COPYRIGHT INFRINGEMENT AND MEDIEVAL APPLE PIE: PROTECTING RECIPES USING COPYRIGHT LAW

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This article examines the application of copyright law to individual recipes and cookbooks by chronicling the demise of a small cooking publication that collapsed under scrutiny engendered by the attention it garnered when the editor's response to an accusation of copyright infringement went viral. Further, it clarifies the legal distinction between republishing recipes or articles containing recipes, and using a recipe by actually preparing the cuisine.

KEYWORDS: *copyright, copyright infringement, public domain, recipe, plagiarism*

It all began with a good idea: medieval apple pie and Fall in New England. It became a prescription for disaster resulting in the closing of "Cooks Source," a small cooking publication that garnered the 2010 "Error of the Year" Award from media observer and journalist Craig Silverman (Silverman, 2010). While one of the most compelling lessons of "Cooks Source" is the power of the Internet, that power was unleashed in reaction to the misapplication of copyright law to that all American standard – apple pie. Consequently, it also serves to illustrate the hazards of knowing only a little about the legal protection afforded recipes and misapplying even that. The following will examine the events leading to the demise of "Cooks Source" as well as the manner in which copyright law does and does not protect recipes.

“Cooks Source”

The October 2010 issue of “Cooks Source” published an article containing two medieval apple pie recipes under the title “As American As Apple Pie – Isn’t!” by Monica Gaudio (Pegoraro, 2010). According to Gaudio’s blog, she was surprised when she first learned about it from a friend who happened to notice the piece and got in touch with her “mostly to inquire how [she] had gotten published” (Gaudio, 2010). In fact, Gaudio published the original piece five years earlier under the title “A Tale of Two Tarts” in a web site specializing in period recipies (Gaudio, 2005). Among other editorial changes, the “Cooks Source” version of “A Tale of Two Tarts” adopted Gaudio’s opening line as its title but continued to credit her as the author.

Wanting to learn how “Cooks Source” came to publish her article, Gaudio contacted Judith Griggs, “Cooks Source” owner and editor. As Gaudio describes in her blog, Griggs eventually asked Gaudio what she wanted and Gaudio responded asking for “a printed apology in the magazine and $130 donation (which turns out to be about $.10 per word of the original article) to be given to the Columbia School of Journalism” (Gaudio, 2010). In what became a widely quoted response, Griggs intially declined Gaudio’s request.

> "Yes Monica, I have been doing this for 3 decades, having been an editor at The Voice, Housitonic Home and Connecticut Woman Magazine. I do know about copyright laws. It was "my bad" indeed, and, as the magazine is put together in long sessions, tired eyes and minds somethings [sic] forget to do these things.
>
> But honestly Monica, the web is considered "public domain" and you should be happy we just didn't "lift" your whole article and put someone else's name on it! It happens a lot, clearly more than you are aware of, especially on college campuses, and the workplace. If you took offence [sic] and are unhappy, I am sorry, but you as a professional should know that the article we used written by you was in very bad need of editing, and is much better now than was originally. Now it will work well for your portfolio. For that reason, I have a bit of a difficult time with your requests for monetary gain, albeit for such a fine (and very wealthy!) institution. We put some time into rewrites, you should compensate me! I never charge young writers for advice or rewriting poorly written pieces, and have many who write for me... ALWAYS for free!" (Gaudio, 2010).

In an entry logged at 11:14 pm on November 3, 2010, Gaudio posted that portion of Griggs' response to her blog and asked her readers to suggest ideas on what to do next. The first suggestion appeared less than 5 hours later at 4:01 am the following day: "Want us to bombard their Facebook page with complaints and comments?" (Gaudio, 2010). The Internet took over from there. "Cooks Source" Facebook page was inundated with new "friends," fake Facebook pages began to appear, Griggs received more than 400 e-mail messages and over 100 phone calls (Crowley, November 12, 2010). In addition, some "Cooks Source" advertisers received harassing e-mail and phone messages (Crowley, November 12, 2010).

