



## Welcome to the ALAI questionnaire on online practices of author-identification!

The purpose of this questionnaire is to ascertain what author-identification practices are commonly used in ALAI National group countries when works are disseminated online. The results will be used to determine what it means for the name of the author "to appear on the work **in the usual manner**" (Berne Convention, art. 15) when the work is disseminated over online media.

1. **Name and surname of the respondent:** Philippa S. Loengard and Nathalie Russell.
2. **E-mail address:** PSL7@columbia.edu
3. **Which ALAI National group do you represent?** USA
4. **If your responses relate to more countries, please list them here:**

Note: The United States has thousands of internet platforms available for the dissemination of creative works. Some of these are hosted by content providers, some by users and some by independent entities. For the purposes of this questionnaire, we have answered any sub-questions only with respect to the two or three most prominent content providers.

**\*\*The list of music, audiobook and podcast providers has been updated on November 4, 2019. The rest of the material contained herein is, to the best of our knowledge, still valid, but has not been changed since initial submission.\*\***

### Photography and Visual Arts

5. Who are the most prominent **photo/visual art sharing platforms or visual content providers** in your region? On what other sites (including the authors' own) do photographs and other works of visual art appear?

Prominent visual content licensors include Getty Images and Magnum Photos. Royalty-Free providers such as iStockphoto, Dreamstime, fotoLibra, and Shutterstock have also become popular.<sup>1</sup>

<sup>1</sup> <http://www.gettyimages.com/>; <https://www.magnumphotos.com/>; <http://www.istockphoto.com/>; <https://www.dreamstime.com/>; <http://www.fotolibra.com/>; <http://www.shutterstock.com/>.

Prominent photo/visual art sharing platforms include Instagram, Google Photos, 500px, Picasa, Flickr, Snapfish, Photobucket, and Pinterest. Facebook and Twitter are not specifically dedicated to photo sharing, but photo/video sharing on the platform is highly prevalent.<sup>2</sup> Furthermore, professional photographers and providers typically host an official Facebook page, Twitter account or personal website featuring their content.

Apple Photos, another photo sharing site, is somewhat unique in that the specific platform must be installed and it was not created for social image networking. However, the platform can also be used for photo/visual art sharing through iCloud Photo Sharing and Family Sharing, both of which allow users to share only with people of their choosing.

In addition, photos are copied, shared, and used throughout the web, with or without rightsholders' permissions, whether via professional artists' websites, personal websites, blogs, or simply Google Images. Furthermore, link functionality encourages uploading between platforms (e.g. from Facebook to Instagram or Twitter, or vice versa).

6. What practices are employed to place the author's name **in the visual content itself**, such as author's name in a corner of a photograph, mouseover (rollover effect), watermark, metadata in the file's properties, other means or author-identification, or no attribution at all? Are any of the above means standardized in your media sector?

Photo/visual art sharing platforms generally display usernames and the date an image was posted. More specific author identification is left to users. Some users, for example, chose to use free photo editing websites such as "PicMonkey" to place watermarks on their images prior to posting<sup>3</sup>. Pre-upload watermarking is somewhat common on platforms such as Flickr. Photobucket provides a basic image editing program which allows users to add opaque text in various forms (including a copyright symbol). On websites primarily geared to social media uses such as Instagram, Pinterest, Facebook, or Twitter, watermarking is uncommon. Some users however, for example professional photographers, do post images that feature the copyright symbol and rightsholder(s) on the bottom right/left of the image.<sup>4</sup> Instagram, Pinterest, Facebook, and Twitter often strip any metatags associated with images (either when the images are posted to or downloaded from the social media site) or allow users who download the images to remove metadata.<sup>5</sup> Instagram or Pinterest images themselves also feature tags or "pins", respectively, which, if linked to an official page, link users the source of the image. On more personal or closed community-based websites such as Flickr or Photobucket, users have the option of disabling downloading for their photos. Of course, users can circumvent this limitation via "screen shots" and other means. And even though

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<sup>2</sup> <https://www.instagram.com/>; <https://photos.google.com/>; <https://500px.com/>; <http://picasa.google.com/>; <https://www.flickr.com/>; <https://www.snapfish.com> ; <http://s5.photobucket.com/>; <https://www.pinterest.com/>.

<sup>3</sup> <https://www.picmonkey.com>

<sup>4</sup> See e.g., <https://www.instagram.com/p/BH91rZ9jXso/?tagged=magnumphotography&hl=en> .

<sup>5</sup> Jane C. Ginsburg, "Losing Credit: Legal Responses to Social Media Platforms' Stripping of Copyright Management Metadata from Photographs, THE MEDIA INSTITUTE (May 30, 2016) <http://www.mediainstitute.org/IPI/2016/053016.php>.

download-disabled photos typically feature a watermark, this can be easily cropped-out, as it is typically placed at the bottom left/right-hand side of the image.<sup>6</sup>

With Apple Photos, users can easily add watermarks via the “Annotate” option in “Preview.” Because one can share images posted to iCloud Photo Sharing only among chosen friends, , watermarking is uncommon unless users intend to upload photos to personal/professional webpages or photo/visual art-sharing platforms in addition to posting on iCloud. Apple Photos preserves most metadata if the image is copied or transferred. Some IPTC metadata such as copyright does not appear in the Photo application; however the data remains locked to the image (and will appear in applications that do display this data.)

Magnum Photos does not visually represent the author’s name on images.<sup>7</sup> Magnum does, however, include author-identifying information in images’ metadata, though it is not locked. Getty Images uses watermarking with both the Getty logo and photographer’s name.<sup>8</sup> Getty also includes an editorial reference number in the lower left-hand corner of each image.<sup>9</sup> Getty does not include author-identifying information in images’ metadata.

