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Ask a Lawyer Archive



Copyright Infringement - How Can I Limit Potential Liability Arising From the Work?

[Kristie Prinz](#)

Q.

I compiled a quote book on Jihad. It is entitled "Jihad, believe their words". Since this is my first book, I have to self publish. Due to the nature of the content, how can I protect myself from any liability that might ensue from the publication of this book? Will a LLC protect me?

-- ron

A.

A limited liability company ("LLC") could provide some protection with respect to publishing your book, but it is unlikely to shield you from the liability that might arise from authoring the compilation of the book in the first place.

What liabilities might arise in the case of a compilation?

Copyright infringement liability is an obvious first possibility. U.S. Copyright law protects the authors of original works of authorship.

In the case at hand, you were not the author of the quotes compiled in this book, so you cannot claim authorship of the quotes; however, the compilation likely contains enough originality to be protectable under U.S. Copyright law. As a general rule, a compilation constitutes collected and assembled preexisting materials that were selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.

Given the fact, however, that the compiled material is potentially the protectable work of another author, the possibility exists that you could be infringing another author's work by using it in your compilation, if you needed permission to use the work and failed to obtain such permission prior to using it.

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Section 103 of the U.S. Copyright Act addresses the issue of the copyright protection in compilations as follows:

- a. The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.
- b. The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

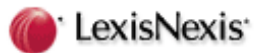
In addition to copyright infringement liability, defamation liability is a second possible source of liability in the case of a compilation of quotes. While defamation is somewhat outside the scope of my column, it basically involves making a false and defamatory statement about another person that injures that person.

Both of these types of liability could potentially be assessed against you as an individual as well as you as the publisher. So, a LLC would not provide a complete shield against all potential liabilities. Moreover, if you set up a LLC and fail to observe formalities with respect to the LLC, then the veil of protection could be pierced and your assets could still be at risk for satisfying any judgments or other liabilities assessed against the entity.

Thus, the hard reality is that your very best protection is to not create liability in the first place. I recommend that you speak with an attorney in your jurisdiction specializing in copyright and basic commercial law, in order to obtain specific advice on how best identify your potential liabilities and minimize those risks to the extent possible.

-- *Kristie Prinz*

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