Media Attention

While the initial attention garnered by Gaudio's plight was generated by those who followed her blog, it soon spread to web sites such as *Plagiarism Today* (Bailey, 2010) as well as mainstream media including international outlets. Domestically, in addition to being reported by the local media in western Massachusetts (Crowley, November 12, 2010; Crowley, November 16, 2010), the story was carried in several major cities including Boston (Greenlee, 2010), Los Angeles (Lynch, 2010) and Washington, D.C. (Pegoraro, 2010). It made national news with broadcasts on *National Public Radio* (Holmes, 2010) and *CBS News* (Pace, 2010). In addition, it was reported in numerous national publications such as the *American Bar Association Journal* (Weis, 2010), *PC Magazine* (Albanesius, 2010) and *Wired* (Kravets, 2010). Internationally, the story was carried as far away as Sydney, Australia (Birmingham, 2010; *Cooking Mag 'steals story, berates author,'* 2010) and London (Baird, 2010).

As is all of this were not enough, "Cooks Source" now has the dubious distinction of being the subject of a Wikipedia entry devoted to the copyright infringment fiasco (Cooks

Source Infringement Controversy, 2010). Further, and by way of final example, in one of the more novel twists in the story, "But Honestly, Monica…" became such a well known turn of phrase, it is now available on t-shirts, canvas bags, aprons and buttons from various merchants who sell customized products via Zazzle.com (But Honestly, Monica, 2010).

"Cooks Source" Apologizes

In what turned out to be the last issue of "Cooks Source," Griggs acknowledged her mistake.

> Last month an article, "As American as Apple Pie – Isn't," was placed in error in Cooks Source, without the approval of the writer, Monica Gaudio. We wish to apologize to her for this error, and are making a donation to her favorite institution, the Columbia School of Journalism, as well as a donation [to] the Western New England Food Bank [sic], in her name.
>
> This issue has made certain changes here at Cooks Source. Starting with this issue, we now request that all the articles and informational pieces will have been made with written consent of the writers, the book publishers and/or their agents. All submission authors will have signed a release of this material to Cooks Source and as such approval of its inclusion and authenticity. Recipes created in the Cooks Source Kitchen are owned by Cooks Source and as such approval is made (Griggs, 2010).

It is hard to ignore Griggs' apparent change in position. Gaudio's work is in the public domain but "Cooks Source" owns the recipes created in its kitchens.

The inaccuracies and missteps in Griggs' initial response to Gaudio ignited a viral firestorm. In addition to the onslaught of phone calls, e-mail messages, Facebook posts, and Facebook imposters, some who followed the story were curious about whether "Cooks Source" infringed other peoples' work as well. So, they set up an online spreadsheet to identify and post other infringements. While the results of the tracking have not been reviewed for accuracy, contributors to the spreadsheet identified over one hundred and sixty (160) other instances of alleged copyright infringement (Cooks Source Article Tracking, 2010).

Both a misunderstanding and missapplication of copyright law lay at the heart of this controversy. In an interview with a local newspaper journalist, Griggs explained how she understood it.

> In one relationship she has with a publicist, Griggs said she is allowed to use 250 words from a book and three recipes. Although she said she has shortcomings when it comes to understanding copyright laws, Griggs said she always viewed the republication of recipes as a "gray area."
>
> She questioned how a chef using a recipe he or she finds online for profit in a restaurant is any different from a magazine publishing one found online.
>
> "There's a big question about recipes," she said (Crowley, November 12, 2010).

Taking Griggs' statements at face value, one mistake appears to be confusing a standard used by a particular publicist ("250 words from a book and three recipes") with the law. Simply put, there is no such standard in the copyright statute (Copyright Act of 1976). Second, she confuses republishing a recipe with republishing an article containing recipes. Third, she confuses a chef preparing a dish using a recipe found online with taking that same recipe and republishing it. Understanding the legal landscape of "using" versus "republishing" recipes requires an examination of the applicable provisions of intellectual property law as well as a basic understanding of the related question of whether Griggs committed plagiarism.