It is possible that some professional agencies do not use metadata to identify images because they can be difficult for the average viewer to access. According to Jeff Sedlick, professional photographer and President and Founder of the Picture Licensing Universal System<sup>10</sup>, “ If you are using a browser and don’t have a plugin<sup>11</sup> of some sort that would allow you to read the metadata, and if you aren’t looking at the image on a site like flickr that automatically extracts and displays the metadata next to the image (or upon mouseover) you aren’t going to see the metadata without saving the image to your computer, and then following the previous instructions, which do not require any photography program: The viewer will then be able to see a subset of the CMI and other metadata, but to see more, she will need a browser plugin, a metadata application or a photo application.”<sup>12</sup>

7. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

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<sup>6</sup> <https://www.flickr.com/photos/immimi-dc/27968674613/sizes/l>.

<sup>7</sup> See e.g. <https://www.magnumphotos.com/arts-culture/sport-arts-culture/tour-de-france-harry-gruyaert-inside-the-peloton/>

<sup>8</sup> See e.g. <http://www.gettyimages.com/search/sets/aznRsgHcY0-0wvjKSyLSRw#license>.

<sup>9</sup> Id.

<sup>10</sup> For more on the PLUS system, visit <https://www.useplus.com/index.asp>.

<sup>11</sup> Some examples of plugins include <https://addons.mozilla.org/en-US/firefox/addon/exif-viewer/>, <https://addons.mozilla.org/en-US/firefox/addon/fixif/>, and <http://regex.info/blog/lightroom-goodies/metadata-viewer>.

<sup>12</sup>.Photo applications include those mentioned above such as Apple iPhoto and others such as,Photoshop Elements, and Adobe Bridge. A metadata application is <http://www.sno.phy.queensu.ca/~phil/exiftool/>.

B. Standard identifier such as an ISBN (equivalent for photos or drawings)<sup>13</sup>

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Images posted via Instagram accounts are displayed with the user's chosen username, the location where the photo was taken (if location access has been enabled by the user), and the image upload date. Descriptions and comments are displayed beneath each image. Pinterest displays the source of the image (typically a website, e.g. "Saved from [website].com") as well as the poster's user profile name, the collection, and a short description if submitted by the user below each image. Facebook and Twitter display a user's profile name, the date the image was posted, and the upload location if authorized (as well as a short comment if the user chooses) above all posts. Comments are included below posts, within a single "post window." Photos loaded up to the iCloud server, display the user information from the sharer when opening each image. Date and time is displayed above each photo, as well as any comments (above or below depending on viewing options) and the photo album/collection. None of these platforms automatically display copyright symbols above/below/beside images.

Photobucket displays photos in albums or collections. Above each photo is displayed the collection name (with a link) and the current photo number out of the total number

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<sup>13</sup> There are various digital identifiers for printed and audiovisual and audio media. For print books there are codes such as the ETTN (the Electronic Textbook Track Number for E-books, journals and conference proceedings); the Digital Object Identifier (DOI) for journal articles; an LCCN (Library of Congress Control Number); the OCLC number (The Online Computer Library Center is a nonprofit, membership, computer library service and research organization dedicated to the public purposes of furthering access to the world's information and reducing information costs". It was founded in 1967 as the Ohio College Library Center. OCLC and its member libraries cooperatively produce and maintain [WorldCat](#), the largest [online public access catalog](#) (OPAC) in the world.) The most common identifier is the ISBN, the International Standard Book Number which is applied to every commercial book published, whether in print or digital form. These numbers are assigned and managed by individual countries, but used worldwide. For audiovisual works, there are ISAN (International Standard Audiovisual Numbers; for more information, see [www.isan.org](#)) which is similar to an ISBN. It was developed within an [ISO](#) (International Organisation for Standardisation) and is managed and run by a Geneva-based nonprofit founded by [AGICOA](#) (the Association of International Collective Management of Audiovisual Works), [CISAC](#), and [FIAPE](#) (Fédération Internationale des Associations de Producteurs de Films). Musical works can be protected by a variety of digital registering systems. An International Standard Music Number (ISMN) is a unique number which can be assigned to all notated music publications from all over the world. It tracks usage in order to facilitate royalty payments for artists and composers. Currently 71 nations plus the Palestinian State participate in the program. An International Standard Musical Work Code (ISMWC) is an internationally-recognized number assigned by country-specific affiliates of CISAC in 68 countries worldwide. It identifies all composers, authors and arrangers of the work, the work classification code taken from the CIS standards list, and in the case of 'versions', for example arrangements, identification of the work from which the version was made. An International Standard Recording Code (ISRC) is required by many online content distributors. It is a unique code, recognized internationally, that provides information about the rightsholder of the recording. In America, the assignment of such codes is overseen by the RIAA. For more information on ISRCs, see *n.20 infra*. The International Standard Name Identifier (ISNI) SNI is the ISO certified global standard number for identifying the millions of contributors to creative works and those active in their distribution, including researchers, inventors, writers, artists, visual creators, performers, producers, publishers, aggregators, and more. (For more information, see [www.isni.org](#)).

in the collection. Beneath each photo users can find the uploader's profile name (also with a link to the user's profile page), but not necessarily any information about the author. Beneath each image, Flickr displays the uploader's profile name (again, it is up to the uploader to acknowledge the author and/or copyright holder if not one and the same), a title/album and description if inputted by the user, and any comments. To the right of this information is posted the date the photograph was taken and a "© all rights reserved message" with a link to licensing details.<sup>14</sup> Below or beside each image, Magnum Photos includes: the photographer's name, the photograph location and a short description, the year the image was taken, and the copyright symbol followed by the photographers name and "Magnum Photos." Certain viewing options also display the Magnum Image Reference and an image reference number.<sup>15</sup>

Beneath images, Getty Images includes: the photo title, the photographer's name and title, the Getty editorial number, the collection, and the photograph's date and location followed by a short description. Restrictions on commercial use are outlined. A locked banner at the bottom of each page contains the copyright symbol and a statement that all content is owned by Getty Images. To the right of most photographs is an option between standard and commercial editorial rights (with descriptions via mouseover) and a choice of small, medium or large (with corresponding pixel, inch, and dpi ratios).

