

# **COPYRIGHT LAW: WORLD IP DAY 2016**

**Sara Anne Hook, M.B.A., J.D.**

**IU School of Informatics and Computing, IUPUI  
American Intellectual Property Law Association  
(AIPLA)**

**Zionsville High School**

# LAWS COVERING ENTREPRENEURSHIP AND CREATIVE WORK

- Intellectual Property Law (think of these as tools in your creator's/investor's/entrepreneur's legal toolbox)
  - Trademark law (for company branding, logos)
  - Trade secret law (for confidential company information)
  - Patent law – note America Invents Act – major revision of patent law in the U.S. (for inventions)
  - Copyright law (for creative work)
- Other Related Areas of the Law
  - Rights of publicity (famous people)
  - Right to privacy (the rest of us)
  - Contracts and licensing (how intellectual property is distributed)



# COPYRIGHT PROTECTION

- Constitution, Article I, Section 8, [8]: *To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Inventions*
- Original works of authorship
- Fixed in a tangible medium (includes emails, websites, art work, slides, videos, but not oral communications unless they are preserved in some fashion)
- Minimal amount of creativity
  - telephone books: *Feist v. Rural Telephone* case
  - forms: *Baker v. Selden* case
  - software



# COPYRIGHT MYTHS

- Not words, names, titles, slogans, phrases (trademark law)
- Misconceptions about copyright law (if I change it 10%, that's not infringing)
- Expression only, not ideas, data or facts
- Copyright law does not protect ideas, only how those ideas are uniquely expressed
- Court does not decide whether it is “good art” – only that it meets the criteria for copyright protection



# OTHER IMPORTANT FEATURES OF COPYRIGHT LAW

- Copyright law is a federal matter – handled by federal courts
- U.S. Copyright website is very helpful - <http://www.copyright.gov/> - includes links to copyright law, forms for registering your creative work, free searchable database of all copyright registrations , etc.
- Benefits of registration through the U.S. Copyright Office
- Benefits of using a copyright notice on all of your work (copyright symbol, your name, date)
- Best to seek the advice of an attorney who practices in this area of the law



Browser: https://www.copyright.gov/ U.S. Copyright Office

Copyright.gov UNITED STATES COPYRIGHT OFFICE  
a department of the Library of Congress

ABOUT US ▾ NEWS ▾ LAW AND POLICY ▾ PUBLICATIONS ▾ CONTACT US

Search Copyright.gov

## U.S. Copyright Office releases Provisional IT Modernization Plan

[Read More](#)

### HOW DO I...?



- THIRD EDITION  
**Compendium of  
U.S. Copyright Office Practices**
- Code of Federal Regulations**  
TITLE 37, CHAPTER II
- Copyright Law of the United States**  
AND RELATED LAWS CONTAINED IN  
TITLE 17 OF THE UNITED STATES CODE
- Fair Use Index**  
CASES AND INFORMATION

- Tutorials**
- [eCO Tutorial \(Standard\) \(Single\)](#)
  - [Copyright Search](#)
  - [Catalog of Copyright Entries](#)
  - Frequently Asked Questions**
  - [Why should I register my work?](#)
- [More FAQs](#)
[Más preguntas frecuentes](#)

- Other Services**
- [Mandatory Deposit](#)
  - [Notice of Restored Copyrights](#)
  - [Records Research and Certification Section —  
Litigation Services](#)
  - [Request a Search Estimate](#)
  - [DMCA Agents Directory](#)
  - [Vessel Registrations](#)



# WHAT ARE THE RIGHTS?

- Reproduction (copy)
- Distribution (sell, rent, donate)
- Derivative works (translations, putting images on products, balloon animals, costumes, appropriation art, sampling)
- Public performance
- Public display
  - Visual Artists Rights Act of 1990, but very specific limitations and only for fine art
  - Separate the physical work (book, painting) from the intellectual content – first sale doctrine
  - Specific rights or all of copyright owner's rights can be assigned or licensed (in writing)



# DURATION OF COPYRIGHT PROTECTION

- Sonny Bono Copyright Term Extension Act changed this (extended by additional 20 years)
- Caution: even things you think are so old that they are no longer protected, probably still are
- Legislation proposed for so-called “orphan works”
- For works created after 1978:
  - Life of the author plus 70 years
  - Work-for-hire: 95 years from publication or 120 years from creation