Plagiarism and "Cooks Source"

In and of itself, plagiarism is not a violation of law, it "is about the failure to properly use or credit someone else's work. … In its most blatant manifestation, it is plagiarism to lift direct quotes or passages without identifying them as such. In addition, it is plagiarism to use someone else's ideas without proper attribution" (Enghagen, 2011). Griggs did neither. Albeit after some editing and under a new title, Griggs republished Gaudio's article identifying Gaudio as the

author (Pegoraro, 2010). Consequently, Griggs did not commit plagiarism. Whether Griggs committed copyright infringement is a very different question. "[P]lagiarism and copyright infringement get conflated because they both involve the same underlying act which is some version of improperly using or copying someone else's words and/or ideas" (Enghagen, 2011). Some acts of plagiarism are acts of copyright infringement, while others are not (Enghagen, 2011). In turning to the question of whether Griggs committed copyright infringement, the place to begin is with her assertion that "the web is considered public domain" (Gaudio, 2010).

The Web and "Public Domain"

In the field of copyright law, the term "public domain" is a legal term of art. It refers to creative works that are not protected by copyright law; that is, no one owns the copyright to them so anyone is free to take and/or use them. Generally, a work is in the public domain because its copyright expired, or its owner placed it in the public domain (by relinquishing his or her copyright), or because it was not eligible for copyright protection in the first instance (The Public Domain, 2010). Most web content does not fall under any of these categories.

When Griggs responded to Gaudio with: "But honestly Monica, the web is considered 'public domain'…" (Gaudio, 2010), she may have confused the fact that Gaudio's "Tale of Two Tarts" was available to the public on the Web free of charge with the legal concept of public domain. Just because Gaudio permited her article to be posted online at no cost to Web users does not mean she relinquished her copyright. In fact, Gaudio includes a copyright notice in "A Tale of Two Tarts." It appears after the bibliography and reads as follows: "A Tale of Two Tarts is © 2005 by the author Monica Gaudio" (Gaudio, 2005). While it is certainly possible that Griggs may have not seen the copyright notice, it was there. Furthermore, and more

importantly from a legal standpoint, both whether Griggs noticed it and whether Gaudio included it are legally irrelevant to the question of whether "A Tale of Two Tarts" was in the public domain. It is possible that Griggs' error occurred because of a change in the law relating to copyright notices and public domain works. Prior to March 2, 1989, under the rules of copyright law in the United States, if someone published his or her work without placing a copyright notice on it, it was in the public domain. However, modern copyright law (after March 2, 1989) no longer requires copyright owners to place a copyright notice on their work (The Public Domain, 2010). Under current law, copyright ownership automatically vests when a work is completed *regardless* of whether the owner *ever* places a copyright notice on it. Furthermore, a Web site that is free to the public only means anyone with Internet access can view and use the information provided free of charge. It does not constitute a relinquishment or transfer of copyright ownership.

Having established that Gaudio's work is not in the public domain simply by virtue of being posted to a free Web site, the next claim made by Griggs that requires examination is her assertion that "There's a big question about recipes" (Crowley, November 12, 2010).

Recipes and Copyright Law

Griggs' sensibility about recipes is correct in that there is something different about how recipes are treated for the purposes of copyright law. In fact, the U.S. Copyright Office dedicates a FAQ (frequently asked questions) to the topic of recipes on its Web site link "What Does Copyright Protect?"

> How do I protect my recipe?
>
> A mere listing of ingredients is not protected under copyright law. However, where a recipe or formula is accompanied by substantial literary expression in the form of an

> explanation or directions, or when there is a collection of recipes as in a cookbook, there may be a basis for copyright protection. Note that if you have secret ingredients to a recipe that you do not wish to be revealed, you should not submit your recipe for registration, because applications and deposit copies are public records. (What Does Copyright Protect?, 2010).

The status of recipes under copyright law emanates from the copyright statute and federal regulations governing the registration of copyrights. The general rules governing what is and is not eligible for copyright protection are found in the Copyright Act of 1976 at 17 U.S.C. §102:

> (a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:
> (1) literary works;
> (2) musical works, including any accompanying words;
> (3) dramatic works, including any accompanying music;
> (4) pantomimes and choreographic works;
> (5) pictorial, graphic, and sculptural works;
> (6) motion pictures and other audiovisual works;
> (7) sound recordings; and
> (8) architectural works.
>
> (b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

Further clarification is found in the provisions of the Code of Federal Regulations pertaining to what types of materials are *not* eligible for copyright protection and, therefore, are *not* eligible for copyright registration. In relevant part, the regulations are as follows:

> The following are examples of works not subject to copyright and applications for registration of such works cannot be entertained:
>
> (a) Words and short phrases such as names, titles, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; mere listing of ingredients or contents;

> (b) Ideas, plans, methods, systems, or devices, as distinguished from the particular manner in which they are expressed or described in a writing;
>
> (c) Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information;
>
> (d) Works consisting entirely of information that is common property containing no original authorship, such as, for example: Standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources.
>
> (e) Typeface as typeface (Patents, Trademarks, and Copyrights, 1992).