8. Once author-identifying data is included in the digital file, does it remain there, or do third parties, such as platforms, strip it out?

Apple author-identifying data is locked to image files and difficult to strip out. For all other platforms mentioned above, author-identifying data, if present when uploaded, remains in the files, but can be easily modified or deleted once an image is copied. Furthermore, we have found that many authors fail to include important copyright information (such as their name or contact information) in the metadata they enter.

9. What practices are employed to place the author's name **in the description of the visual content on the website** (whether the author's own website or a third-party website) (outside of the content itself, such as below or above a picture, with a hyperlink to external site, with an indication of a public license, where appropriate...)? Are any of the above means standardized in your media sector?

We have discussed above how authors' credits appear near their images on a variety of sites; there is no standard procedure among different platforms. Each company handles how it presents collages of images uploaded by users but compiled by the website in different ways. Facebook and Twitter do not feature collages of images (although one can create a collage on another platform and post it on FB or Twitter). All watermarking or author identification within the content itself is present in the smaller display images. Aside from the name of the account of the person who uploaded the photo at the top of the page, Instagram does not display any author-identifying information with the images it displays. Pinterest displays a title (if submitted) and short description beneath each image, as well as the image "source" –see discussion above in response to question

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<sup>14</sup> <https://help.yahoo.com/kb/flickr/SLN25525.html?impressions=true>. This copyright symbol and the words "All Rights Reserved" is automatically uploaded, however; it does not necessarily mean the uploader has a right to license the image or that she actually does own the copyright. An uploader can edit this tab, but the default assumes the uploader is the copyright holder.

<sup>15</sup> <http://pro.magnumphotos.com/C.aspx?VP3=SearchResult&ALID=2K1HRG6YNNJJ>.

7(D).<sup>16</sup> Flickr integrates the mouse-over function to display the uploader's username and image title. Photobucket does not display any author-identifying information on the pages on which images are displayed. Apple Photos displays author, date, time, and any comments once a user clicks an image in order to see it enlarged. Getty Images also uses mouse-over to display the image title and author. Beneath each image, Magnum displays the collection, image title, and author (or "Magnum Photographers" if a number of artists are featured).

10. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as an ISBN (equivalent for photos or drawings)

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Please see answers above.

11. How do the service/platform providers named above in question 5 identify the author and in which form (questions 6-10)?

Please see answers above.

### **Music, Audiobooks, Radio**

12. Who are the most prominent **online radio broadcasters, on demand music services (both for streaming and downloading) or other similar services or platforms offering audio content, including audiobooks, podcasts etc.** in your region?

Prominent on demand music services include<sup>17</sup>:

Apple Music

Amazon Music

Spotify

Pandora

Napster by Rhapsody

Tidal

Google Play Music

SoundCloud

YouTube (not an on demand service, but users frequently use it as such)

LiveXLive

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<sup>16</sup> The "source" is also displayed via mouse-over.

<sup>17</sup> <http://www.apple.com/music/>; <https://www.amazon.com/b?node=8335758011>;  
<https://www.spotify.com/us/>; <http://www.pandora.com/>; <http://us.napster.com/music>; <http://tidal.com/us>;  
<https://play.google.com/music/>; <https://soundcloud.com/>;  
<https://www.youtube.com/>, <https://www.livexlive.com/>

Prominent audiobook platforms include<sup>18</sup>:

Apple Audiobooks  
Audible (Amazon) Audiobooks  
Audiobooks.com  
Bookmobile  
Nook  
Scribd  
Downpour  
OverDrive  
Hoopla  
Google Play Books  
Chirp  
Libby

Prominent podcast providers include<sup>19</sup>:

Apple Podcasts (dominates the industry)  
Audible (Amazon) Podcasts  
Google Podcasts  
Spotify Podcasts  
SoundCloud Podcasts  
Podcast Alley  
Stitcher  
Serial  
Player.fm  
Pocket Casts  
Overcasts

13. Is there a practice to mention the author's or rightsholder's name **within the audio content itself**? This may differ for radio, podcasts or audiobooks (where it is common to mention an author) and for musical services where the name may appear in the file's metadata or with the mouseover (rollover) effect. Are any of the above means standardized in your media sector?

On-demand music services do not mention the author or rightsholder's name(s) within the audio content.

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<sup>18</sup> <https://itunes.apple.com/us/genre/audiobooks/id50000024>; <http://www.audible.com/>;  
<http://www.audiobooks.com/>; <http://www.bookmobile.com/>; [http://www.barnesandnoble.com/b/nook/\\_/N-1pbl](http://www.barnesandnoble.com/b/nook/_/N-1pbl); <https://www.scribd.com/>; <http://www.downpour.com/>; <https://www.overdrive.com/>;  
<https://www.hoopladigital.com/home>;  
[https://play.google.com/store/books?utm\\_source=na\\_Med&utm\\_medium=hasem&utm\\_content=Jan0219&utm\\_campaign=Evergreen&pcampaignid=MKT-DR-na-us-1000189-Med-hasem-bk-Evergreen-Jan0219-Text\\_Search\\_BKWS-id\\_100476\\_%7cEXA%7cONSEM\\_kwid\\_43700019968886873&gclid=Cj0KCQiAtf\\_tBRDtARIsAlbAKE0vIxQmgIDLhj69Wmm0KoGUHVJ2gt9nUnY3YLF8lv52eDMiM3MHUKYaApCZEALw\\_wcB&gclsrc=aw.ds](https://play.google.com/store/books?utm_source=na_Med&utm_medium=hasem&utm_content=Jan0219&utm_campaign=Evergreen&pcampaignid=MKT-DR-na-us-1000189-Med-hasem-bk-Evergreen-Jan0219-Text_Search_BKWS-id_100476_%7cEXA%7cONSEM_kwid_43700019968886873&gclid=Cj0KCQiAtf_tBRDtARIsAlbAKE0vIxQmgIDLhj69Wmm0KoGUHVJ2gt9nUnY3YLF8lv52eDMiM3MHUKYaApCZEALw_wcB&gclsrc=aw.ds);  
<https://www.chirpbooks.com/>;  
[https://meet.libbyapp.com/?gclid=Cj0KCQiAtf\\_tBRDtARIsAlbAKE1EBSExGAWLjqN5hHSMJZkGbJavNKGvB3gxEcsXp3DZoxovO9bWC4YaAooPEALw\\_wcB](https://meet.libbyapp.com/?gclid=Cj0KCQiAtf_tBRDtARIsAlbAKE1EBSExGAWLjqN5hHSMJZkGbJavNKGvB3gxEcsXp3DZoxovO9bWC4YaAooPEALw_wcB).