# FAIR USE

- An exception to the exclusive rights of the author
- Four part test: but no “bright line”
  - Purpose: commercial v. scholarly or non-profit, but think ahead
  - Nature: fact-based v. creative (like poetry), published v. unpublished
  - Amount: ratio plus “substantiality of the work” – *Harper & Row Publishers, Inc. v. Nation Enterprises*
  - Effect: on the potential market
  - Importance of “transformative use” – but no percentage for this (for example, the myth that changing someone else’s work 10% is enough)
  - Again, best to obtain permission or create your own original content (music sampling cases)
  - Parody – must be similar enough for people to get it



# WHAT IS COPYRIGHT INFRINGEMENT?

- ▶ Using the copyrighted work of someone else without seeking permission – not the same as plagiarism
- ▶ If infringement found: actual v. statutory damages, injunctions, take down or destroy copies, attorney fees, court costs, punitive damages if willful
- ▶ In an infringement case, the Court will first look at access to the other person's work as well as evidence of copying
- ▶ The Court will then look at whether there is substantial similarity between the works from both expert's and public's point of view



# RIGHTS OF PUBLICITY/RIGHT TO PRIVACY

- Example: photograph
- Photographer owns the copyright
- Rights of privacy – ordinary people
- Rights of publicity – famous people
  - Indiana has one of the strongest systems for protecting rights of publicity for both living and deceased – due to CMG
  - Extends to image, likeness, persona, voice, other distinguishing features (*Midler v. Ford Motor Co.*; *Carson v. Here's Johnny Portable Toilets, Inc.* )
- Permissions and releases needed from all parties
- Also for audio and video – any other kinds of materials



# FUN EXAMPLES OF CREATIVE WORK

- Fiddler's Fruit Shoulder Rest
  - See hand-written notes/drawings from when I designed it
  - See official registration from the U.S. Copyright Office
- Flute made with 3D Printing
  - Original flute
  - Prototypes



## Public Catalog

Copyright Catalog (1978 to present)  
Search Request: Author = Hook, Sara Anne, 1956-  
Search Results: Displaying 1 of 1 entries

◀ previous next ▶

Labeled View

*Fiddler's fruit shoulder rests.*

**Type of Work:** Visual Material  
**Registration Number / Date:** VAu000565500 / 2002-10-01  
**Title:** Fiddler's fruit shoulder rests.  
**Description:** Soft sculpture.  
**Copyright Claimant:** Sara Anne Hook, 1956-  
**Date of Creation:** 2001  
**Names:** [Hook, Sara Anne, 1956-](#)

◀ previous next ▶

<b>Save, Print and Email</b> ( <a href="#">Help Page</a> )	
Select Download Format	Full Record <input type="button" value="Format for Print/Save"/>
Enter your email address:	<input type="text"/> <input type="button" value="Email"/>

[Help](#) [Search](#) [History](#) [Titles](#) [Start Over](#)

[Contact Us](#) | [Request Copies](#) | [Get a Search Estimate](#) | [Frequently Asked Questions \(FAQs\) about Copyright](#) | [Copyright Office Home Page](#) | [Library of Congress Home Page](#)