While there is not an extensive collection of reported cases involving copyright infringement and recipes, there are two widely cited cases each of which draws conclusions consistent with the previously cited relevant sections of The Copyright Act of 1976 and the Code of Federal Regulations.

In *Publications International, Limited v. Meredith Corporation*, the Seventh Circuit Court of Appeals examined the question of whether copyright protection applied to individual recipes contained within a copyright protected cookbook (*Publications International, Limited v. Meredith Corporation*, 1996). In this case, Meredith Corporation published a cookbook in 1988 entitled "DISCOVER DANNON—50 FABULOUS RECIPES WITH YOGURT." Meredith Corporation applied for and obtained a registered copyright for the cookbook, but not the individual recipes contained in the cookbook (*Publications International, Limited v. Meredith Corporation*, 1996). According to the allegations in the lawsuit, since 1992, Publications International, Limited (PIL) "produced twelve publications containing recipes poached from DISCOVERY DANNON. Of these twelve publications, two contain by far the highest number of allegedly infringing recipes (twenty-two each, as compared to nine for the third largest total):

DANNON HEALTHY HABIT COOKBOOK—GREAT-TASTING RECIPES LOWER IN FAT AND CALORIES (1993), and TASTE WHY IT'S DANNON—COLLECTION OF GREAT-TASTING RECIPES (1995)" (*Publications International, Limited v. Meredith Corporation*, 1996). The court had little difficulty agreeing with Meredith Corporation that PIL copied its recipes.

> There is not really any dispute that the salient PIL recipes are functionally identical to their counterparts in DISCOVER DANNON. The recipes have the same titles but display certain differences in the listing of ingredients, directions for preparation, and nutritional information. However, it doesn't take Julia Child or Jeff Smith to figure out that the PIL recipes will produce substantially the same final products as many of those described in DISCOVER DANNON (*Publications International, Limited v. Meredith Corporation*, 1996).

As noted earlier, copying someone else's work is copyright infringement only if the work copied was eligible for copyright protection. In this case, the court concluded two things. First, the individual recipes were not eligible for copyright protection because they failed to meet the copyright statute's requirement that copyright protection applies only to "original works of authorship." As the court explained:

> The identification of ingredients necessary for the prepration of each dish is a statement of facts. There is no expressive element in each listing; in other words, the author who wrote down the ingredients for 'Curried Turkey and Peanut Salad' was not giving literary expression to his individual creative labors. Instead, he was writing down an idea, namely, the ingredients necessary to the preparation of a particular dish. 'No author may copyright facts or ideas. The copyright is limited to those aspects of the work—termed 'expression'—that display the stamp of the author's originality.' … We do not view the functional listing of ingredients as original with the meaning of the Copyright Act (*Publications International, Limited v. Meredith Corporation*, 1996).

The court's second conclusion followed from this first finding that the recipes in question lacked originality and therefore were not eligible for copyright protection. That is, the court

considered whether the copyright on the cookbook extended to the individual recipes contained in it. The court concluded that while the copyright on the cookbook was valid under the copyright rules applicable to compilations and databases, it did not "extend to cover the individual recipes themselves, only the manner and order in which they are presented" (*Publications International, Limited v. Meredith Corporation*, 1996).

While *Publications International, Limited v. Meredith Corporation* examines the differences in the manner in which copyright law applies to individual recipes as opposed to cookbooks, the court also notes that its conclusions are limited to the facts of this particular case. The court explicitly points out that under some circumstances, recipes are eligible for copyright protection.