<sup>19</sup> <http://www.apple.com/itunes/podcasts/>; <http://www.audible.com/cat/Podcasts-Audiobooks/2226664011>;  
<https://play.google.com/music/podcasts/portal/>; <https://www.spotify.com/us/>;  
<https://soundcloud.com/for/podcasting>; <http://www.podcastalley.com/>; <https://switcherstudio.com/en/>;  
<https://serialpodcast.org/>; <https://player.fm/>; <https://www.pocketcasts.com/>; <https://overcast.fm/>.

Most audiobook platforms begin each title with some version of: “This is [platform name]. [Audiobook publisher] presents: [Book Title]. Written and read by [Author(s)].”

Most podcasts use an introduction similar to audiobooks, beginning by stating the name of the channel/series, author(s), and publisher(s) if applicable.

14. If the means of author-identification involve information that can be visualized (as opposed to a purely audio attribution of authorship), what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as ISRC

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author’s name, does the rightsholder’s name (if different from the author’s) appear?

Apple Music, Spotify and Pandora all use both UPC (Universal Product Codes, commonly known as Bar Codes)<sup>20</sup> and ISRC (International Standard Recording Code) identifiers to organize content and facilitate searches.<sup>21</sup> These codes do not include the names of the authors, although ISRC codes incorporate the names of the rightsholders.<sup>22</sup> They are attached to the metadata of all sorts of creative works in order to provide the public with information on the creative forces behind the works.<sup>23</sup>

Apple makes the following information available for each song: title, artist, album, album artist, composer, genre, year the album was released, track number, and whether the album is a compilation. The service does not display a copyright symbol.

Spotify displays the song title, album, artist, year the album was released, the copyright symbol and/or the sound recording copyright symbol with the date and rightsholder(s) at the bottom of each album. (On certain albums, both symbols are used. For example:

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<sup>20</sup> Bar Codes are issued by the Uniform Code Council. It contains the country of origin of the recording, the name of the person who registered the recording with a Bar Code, and the product number. It is used for tracking sales, not for identifying copyright holders.

<sup>21</sup> An ISRC is made up of 12 characters and split into four sections:

- The first two characters **identify the country** where the member is based (e.g., 'UK' represents 'United Kingdom').
- The next three characters **identify the recording rightsholder**. We allocate these three letters and numbers - they are specific to you as the rights holder. (Please note that this code does not imply permanent ownership of the recording or video. The code will not change if the recording is later licensed to a different owner.)
- The next two characters **identify the year** in which the specific recording was given an ISRC.
- The last five characters are **the choice of the rightsholder** when allocating recordings with an ISRC. These characters are always numbers. The easiest way to organize this section of the code is to give the first recording '00001', the second '00002', etc. The sequence can be reset to '00001' when a new year of reference (section three, detailed above) is applicable. (<http://www.ppluk.com/I-Make-Music/Why-Should-I-Become-A-Member/What-is-an-ISRC/>).

<sup>22</sup> <http://www.isni.org/>

<sup>23</sup> <http://www.isni.org/content/faq>

“© 2015 Republic Records, a division of UMG Recordings, Inc.  
© 2015 Republic Records, a division of UMG Recordings, Inc. ”)

Below each song title, Pandora provides the artist and album title. There is no copyright symbol, indication of publication date, or the rightsholder’s name.

Audiobook author-identifying information varies not based on platform, but rather based on book. Some books include “thank you to...” mentions or “special features” throughout or at the end, or any other information cited in a print copy of the book that the author(s)/publisher(s) wish to cite.

Similarly, Podcasts vary based less on platform and more on channel/station/publisher or the podcast itself. If guests are featured, they are cited. If research has been conducted, resources used are typically cited. And again any other information the author(s)/publisher(s) wish to cite.

15. Once author-identifying data is included in the digital file, does it remain there, or do third parties, such as platforms, strip it out?

Apple Music locks author-identifying data to each file. Spotify and Pandora do not allow transferring or playing music on other platforms, although they do provide links to purchase a particular song on Amazon or iTunes.

Though they encourage users to play audiobooks on their own platforms, Apple Audiobooks and Audible do allow audiobooks to be downloaded and played on other platforms (e.g. iTunes and Windows Media Player). Their author-identifying data is locked to the digital file and difficult for third parties to strip out. Nook audiobooks can be downloaded only to the Nook app and therefore their user-identifying digital file data cannot be easily stripped.

Most users simply remain in the Apple platform to play Apple podcasts. Some Apple and Amazon Audible podcasts can be downloaded and played on other platforms, but their data generally remains locked to each file. Podcast Alley either hosts podcasts on its own platform (without a download feature) or links to the podcast source website/platform, which often provides a means of purchasing the podcast for download from Amazon or iTunes.

16. What practices are employed to place the author’s or rightsholder’s name **in the description of the audio content on the website** (outside of the content itself, such as below or above a file, with a hyperlink to external site...)? Are any of the above means standardized in your media sector?

Please see answers above.

17. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as ISRC

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Please see answers above.