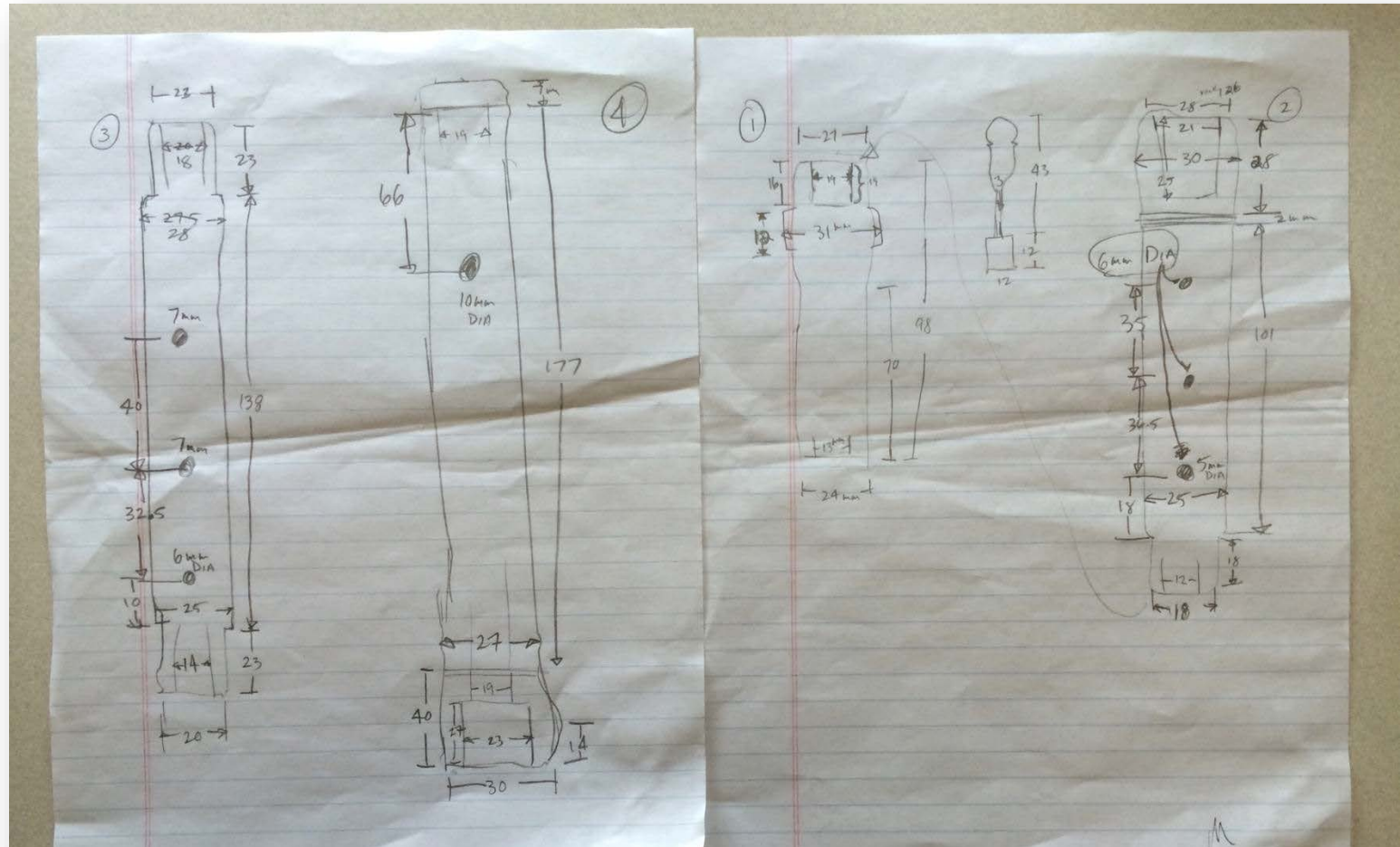
# HOW IS A 3D PRINTED FLUTE MADE?

