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What Rights Would A Company Owner Have In The Sequel To A Movie?

[Kristie Prinz](#)**Q.**

I am part of an independent film company. There were 3 owners of the company when we made a movie: I was the producer; the second owner was the writer and co-director; and the third owner was the co-director and editor. At the end of shooting the second owner quit the group and has done nothing in post production. It hasn't been the easiest situation but we've dealt with it for film festivals and other showings and it is working. We want him to get the proper dues/credits.

My question is about a sequel. We wondered what the second owner would be entitled to if we wrote a completely different script where he wasn't involved in the project. He wrote the original script (basically just the characters names and their dialogue). However, our production company created the character's image, look & attitude--even to the point that there was significant ad lib per scene and additional scenes added by the company as a whole. With that all being said, if the company made a sequel just using the names of the characters (in a different situation and not using the same name part, what rights/control/authority/compensation would the second owner be entitled to?

-- *Anonymous***A.**

Your question is a bit more complicated than can be easily answered in this column. However, the short answer is that the role of the second owner in the sequel to the movie is going to depend on several factors.

First of all, does the film company own all right, title, and interest in the original movie?

The general rule of copyright law is that the copyright in a work immediately becomes the property of the creator of the work upon its creation in fixed form.

The exception is when the work constitutes a work made for hire.

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Section 101 of the Copyright Act defines "work made for hire" as follows:

1. a work prepared by an employee within the scope of his or her employment; or
2. a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire....

In the event that there is more than one owner in the work, each owner will co-own the work.

You have indicated in the fact pattern above that there could potentially be more than one owner in the original movie. If this is the case, then each owner will have control over what happens with a sequel. However, assuming the contributions of each owner were made in the context of a "work for hire" or the rights to the movie have been expressly assigned to the company, then the company would have control over any sequel.

Section 106 of the Copyright Act sets forth the rule on the exclusive rights of a copyright owner, stating that only the owner of the copyright in a work will have the exclusive rights:

1. to reproduce the copyrighted work in copies or phonorecords;
2. to prepare derivative works based upon the copyrighted work;
3. to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Thus, the owner or owners of the rights in the original movie will have the rights to prepare and distribute derivative works, which would include any sequels.

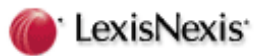
As for the issue of what compensation the second owner would be entitled to, this depends on whether or not that owner has any rights in the work. Also, it depends on his relationship with the company at the time when the sequel is created. Does the second owner still co-own the company or have the other owners bought out his shares in the company? Is he an employee of the company? These issues will all be relevant to determining his compensation.

My recommendation is that you retain an attorney specializing in copyright law in your jurisdiction, in order to

have him or her review the facts of your case in more detail. Such an attorney should be able to advise you with respect to your current situation, as well as how you might clean up the chain of ownership, in the event that such work is required.

-- *Kristie Prinz*

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