18. How do the service/platform providers named above in question 10 identify the author and in which form (questions 13-17)?

Please see answers above.

### **Film, TV, Video**

19. Who are the most prominent **online TV broadcasters, user generated video sharing platforms, on demand film providers (both streaming and downloading) or other similar services or platforms offering audiovisual content** in your region?

Most TV broadcasters have an online platform. Major broadcasters include<sup>24</sup>:

NBC

ABC

FOX

CBS

TBS

Comedy Central

Prominent user-generated video sharing platforms include<sup>25</sup>:

YouTube

Vimeo

Dailymotion

Twitch

Liveleak

Veoh

Break

Metacafe

Facebook, although this is not its primary function

Prominent on-demand film/television providers include<sup>26</sup>:

iTunes

Amazon Video

HBOGo

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<sup>24</sup><http://www.nbc.com/>; <http://abc.com/>; <http://www.fox.com/>; <http://www.cbs.com/>; <http://www.tbs.com/>; <http://www.cc.com/>.

<sup>25</sup><https://www.youtube.com/>; <https://vimeo.com/>; <http://www.dailymotion.com/us>; <https://www.twitch.tv/>; <http://www.liveleak.com/>; <http://www.veoh.com/>; <http://www.break.com/>; <http://www.metacafe.com/>; <https://www.facebook.com/>

<sup>26</sup><http://www.apple.com/itunes/>; <http://www.amazonvideo.com/>; <http://play.hbogo.com/>; <https://www.netflix.com/>; <http://www.hulu.com/>.

Netflix  
Hulu

20. What means are employed to place the author's or rightsholder's name **in the audiovisual content itself**, such as in the opening or closing credits, on the bottom of the window with the film, by a watermark placed over the film, metadata in the file's properties, use of the mouseover (rollover) effect etc.? Are any of the above means standardized in your media sector?

No type of credit or identification is standard throughout all media with the exception of motion picture or television credits which must abide by union rules if the program is produced by a union shop.<sup>27</sup> Though identification is typically consistent within any given platform, industry standards vary.

User-generated content platforms generally display usernames and the date an image was posted. More specific author identification is left to the person who posts the video or image. Some videos, (potentially unauthorized) full-episode or full-film videos, or original works by non-institutional creator(s) display opening and closing credits which comply with the Guild rules mentioned above. Vimeo and Dailymotion videos uploaded by creator(s) also feature such opening and/or closing credits fairly frequently<sup>28</sup> (e.g.).

iTunes, Amazon Video, HBOGo, Netflix, and Hulu videos all feature any opening/closing credits contained in the original content. Normally these are shows produced by production companies that are signatories to the aforementioned Guild agreements. They will also include a copyright notice notifying the audience of the rightsholder (although it is unclear if the copyright notice on HBOGo is related to the video or the website).

It should be noted that American film studios are not using the ISAN numbers described above.<sup>29</sup> Instead, studios such as Paramount Pictures attach an alphanumeric code assigned by the Entertainment Identifier Registry (<http://eidr.org/>) to their DVD and Blu-Ray releases. They are using the EIDR over an ISAN because Amazon has begun to require it, it was created specifically in Hollywood specifically for film and television productions, and its metadata is better tailored to the needs of the studios.<sup>30</sup> It is included in the digital packet sent to distributors such as Amazon and Netflix, but is not attached to the work.<sup>31</sup> The goal of the system is not to provide information to users, but to track data for commercial transactions.<sup>32</sup>

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<sup>27</sup> The unions which govern the entertainment industry in the United States are the Screen Actors Guild, the Directors Guild, the Writers Guild and the International Alliance of Theatrical Stage Employees (commonly known as IATSE). In addition, live theater performers and stage managers are often members of Actors' Equity. Production companies which have agreed to abide by the rules and regulations in these groups' Basic Agreements are called union shops. All the major networks in the United States are union shops. The guilds require on-screen and off-screen credit be given to writers, actors, directors and certain members of the production crew.

<sup>28</sup> <https://vimeo.com/175672509>.

<sup>29</sup> *Supra* note 13.

<sup>30</sup> Email correspondence with Scott M. Martin, Executive Vice President of Intellectual Property, Paramount Pictures Corporation, September 5, 2016.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

21. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as ISRC (music videos) or other equivalent

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

User-generated content platforms generally include "description" sections in which users can include any specific author-identification information they chose. Beneath videos, YouTube displays the video title, the channel or uploader's username, as well as publication date, category and licence (typically the "Standard YouTube Licence") via a drop-down "show more" button. Beneath each video, Vimeo displays the video title, uploader's username, and a short description. In similar fashion, Dailymotion displays the video title, uploader's username (note that the person uploading may not be the creator of the video, nor acting under her authority), and a description. Neither Vimeo nor Dailymotion automatically includes copyright symbols or licensing references.

When a mouse hovers over Amazon Video player windows, the series name appears, as well as the season name/number and episode name/number. In addition, Amazon Video includes a feature entitled "X-ray" which allows the viewer to view trivia about the show (such as that the director has directed six other episodes of the series or that an actor grew up in the area where the film was shot), a list of the actors in the episode, and a list of the songs appearing in the episode or film (and a link to buy them from Amazon Music). This does not include any information about the episode or program's rightsholders.

HBOGo includes, to the right of un-maximized video player windows, the series name/number, episode name/number, episode rating, video quality (e.g. HD), a short description, the date the episode aired, and the episode length. Below the show is an abbreviated list of credits which may (but does not necessarily) include the Director, Main Cast, Producer(s), Writer(s) and the composer(s) and performer(s) of music included in the presentation.

Beneath un-maximized video player windows, Hulu typically displays the network on which the video aired (if applicable), the series name, the season name/number, the episode name/number, and the copyright symbol accompanied by the rightsholder's name.

22. Once author-identifying data is included in the digital file, does it remain there, or do third parties, such as platforms, strip it out?