- Make precise measurements of an existing flute
- Take lots of Photos



# HOW IS A 3D PRINTED FLUTE MADE?

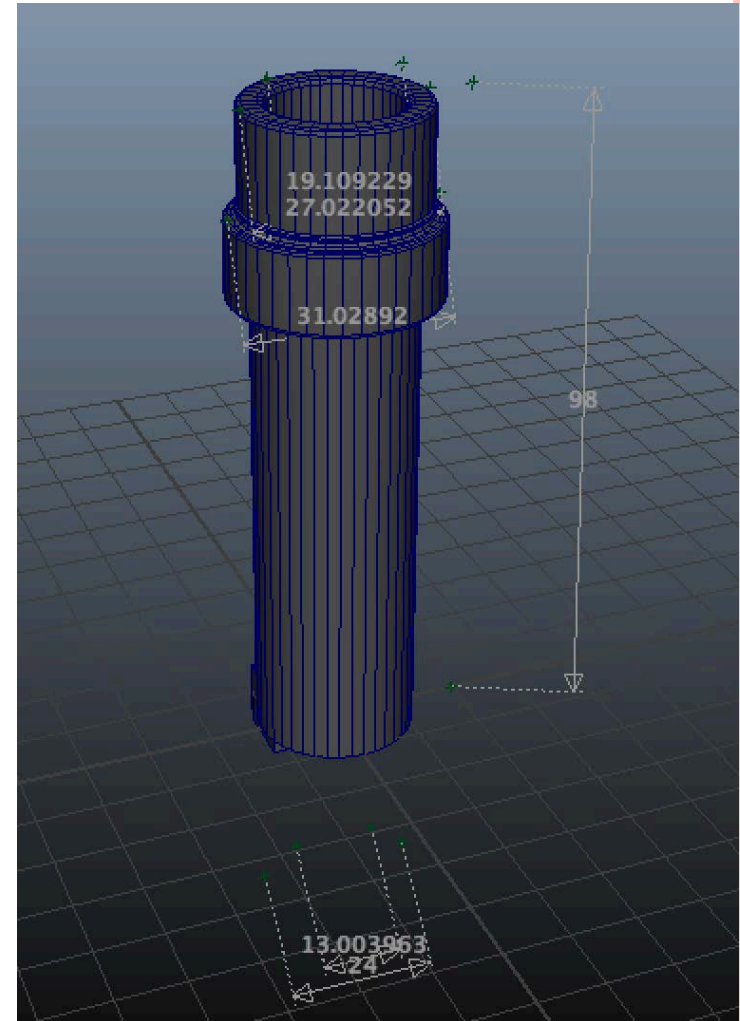
- Make some sketches





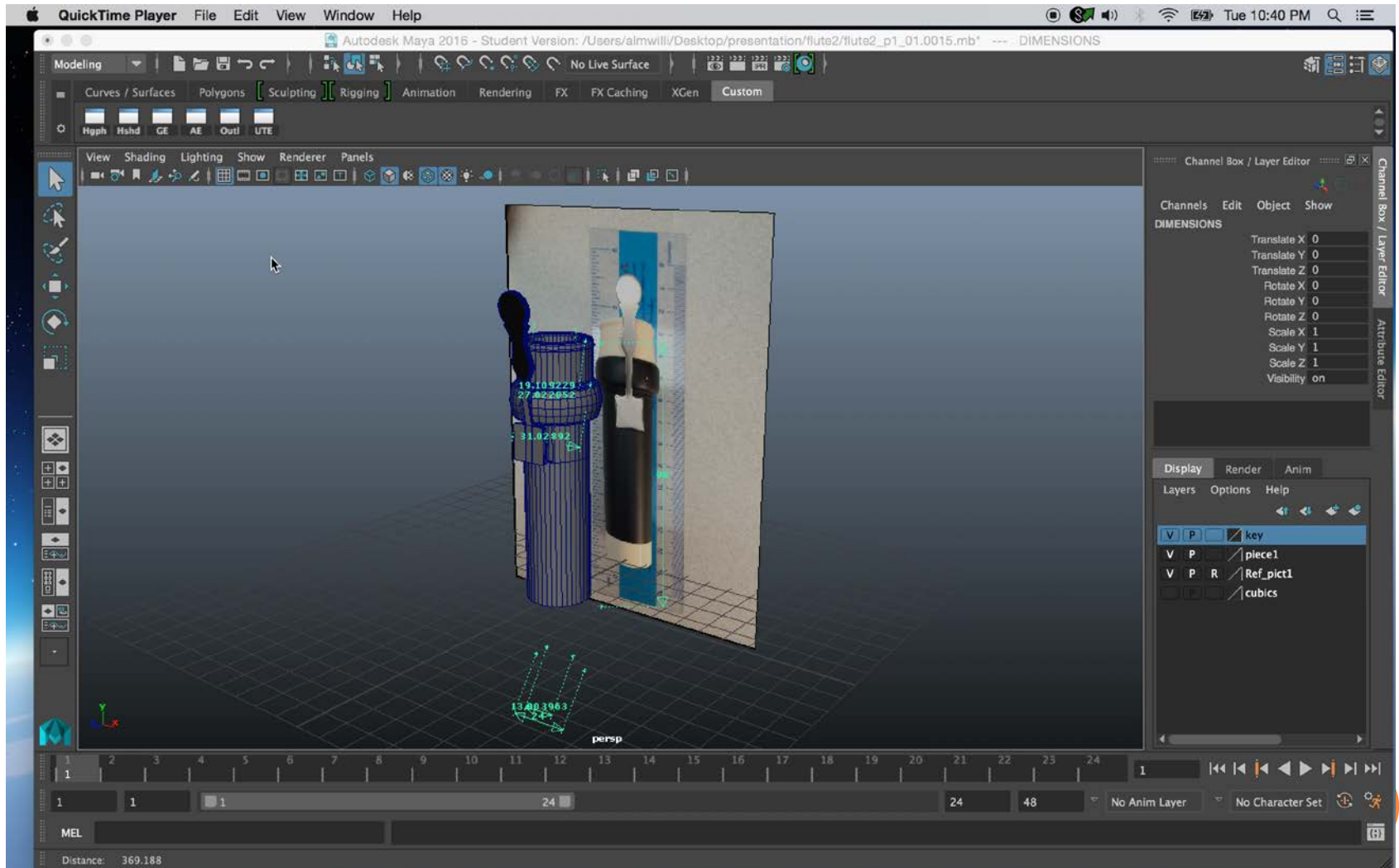
# MODEL IN 3D PROGRAM

- Used Autodesk Maya
  - Other programs can be more accurate
- Imported photos and sketches
- Set up a measuring system to be able to build on a precise grid- millimeters
- Scale reference photos to the grid





