot element. If someone wants to use someone else's work, they must first obtain permission or be liable for damages.

(When we curate footage for download at VideoBlocks, we purchase the licenses to allow subscribers to use that footage without paying attribution or royalties.)

A copyright exists automatically the moment you create something, meaning you don't have to register a work in order to establish ownership. Registering a work just makes that ownership easier to prove and litigate, as it's archived for public record.

The United States Copyright Office officially registers artwork for as low as $35, and registration can also be done through attorneys. For screenwriters, organizations like the Writer's Guild of America also offer services like screenplay registration—wherein they archive a work for renewable five-year periods. It's less official, but a supplement that's been popular among writers since 1927.

The key concepts: respect the property of others, then decide how to protect your own.


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The Limitations of Copyright

So using elements of someone else's work (without permission) is a good way to end up in court—yet so many similar films exist . . .

The reason why is best explained through a pop quiz: Name a film that follows a scholar as he risks his life in pursuit of religious treasure he aims to preserve in a museum . . .

If you answered *Raiders of the Lost Ark*, *National Treasure*, or *The Da Vinci Code*, you're correct!

Copyright doesn't protect against broad genres like good-willed treasure hunters or songs involving trumpet sounds. There's nothing to prevent you or anyone else from making the next film involving lost relics and adventurous scholars. However, borrow more specifically and you're asking for trouble.

Musician Huey Lewis, for example, noticed that the title song from *Ghostbusters* sounded a little too similar to one of his own songs. He then sued its creator Ray Parker, Jr., who eventually settled out of court.

The key concepts: be original and don't mess with Huey Lewis.

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Plagiarism vs. Parody

Time for another pop film quiz: Name a film that follows a rebel with mystical powers as he fights to rescue a princess from an evil space lord dressed in a cape and black plastic helmet . . .

If you answered either *Star Wars: Episode IV* or *Spaceballs,* you're correct!

Here, the plot elements in common are a lot more specific than in the previous examples. However, they're still not considered copyright violation. The reason why has to do with intent.

Spaceballs doesn't imitate *Star Wars* by competing in the same genre; rather, it's a satire of the franchise that turns the saga into a comedy. Its director, Mel Brooks, uses humor to clearly parody the film and cleverly dodge around its more specific properties (e.g., naming his characters Lord Dark Helmet in lieu of Lord Vader and Yogurt in lieu of Yoda).

It's this same concept that gives musician Weird Al Yankovic freedom to parody any song on the billboard as long as his work is presented as ironic satire and not mere imitation—think Weird Al's *Tacky* as a parody of Pharrell's *Happy.* Still, Weird Al is known for asking an artist's permission as a courtesy, which is never a bad idea.

The key concepts: satire is different from stealing, though also more complex.

PART III:

PERMITS AND PROPER CHANNELS

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“Going through the Maryland Film Office was the best decision I ever made. They put me in contact with a few different low budget location options and helped me with all the necessary permits and insurance. Most locations will have varying requirements, so it’s nice to get it all from a single, knowledgeable source.”

ADAM - CLIPS TEAM @ VIDEOBLOCKS

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Researching Permits

Additional restrictions on filming can vary by locality—so always check with any local film offices prior to shooting. In New York City, for example, you don't need a permit as long as you shoot handheld or on a tripod and don't require the restricted use of an area. But you should probably look into them if you plan on bringing a crane and filming car chases. Other areas, of course, can be more or less lenient.

Connecting with your local film office, meanwhile, can bring other benefits in addition to permits. They exist to support filmmakers in a number of ways and are often the best resource to tap for information on potential tax incentives, filming locations, and casting calls.

We've included links to the official state permit offices (for states with flagship offices) as well as supporting non-profit organizations (for states without) at the end of this eBook.

Larger cities, counties, and state or national parks, meanwhile, may have their own offices or regulations in addition to statewide terms—so make a note to ask your state organization if that's the case in your neighborhood.

The key concepts: ask if you need local permits, then ask what else you can get along with them.

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"You can never predict what might become a problem down the road if you ignore the proper paperwork. I once heard a story about a man who appeared on a small television show and wasn't given a waiver before going on camera. When the show aired, his wife saw him on television and realized he lied to her about where he had been that day. He sued the show and won."

