

# Minn-stf Policy on Web Display of Documents with Ambiguous Copyright

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## The Policy

This policy, adopted by the Minn-stf board on 5 November 2016, covers Minnstf publications, or individual contributions to them, for which the following statements are all true:

- The publication was not originally published on the web (alone or along with a print edition), *and*
- The contribution is credited to a particular person who is not directly speaking for the club (as in a report from the board) or for a convention as a whole (as in a note from the chair) and the contribution is creative and non-trivial<sup>1</sup> (contributions failing this are assumed to be copyright Minn-stf or public domain, as appropriate), *and*
- The archivist can't find contact information for the contributor or we use a seemingly good e-mail or postal mail address but get no answer, *and*
- The contribution appears fannish, e.g. it is not a reprinting of a professionally published work of fiction or part of an art portfolio.<sup>2</sup>

To put it another way, these are works for which it seems safe, based on our experience (see below), to assume that we would receive permission to post them on the web if we managed to make contact.

In these cases, we will post the work on the web with the statement “© Jane Contributor, all rights reserved”. This, in effect, makes the assumption that when someone said “Sure, you can put my work in that program book”, they did not mean to restrict it to a single printing or a particular medium (paper), but conservatively assumes that they did mean to retain copyright and are not allowing it to be released under any sort of permissive license such as Creative Commons.

Further, we will not sell any reprints of these works at a net profit.

In the unlikely case case that we post something under this policy and the copyright holder eventually finds it and objects, we will naturally take it down (or update the copyright statement, or down-res the art, or whatever they want).

## The History

*(This section and what follows are all commentary and not policy.)*

Around 2008, I started on a project to put old Minicon publications up on the web. Since then, I've expanded the project to cover all Minn-stf publications.

The board at the time asked that I ask each copyright holder for permission to put their submissions on the web, under the conservative assumption that, unless otherwise

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<sup>1</sup>Trivial/non-creative contributions being things such as text explaining where an event is, a department's policies/procedures, and so forth, given that it is just dry information.

<sup>2</sup>Such as we have been doing recently with artist guests of honor.

stated, when people allow their works to be included in a print publication the permission is only for the paper version and not a subsequent electronic posting.

I didn't appreciate at the time what a huge undertaking this was. Older program books tend to have contributions by more people than newer ones, sometimes dozens in a single book. In Minicon program books alone, there are over 200 (potential) copyright holders. I have not yet attempted a complete survey of the copyright holders for Minicon progress reports, pocket programs, fallcon materials, Rune, etc.

## The Experience

So far I have gotten copyright answers from 122 people. All but two gave us permission in some form or another (98.4% success). To illustrate the rationale behind this policy, I've summarized the categories of responses:

- ~90% affirmatives without reservations or conditions, including:
  - Transfers of copyright to us
  - Permission to republish on the web
  - Permission to distribute via Creative Commons
  - Permission to distribute under an informal agreement such as “as long as it’s for fannish purposes” or “as long as it’s not for profit.”
- A few people who gave permission to post their contributions on the web, but were clear that we had to be careful if we found other works of theirs. These are professionals who carefully guard their professional works, but are happy to have their fannish works shared.
- A few people who required us to notify them as we post new works of theirs.
- 3 people who gave permission, but asked for a cut in the profits if we ever sell something including their work. One of these is Jim Odbert, who also required the copyright statement to name his company as the copyright holder instead of himself.
- 2 artists who gave permission, but required their art to be posted at low resolution only. (In one case 72 dpi and in another “not 300 dpi”.)
- 1 person (estate, actually: Poul Anderson) who gave us permission to republish as long as a specific copyright statement was used. It turns out that this statement differs only slightly from the one I use anyway.
- 1 person (Charles Urbach) who gave permission, but also the odd statement “However, I need to retain the copyright to the materials, and in some cases, the copyright may now (or in the future) belong to another entity.”
- **1 unambiguous refusal:** Graydon Saunders — no reason given.
- **1 partial, ambiguous refusal:** Jay Kay Klein, who has one photo in the Minicon 27 program book. He said that we may not show it on the web, but we may include it in print publications. But he also said that his copyrights were being transferred to UC Riverside (and since he wrote, he died, and they were), and they *will* allow us to post this photo on the web (for a \$25 fee).

The responses can be further subdivided, but I don't think the details are relevant for this policy. For full details, see *Copyright answers* at <http://wiki.mnsthf.org/index.php?title=MinDocDigPro>

There are 37 copyright holders with works in Minicon program books who I have not gotten an answer from. I am lacking any sort of contact information for many of these. 3 of these are artists who I only know by their signature — I have no full name

(Dex, TL and S. Jay). 2 others are known to be deceased. Some I have e-mailed and gotten no response. Some I have e-mailed and written a paper letter to and gotten no response. In most cases these are postal addresses dredged out of the depths of the Minicon registration database. I would be surprised if more than half are still good.

## Why We Think This Policy Is OK

Of people contacted who have replied, there is a 98.4% success rate at getting permission at the level given above: web-posting with all-rights-reserved copyright.<sup>3</sup> (Or 98.8% counting Jay Kay Klein as a half success.)

I listed some details of the answers I got above to show that even when there are complications, this policy above covers them pretty well. For instance, professionals want to make sure we don't republish their *professional* work without explicit authorization, so we won't do that. A few people want a cut of profits, but that's no trouble, since we aren't planning to make any. The complications that aren't totally covered are:

- People who want specific copyright statement wordings. However, the two such requests I've gotten are only small variations on my default, so I don't think using my default would cause trouble.
- Artists who want us to down-res their art before putting it on the web. Of the two such requests gotten so far (see page 2), only one is really relevant since you don't get true 300 dpi by scanning a print-out anyway.
- The Charles Urbach-type oddball situation. Obviously there could always be something strange that we haven't thought of.

We think the probability of legal trouble is very very low. Besides the fact that it's unlikely anyone will object in the first place, copyright problems are usually dealt with via a polite e-mail, followed by a formal cease-and-desist letter, followed finally by suing the offender. Since we'd happily comply with the polite e-mail, we'll never let it escalate.

## Impact on Minicon Program Books

- Most Minicon program books between Minicon 11 and 38 have a copyright statement that says "Upon publication, all rights revert to the author or artist" or something similar. We will assume that the contributor retains copyright, but that they are ok with the book being republished on the web.<sup>4</sup>
- The Minicon 14 program book has a copyright statement that says "It's all yours, guys!", which has ambiguous intent, but the same upshot.
- The Minicons 24 and 39 program books have no copyright statements: same upshot.
- The Minicon 27 and 28 program books have a copyright statement with the clause "All rights reserved under various and sundry agreements and conventions." All contributions seem to be fannish. Same upshot.
- The Minicon 41 program book has no copyright statement. Everything in it is cleared except for photos of Harlan Ellison. Since these look *professional*, they don't fall under the policy.

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<sup>3</sup>For the statistically-inclined, this means that if we asked another 100 similar people, we'd expect between 0.4 and 4 negative responses at 90% confidence.

<sup>4</sup>This is a *change* from the previous, 2011, version of this policy, when we were more conservative about this case.

## Other Examples

- Most or all material in RENE is covered by this policy.<sup>5</sup>
- Shorter publications like pocket programs, progress reports, flyers, etc. tend to have no copyright statement. Generally the text isn't credited, but there may be artwork, usually of the fillo variety. They fall under this policy.

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<sup>5</sup>This is a *change* from our 2011 policy, which was more conservative about the "Upon publication, all rights revert..." sort of clause.