> …nothing in our decision today runs counter to the proposition that certain recipes may be copyrightable. There are cookbooks in which the authors lace their directions for producing dishes with musings about the spiritual nature of cooking or reminisceneses they associate with the wafting odors of certain dishes in various stages of preparation. Cooking experts may include in a recipe suggestions for presentation, advice on wines to go with the meal, or hints on place settings and appropriate music. **In other cases, recipes may be accompanied by tales of their historical or ethnic origin** (emphasis added) (*Publications International, Limited v. Meredith Corporation*, 1996).

Gaudio's "A Tale of Two Tarts" falls squarely within these parameters. In addition to providing readers with two applie pie recipes (one from the fourteenth century and another from the sixteenth century), the piece discusses apple pie recipes dating back to the Middle Ages and originating from various European countries including England, France, Italy, and Germany. Further, it includes an anecdote about a second century Greek philosopher and physician, Galen, who promoted apples for their dietary benefits: "Galen recommended that apples be eaten at the end of the meal because they had the virtue of settling the stomach and preventing other foods

from 'coming back up' as apples were considered to be cold and moist and would help with digestion and balance of phlegm and melancholic humors" (Gaudio, A Tale of Two Tarts, 2005). Finally, Gaudio offers her own commentary following each recipe. Clearly, all of this goes far beyond a mere listing of ingredients thereby qualifying Gaudio's work for copyright protection. Had Gaudio published the recipes only so that they constituted mere listings of ingredients ineligible for copyright protection, Griggs' republication would have been perfectly lawful. The piece Griggs republished went far beyond a mere listing of ingredients and essentially was an article that contained recipes. Therefore, as a practical matter, Griggs republished a copyright protected article, not just the recipes that by themselves are inelgible for such protection. While there is some disagreement over what constitutes copyright infringement in some contexts, this near verbatim copying of someone else's copyright protected work without permission does not fall into that kind of legal gray area. The republication of the article without permission clearly violates copyright law.

The second widely cited case involving copyright infringement and recipes is *Lambing v. Godiva Chocolatier*. In this case, Lambing accuses Godiva of selling a chocolate truffle based on one of her recipes contained in her unpublished cookbook "Chocolate Savy" (*Lambing v. Godiva Chocolatier*, 1998). Citing *Publications International, Limited v. Meredith Corporation*, the Sixth Circuit Court of Appeals agreed with the Seventh Circuit's reasoning.

> … we conclude that Lambing can prove no set of facts in support of her claim that would entitle her to relief. Lambing argues that Godiva vioalted her copyright by preparing and selling a truffle described in one of the recipes contained in her unpublished book, *Chocolate Savvy*. Recipes, however, are not copyrightable … The identification of ingredients necessary for the preparation of food is a statement of facts. There is no expressive element deserving copyright protection in each listing. Thus, recipes are functional directions for achieving a result and are excluded from copyright protection under 17 U.S.C. § 102 (b) (*Lambing v. Godiva Chocolatier*, 1998).

In both Lambing and *Publications International, Limited v. Meredith Corporation*, the courts maintain the distinction between a recipe that is a mere listing of ingredients which is not eligible for copyright protection and a recipe that includes additional "expressive elements" which does qualify. While the cases are similar in that regard, it is important to note that the facts of Lambing are quite different from the facts found in *Publications International, Limited v. Meredith Corporation*. Lambing is not accusing Godiva of copying her recipe and publishing it in their own cookbook. She is claiming copyright infringement based on the fact that they *used* her recipe. That is, she claims copyright infringement based on the allegation that Godiva sold chocolate truffles prepared by following her recipe. Nevertheless, like in *Publications International, Limited v. Meredith Corporation*, the court found no copyright infringement. The factual distinctions between *Publications International, Limited v. Meredith Corporation* and *Lambing v. Godiva Chocolatier* shed light on another dimension of the confusion about copyright law and recipes expressed by Griggs' in her interview with reporter Dan Crowley: "She questioned how a chef using a recipe he or she finds online for profit in a restaurant is any different from a magazine publishing one found online" (Crowley, November 12, 2010).