Most of the content on network platforms is made in-house and, thus, there is no third party involved in its distribution. NBC, ABC, and FOX, do not provide a download

feature for videos on their platforms. Other websites differ. Certain Vimeo videos feature a “Download” button<sup>33</sup> and retain the video title and licensing information in their metadata. This data, however, can be easily changed or removed once a copy is downloaded by a viewer. Most Vimeo, YouTube, and Dailymotion videos cannot be downloaded from within their respective platforms. Similarly, Amazon Video, HBOGo, Netflix, and Hulu do not facilitate user downloads from within their platforms. Only Apple (iTunes) allows video files, once purchased and downloaded, to be played on alternate platforms; it locks author-identifying data to each file.

23. What means are employed to place the author’s or rightsholder’s name **in the description of the audiovisual content on the website** (outside of the content itself, such as below or above a file, with a hyperlink to external site...)? Are any of the above means standardized in your media sector?

NBC.com includes, below each video, the series title, episode details such as guest names (for talk-shows) or episode titles, the season and episode numbers, and the date the episode aired. ABC.com imposes on each thumbnail the type of content (e.g. video, blog, episode) and a short description (e.g. “The View Co-hosts React to Bernie Supporters Booing During DNC”). Beneath thumbnails on FOX.com is displayed: “Full Episode” (if applicable), the episode title, and a short description. There is no authorship or rightsholder information displayed on any of these networks’ pages. It is impossible to view the metadata for these audiovisual works because the viewer is unable to download the episodes (one is only permitted to stream them).

YouTube includes, below each video thumbnail, the video title, uploader’s username (which may or may not be the same as the author or rightsholder, and no information is given as to whether the uploader is the author or the rightsholder), and upload date. Vimeo videos display, depending on viewing format, either via mouse-over or beneath a thumbnail, the video title and possibly the uploader’s username (again, this may or may not be the author or rightsholder and the uploader’s rights in the work is not clarified),. Dailymotion displays the same information to the right of each thumbnail, as well as any tags or categories that have been associated with a particular clip.<sup>34</sup>

Amazon Video displays thumbnail images which typically feature the series title, the network, and any season/promotional details. No author or rightsholder information is made available on the screen.

HBOGo displays a thumbnail image of the series/film above the film/series/episode/video, and for certain episodes the episode number, for videos a short description, how long ago the video was posted on the site, and the length of the video.

Hulu identifies the performers and crew members in the credits of the shows it broadcasts. Each video also includes a copyright notice and name of the rightsholder.

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<sup>33</sup> <https://vimeo.com/10259948>.

<sup>34</sup> It is unclear whether the person uploading the video or Dailymotion enters the metadata with associative words.

24. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as ISRC (for music videos) or other equivalent

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Please see answers above.

25. How do the service/platform providers named above in question 15 identify the author/rightsholder and in which form (questions 20-24)?

Please see answers above.

### **E-zines, E-books, Blogs, News, News Aggregators**

26. What are the most prominent providers of **online literary content** (e.g. magazines/e-zines, e-books, blogs, news, including news aggregators) in your region and how do they identify the author or rightsholder?

Prominent providers of online news include: *The Huffington Post*, CNN, *The New York Times*, and *The Washington Post*.<sup>35</sup> In addition, almost every daily newspaper in the country has a website, as do most weekly news outlets.

Prominent online magazines include<sup>36</sup>: *ESPN The Magazine*, *Forbes*, *Cosmopolitan*, *WebMD Magazine*, *Allrecipes*, *Bloomberg Businessweek*, *People*, *Time*, *The Atlantic*, and *New York Magazine*.

Prominent blogs include: Huffington Post, TMZ, Business Insider, Mashable, Gizmodo, LifeHacker, Gawker, The Daily Beast, Tech Crunch, Perez Hilton, and Jezebel.

Prominent news aggregators include: Feedly, News360, Google News, Google Reader, and Reddit.

Prominent e-book providers include: Amazon, Google Books, Apple Books, and Barnes & Noble.

27. Is there a practice to mention the author's or rightsholder's name **within the literary content itself**, such as author's name as a byline appearing together with the literary content, or disclosed via mouseover (rollover effect), watermark, metadata in the file's properties, other

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<sup>35</sup> <http://blog.journalistics.com/2010/top-25-newspapers-by-website-traffic/>.

<sup>36</sup> <http://www.statista.com/statistics/208819/estimated-website-audience-of-popular-magazine-brands/>.

means or author-identification, or no attribution at all? Are any of the above means standardized in your media sector?

*Huffington Post*, CNN, *The New York Times*, and *The Washington Post* all display the author's name as a byline appearing together with the literary content (after the title header, before the article body).

*ESPN The Magazine*, *Forbes*, and *Cosmopolitan* also all display the author's name as a byline appearing together with the literary content (after the title header, before the article body).

*Business Insider* both display the author's name as a byline appearing together with the literary content (after the title header, before the article body). TMZ typically does not include specific author's names, but rather a byline citing "TMZ Staff."

News aggregators such as Feedly and Reddit simply display articles/videos/content from other sources, so their author-identifying information takes whatever form the original content provider used. Much of featured material being news/blog articles, the author's name typically appears as a byline.

Amazon E-Books, Google Books, and Apple Books, all replicate the attribution practices of a particular book's printed copy.

28. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as an ISBN or ISSN.

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Websites of *The Huffington Post* and *The New York Times* all credit images/videos used with articles just beneath the image. The photographer and rightsholder(s) are typically both credited –e.g. "Alex Wong/Getty Images." CNN typically cites the rightsholder(s) in the actual image (in the upper right-hand corner). Videos featured on CNN are typically not credited, although the reporter or on-air personality introduces herself at the beginning of the piece.