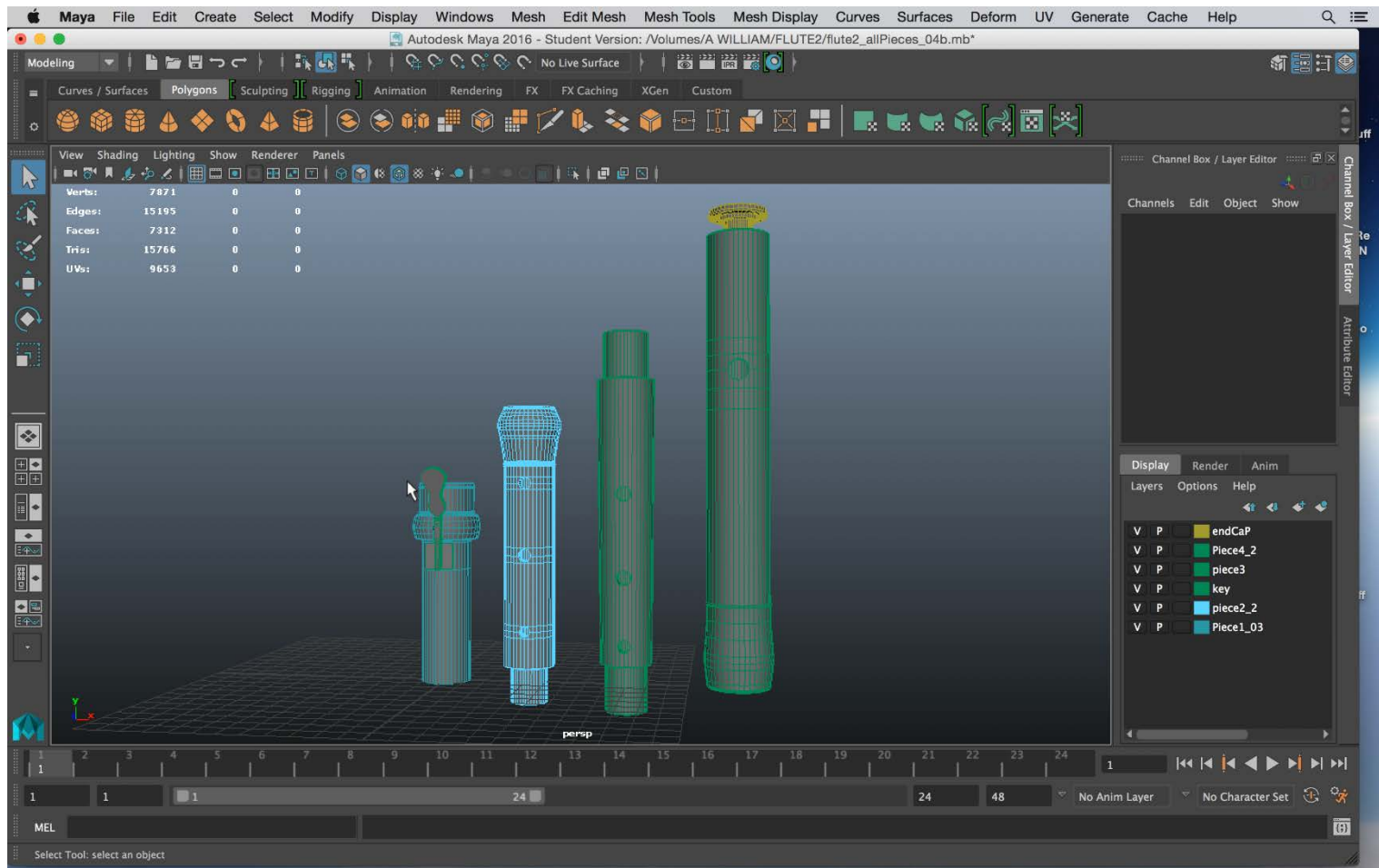
# USE OF COORDINATE SYSTEM