As a practical matter, Griggs has a point. A chef who prepares a dish from a recipe benefits when a customer orders that dish and pays the check. However, just because the two situations are analogous as a matter of fact does not mean they are the same as a matter of law. Preparing a dish from a recipe is using that recipe for its lawful and intended purpose. That does not violate copyright law. Griggs could have prepared pies based on Gaudio's recipes. She could have sold those pies. She could have written her own article critiquing the pies and even Gaudio's commentary on the recipes. Baking a pie is simply not the legal equivalent of copying

an article. Copying an article without permission is not using the article for its intended purpose and therefore constitutes copyright infringement.

Protecting Recipes

In these recent cases, the courts have been consistent in their treatment of recipes under copyright law. Nevertheless, it is important to note that at least one legal scholar argues that the courts have it wrong. In "On the Legal Consequences of Sauces: Should Thomas Keller's Recipes Be Per Se Copyrightable?", the author argues for a more expansive application of copyright law to the culinary arts (Buccafusco, 2007). Comparing the work of chefs in creating cuisine to other performing arts such as dance and music, he argues that recipes should be protected by copyright law just like a choreographer's notations and musical scores (Buccafusco, 2007). Essentially, Buccafusco (2007) argues that the culinary arts are precisely that – art. Further, while it is yet to come to fruition, he predicts a spike in related lawsuits:

> Food has recently been described as existing in one of copyright's "negative spaces," i.e., a realm of creativity not covered by copyright law. The high-stakes culinary world of television chefs, flashy cookbooks and product lines, and world-wide gourmet restaurant chains has encouraged those with an interest in the industry to consider enforcing their potential intellectual property rights in their recipes. The two most recent Federal Circuit decisions [referring to *Publications International, Limited v. Meredith Corporation* and *Lambing v. Godiva Chocolatier*] on the copyrightability of recipes, as well as copyright law's primary authority, Nimmer, have proven hostile to the notion that creators of recipes may obtain monopolies over their works. Given the size of the food and beverage industry and the amount of money potentially at stake, litigation in this area is likely about to spike (Buccafusco, 2007).

Whether Buccafusco's prediction of increased litigation proves to be accurate, there is no question that he is correct about the potential for the large amounts of money at stake. According to the National Restaurant Association industry forcast for 2011, restaurant sales are projected to run $1.7 billion for a typical day and $604 billion for the year which gives the

restaurant industry 49% of food dollars spent (Facts at a Glance: 2011 Restaurant Industry Overview & Top Ten Facts in 2011). Despite the fact that at least to date copyright law provides little legal protection for recipes themselves, there are other legal protections available.

Trademark law can be used to protect unique names for specific dishes. Trade dress law offers possiblities for protecting elements of the presentation of dishes as well as an establishment's décor. Albeit for a limited period of time, patent law affords the possibility of preventing others from using a recipe for its duration. Both trade secrets law and contract law provide the means to maintain the secrecy of confidential or proprietary information. While a detailed examination of the use of these legal doctrines is beyond the scope of this work (though it offers an opportunity for future research) a discussion of some of their respective strengths and weaknesses can be found in "Protecting Cuisine Under the Rubric of Intellectual Property Law: Should the Law Play a Bigger Role in the Kitchen?" (Cunningham, 2009).

CONCLUSION

The "Cooks Source" saga illustrates both the power of the Internet as well as the hazards of misunderstanding and misapplying the law. To date, given the manner in which the courts have interpreted and applied copyright law to recipes, it is critical that food industry professionals understand the differentiation between individual recipes, collections of recipes, and the use of recipes.

Individual recipes are not eligible for copyright protection to the extent that they are mere listings of ingredients. Consequently, individual recipes may be either republished or used without violating copyright law. However, if an individual recipe is contained in an article or otherwise includes editorial content, the entire article is protected by copyright law and it may

not be republished without permission. Nevertheless, it may be used for its intended purpose -- to create the dish.

Collections of recipes such as cookbooks are eligible for copyright protection. The copyright applies to the collection and not necessarily to the individual recipes within the collection. The collection may not be republished without permission. Individual recipes within the collection must be evaluated to determine whether they are mere listings of ingredients (not eligible for copyright protection) or more than a mere listing of ingredients (which are eligible for copyright protection). After making this determination, those not qualifying for copyright protection may be republished without permission while those that do qualify for permission may not be republished without permission. Again, whether or not they are eligible for copyright protection, individual recipes may be used for their intended purpose – to create cuisine.

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