Huffington Post news articles are displayed, from the top down, with the article category (e.g. News, Politics, Entertainment, Wellness, etc.), the article title in a header, a sub-header, the exact date and time the article was last updated, the author's name (sometimes accompanied by a profile picture), the author's professional title, typically

an image/series of images/video, and the article body. At the bottom of each page, a banner indicates “Copyright © 2016 TheHuffingtonPost.com, Inc.”<sup>37</sup>

CNN displays the article title, the author followed by the organization with which they are affiliated (e.g. CNN), the exact date and time the article was last updated, typically a video, and the article body. At the bottom of each page is listed “© 2016 Cable News Network. Turner Broadcasting System, Inc. All Rights Reserved. CNN Sans™ & ©2016 Cable News Network.”

*The New York Times* displays the region for which the article was published (e.g. U.S.), the article title, the author (sometimes accompanied by a profile picture), publishing date, an image/video, and the article body. At the bottom of each page is marked “©2016 The New York Times Company.”

*ESPN The Magazine*, *Forbes*, *Cosmopolitan* all credit images/videos used with articles just beneath the image or in the actual image. Not all images/videos are credited, however, especially if they appear within the body of an article. *ESPN Magazine* typically includes a photographer byline beneath each article’s author byline.

*ESPN Magazine* articles display the article title, sometimes a short description, the author (and sometimes photograph author), the date of the issue in which the article is published, the article body, and sometimes at the bottom a profile image of the article author followed by their professional title. The *Magazine’s* home page includes “© ESPN Internet Ventures” at the bottom, but individual article pages do not.

*Forbes* articles display the exact date and time the article was last updated, the article title, typically an image, the author (sometimes to the right of a profile picture), the author’s professional title, the magazine issue in which the article was published, and the article body. Like ESPN, *Forbes’* home page, but not individual article pages, includes “© 2016 Forbes Media LLC. All Rights Reserved.”

*Cosmopolitan Magazine* articles display the article title, a sub-header, typically an image or video, the author (sometimes to the right of a profile picture), the date the article was published, and the article body. Each page contains a banner at the bottom which includes “© Hearst Communications, Inc. All Rights Reserved.”

*Huffington Post* Blog articles display “The Blog” (to distinguish from *Huffington Post News* articles), the article title, the exact date and time the article was last updated, the author (to the right of a profile picture), the title of any notable publications by the author, the author’s professional title, and the article body. At the bottom of each page is the same banner that appears for *Huffington Post* news articles, which includes “Copyright © 2016 TheHuffingtonPost.com, Inc.”

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<sup>37</sup> Many websites have this notation, but it is unclear whether the copyrighted content referred to is articles written by employees or the non-creative content on the site (such as indexes or directions). It could also be used as a deterrent to people to not take material from the site without crediting the publication (and hopefully the author as well), but in this way it could be somewhat misleading if it purported to represent ownership in all the creative material on the site when some of it was not the intellectual property of the publication.

TMZ blog articles display the article title, the exact date and time the article was last updated, “By TMZ Staff,” an image or video, and the article body. A banner is featured at the bottom of each page which includes “© 2016 EHM Productions, Inc. All Rights Reserved / HPMG News.”

Business Insider blog articles include the article title, the author (to the right of a profile picture), the exact time and date the article was last updated, and the article body. At the bottom of each page is a banner stating “\*Copyright © 2016 Business Insider Inc. All rights reserved. Registration on or use of this site constitutes acceptance of our Terms of Service and Privacy Policy.” Links to the Terms of Service and Privacy Policy are provided.

Please see above with respect to news aggregators and e-books.

29. Once author-identifying data is included in the digital file, does it remain there, or do third parties, such as platforms, strip it out?

*The Huffington Post*, CNN, *The New York Times*, ESPN Magazine, *Forbes Magazine*, *Cosmopolitan*, The Huffington Post Blog, TMZ, and *Business Insider* articles cannot be downloaded from within a platform. Their content is easily copied and pasted into text editors such as Word, however, and thereby stripped of any potential author-identifying metadata.

Aggregators typically do not provide downloadable content. Aggregators such as Feedly and Reddit simply provide links to content provider websites.

Downloadable Amazon E-Books, Google Books, and Apple Books E-books retain their author-identifying data and are not able to be read on other platforms.

30. What practices are employed to place the author’s or rightsholder’s name **in the description of the literary content on the website** (outside of the content itself, such as below or above a file, with a hyperlink to external site...)? Are any of the above means standardized in your media sector?

We understand this question as referring to indexing pages that display collections of content.

Below news article thumbnails (which are not credited), *The Huffington Post* displays just the article title. CNN displays some articles with a thumbnail image, and some without (displaying simply the article title). Some thumbnails are credited, while others are not. *The New York Times* typically displays the article title and a short excerpt from the article, where applicable above/below/beside a video or image thumbnail which is typically not but sometimes credited. Sometimes the author is listed above the excerpt, sometimes no excerpt is included, sometimes the exact time of posting is listed next to the author’s name, sometimes the article category is listed above the title, and sometimes links to videos or related articles are included below the excerpt. Below or to the right of a corresponding image/video thumbnail (which is not credited), *The Washington Post* typically indicates if an article is “Breaking News,” the article title followed by a short excerpt from the article, the author and when the article was published. Some excerpts are also followed by a link to related article(s).

*ESPN The Magazine* displays only article titles. *Forbes* displays either images with the article title, author, and author's professional title imposed on the corresponding image, thumbnail images with the author title, author, author's professional title, and a short excerpt beneath them or to their left, or the article title, author, the author's professional title, the magazine issue in which the article was published, and a short excerpt. Any images/videos are not credited. *Cosmopolitan* displays the date the article was published, the article title, a short excerpt, and the author. Any images/videos are not credited.

*The Huffington Post* Blog displays article titles, the author's name, date of publication, section (e.g. Travel, Books, Business), and a short excerpt from the article. This information typically appears to the right of a small profile picture of the author. *TMZ* always displays an article's title and a typically un-credited corresponding image. Typically the author, exact date and time the article was last updated, and an excerpt are also included (with varying layouts). *Business Insider* displays the article title, to the right or above a, sometimes credited, corresponding image, the author, and the exact date and time the article was last updated.

