How do I Protect My Book Title?

When you first write a book or article, by typing in your word processor, that is enough to protect it by copyright. (You do not need even to mark it "copyright.") Still, strangely, the title to the book or article is not copyright-protected by itself.

The same is true of song titles. There are, for example, many songs, maybe dozens, all called "Yesterday(s)." The music and lyrics of each are separately protected from being copied by others. But short phrases and words are not protected by copyright.

So, how do you protect your title? The answer is by a trademark or trade name. For examples, "Star Trek" and "Star Wars" are each registered trademarks, and not just covering the movies by those names. The registrations cover movies, books, mugs, tee shirts, toys and all manner of other merchandise. So trade marking seems like a great way to get protection.

It is, but it has downsides. The biggest is someone else may already have the same trademark. If there is likelihood of customer confusion—because of the categories you seek being used in the geography you plan to operate in—you will be denied registration. Also, you pay more—at least $275 per category—while copyright is only $35 and there are no categories. By the way, books are one trademark category, mugs another and tee shirts still another.

You cannot register a trademark for a product or service you are not currently selling (unless you promise to within six months.) You can even lose registration for non-use, while copyrights are limited only by time, long after you and your kids are gone.

How do you protect a title? If you see your book title as being part of a valuable series, does this: mark the title with a superscript TM or ™. Keep a record of the date you first made it available in commerce. If the series takes off, you can then go and register the trademark of the title. Otherwise, accept that titles are not "one-offs." There are often other books, songs or movies with the same title, but yours is the best.

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