BEN - CUSTOMER VALUE TEAM @ VIDEOBLOCKS

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Finding Legal Forms

There are a few basic ways to obtain legal forms on a budget if you don't have the money for an attorney—and aren't up to attending law school in your spare time.

Resourceful film enthusiasts have come up with an endless number of reasons to carry a smartphone or tablet on the film set: impromptu studio lighting, use as a video monitor or DSLR controller, eBook referencing (hint, hint), and, of course, digital release forms.

Available for both iOS and Android platforms, Shake is among the more popular and versatile resources for mobile release forms. Included in the free app is a collection of more than a dozen film and video forms drafted by licensed attorneys: a location release, talent release, parental consent form, and contracts that cover everyone from extras to costume designers.

While nothing can take the place of an attorney, Shake has gotten great press from the likes of *Forbes*, *The New York Times*, and *Business Insider*—and was founded by some very big players in the tech scene including BuzzFeed president Jon Steinberg and Spotify general counsel Jared Grusd. They're also reportedly at work on a web version, which we're excited to test.

In the interim, LegalZoom has downloadable talent and location release forms that come with a 100% satisfaction guarantee and an A+ rating from the Better Business Bureau. The download includes a detailed release, an explanation of legal terms, and instructions for using the form responsibly. For a one-time investment of $14.95, it's a better bet than free Google searches—and comes with options for attorney support.

The key concepts: you get what you pay for—or, in this case, what big-time tech investors pay for.

Students (and former students) should always carry their school ID card. It can buy you priceless latitude and credibility when asked why you're filming. I kept my college ID in my wallet for eight years before it disintegrated."

JOEL - CEO @ VIDEOBLOCKS

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Representing the Film Community

With the developing states of film, politics, and technology, new challenges continue to erupt for filmmakers. Prior to 9/11, prohibitions of recording equipment were decidedly more lax—and prior to drones, no one had to think about regulating remote controlled aerials.

As a result, there often exists a fog surrounding the legality of filming rights, for both filmmakers and non-filmmakers. When we encounter such a fog, particularly when badges are involved, it's important to remember that while media activism has its place, that place is rarely the film set. If you're passionate that the First Amendment or the aforementioned concepts allow you to film in a location you've been asked to leave, take your stance through the proper channels. Arguing with security guards doesn't benefit the filmmaking community—and isn't very effective at clearing a set.

In the end, no one can force you to delete footage you've captured on the spot, but that's a confrontation easily—and best—avoided. Remember that the ultimate goal is to make lasting films, not enemies.

The key concepts: you attract more flies—and more film fans—with honey than with vinegar.

STATE FILM OFFICES & ORGANIZATIONS

Alabama Film Office

Alaska Film Office

Arizona Production Association

Arkansas Production Alliance

California Film Commission

Colorado Office of Film, Television & Media

Connecticut Office of Film, Television & Digital Media

Delaware Film Office

D.C. Office of Motion Picture & Television Development

Florida Office of Film & Entertainment

Georgia Film & TV Production

Hawaii Film Office

Idaho Film Office

Illinois Film Office

Indiana Film Office

Iowa State Office of Media Production

Kansas Film Commission

Kentucky Film Office

Louisiana Entertainment

Maine Film Office

Maryland Film Office

Massachusetts Film Office

Michigan Film Office

Minnesota Film & TV

Mississippi Film Office

Missouri Film Office

Montana Film Office

Nebraska Film Office

Nevada Film Office

New Hampshire Film & Television Office

New Jersey Motion Picture & Television Commission

New Mexico Film Office

New York Loves Film

North Carolina Film Office

North Dakota Film Production

Ohio Film Office

Oklahoma Film & Music Office

Oregon Governor's Office of Film & Television

Pennsylvania Film Office

Rhode Island Film & TV Office

South Carolina Film Commission

South Dakota Film Office

Tennessee Film, Entertainment & Music Commission

Texas Film Commission

Utah Film Commission

Vermont Film & New Media

Virginia Film Office

Washington Filmworks

West Virginia Film Office

Wisconsin Film Organization

Wyoming Film Office