Feedly displays article titles, the category/sub-category in which the article has been featured, the author, how long ago the article was last updated (in days or hours), and a short excerpt. Where applicable, for example when featuring TED Talks, in lieu of the author line, the content creator/rightsholder(s), followed by a contact email, will precede the time –e.g. “TEDTalks (video) / bycontact@ted.com (TED Conferences LLC) / 9d.” A small corresponding image is featured to the left of the description, without attribution.

Reddit displays article titles, the source (e.g. pressgazette.co.uk), when the article was submitted to Reddit, the submitter's username, and the category/sub-category to which they submitted the article (e.g. worldnews or gaming). Small, un-attributed images corresponding to the article are commonly included to the left of the description.

E-books do not display collected content pages.

31. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as an ISBN or ISSN.

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Please see answers above.

### **Websites as Such**

32. Is there a standardized or prevailing practice how to place the name of the author in and to the **website as such**, e.g. at the very bottom of the website, at the bottom of the window (if the page is scrolled or the window resized, the text remains in the lower window border, elsewhere than at the bottom of the website), with a hyperlink to external site naming the actual rightsholder?

We are assuming here that you mean the author(s) of the actual website itself, not the content posted on the site(s). Practice varies, but websites typically cite rightsholder(s) at the bottom of each page as noted in the question. Most websites include the copyright symbol followed by the year of publication and the rightsholder(s). Where applicable, this line is followed by the website creator or web developer, and/or any applicable graphic attributions.

With respect to authors of content featured on websites, practice also varies, but websites hosting content by a single author (e.g. an artist's professional website) typically feature the artist's name and details boldly and clearly at the top of the webpage (sometimes with email or other contact information, sometimes with links to the artist's Facebook/Twitter/Instagram/Pinterest/the artist's blog). One of the sub-pages is also typically an "About" or bio page for the author/artist.

Websites in which much of the copyrighted content is ancillary to the function of the site and not created by the host typically include attributions in the corner of or beneath content (or near the top for written content). A copyright symbol is sometimes displayed.

33. Whatever the means, what information in addition to the name(s) of the author(s) is disclosed? E.g.

A. A copyright symbol?

B. Standard identifier such as an ISBN.

C. Year of first publication? Other year(s) (if so, to what do they pertain)?

D. In addition to the author's name, does the rightsholder's name (if different from the author's) appear?

Please see answers above.

### **General**

34. Can you identify substantial similarities or differences between the online and offline identification practices in your region?

One major difference between online and offline identification practices is that there is generally a systematic way that authors and rightsholders are credited in off-line media, but no such system exists in the digital realm. With hard copies of CDs, books and DVDs, authors, illustrators and other contributors are acknowledged in written form on the disc's cover or the book's pages. Online vendors, such as Amazon.com, publish the most important of these credits (author, rightsholder, illustrator) in the description of the

products. In the digital world, the lack of tangible product means that these credits need to be visible to the user even after delivery to the end user.

While it is impossible to state how all – or even a majority – of media outlets handle authorship attribution, a survey of the most popular outlets does seem to suggest indicates that websites have less success do not providing attribution to authors and rightsholders than as consistently as traditional outlets such as print media or broadcast television. As noted above, where there is a tangible product of creation, the work exists in tangible copies that are distributed to the public, or is disseminated via traditional forms of public performance by transmission (broadcasting; cable), American media outlets consistently attribute the author or authors or the copyright holder or holders. Publication in books attribute authorship by printing the author's or (where applicable) illustrator's names on the first few pages along with a copyright notice. Magazines and other periodicals cite authors and sometimes illustrators just above the text of the article in the by-line. When works that initially were created in print media are given a companion website, the same attribution scheme carries over and individual authors are attributed in the same manner as they would be in a print version of the material, namely at the beginning of the article.<sup>38</sup>

Academic journals tend to cite the author on the cover of the volume and in the index in addition to above the text of the article. In the visual arts, works that are printed or publicly displayed usually carry attribution and licensing information either on the work itself or in an accompanying sign or exhibition booklet.

When it comes to dissemination in intangible form through digital transmissions, however, attribution practices often are either inconsistent or non-existent. This is potentially due to the lack of uniform system of attributing authorship, a desire to not interfere with the viewer experience, and fewer obvious places in which the information can be stored yet still be accessible to the viewer. In a study by the International Press Telecommunication Council, researchers found that even if author and/or licensing information is included in a photograph's metatags when the image is uploaded to a social media website (and even generally still attached when downloaded by a viewer), the information is often stripped when the image is saved by the user.<sup>39</sup> In addition, the study indicated that most information stored in an image's metadata is not visible to the viewer. It is unfortunate that even when internet sites preserve the data embedded in the work, the author may still not be recognized. This study solely focused on still imagery; it is clear from the discussion above that the situation for audiovisual works is equally poor. As of now, there does not seem to be any 'usual manner' of attribution. Websites operate under their own terms and do not provided uniform information within the confines of their own domains, let alone across disparate internet sites. Even when there are ways for content providers to include identifying information on digital materials, they are not often used (and where they are, they are used to track use for commercial purposes, not to identify creators). As these areas of technology develop, it would be highly desirable to develop both uniform practices for identifying a visual,

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<sup>38</sup> See e.g. [www.elle.com](http://www.elle.com) or [www.nytimes.com](http://www.nytimes.com).

<sup>39</sup> <http://www.embeddedmetadata.org/social-media-test-results.php> (last visited August 17, 2016). It is unclear who strips the information. It could be stripped by the host site or by the user's computer when she attempts to save the work onto her own drive.

audio or audiovisual work disseminated on the internet, and a usual manner” for identifying authors through a visible, non-removable, attribution to the author.