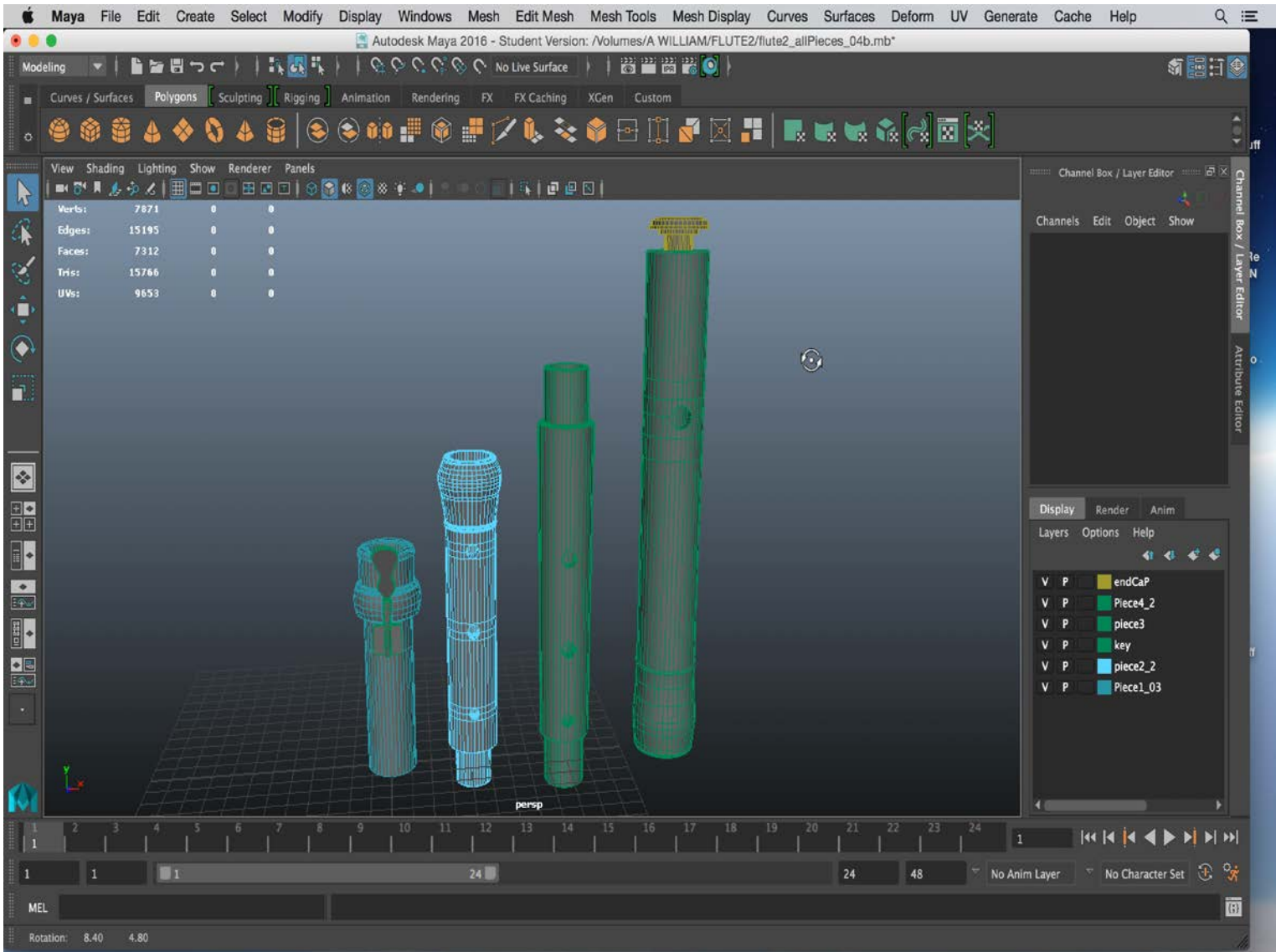


# BUILD THE MODEL

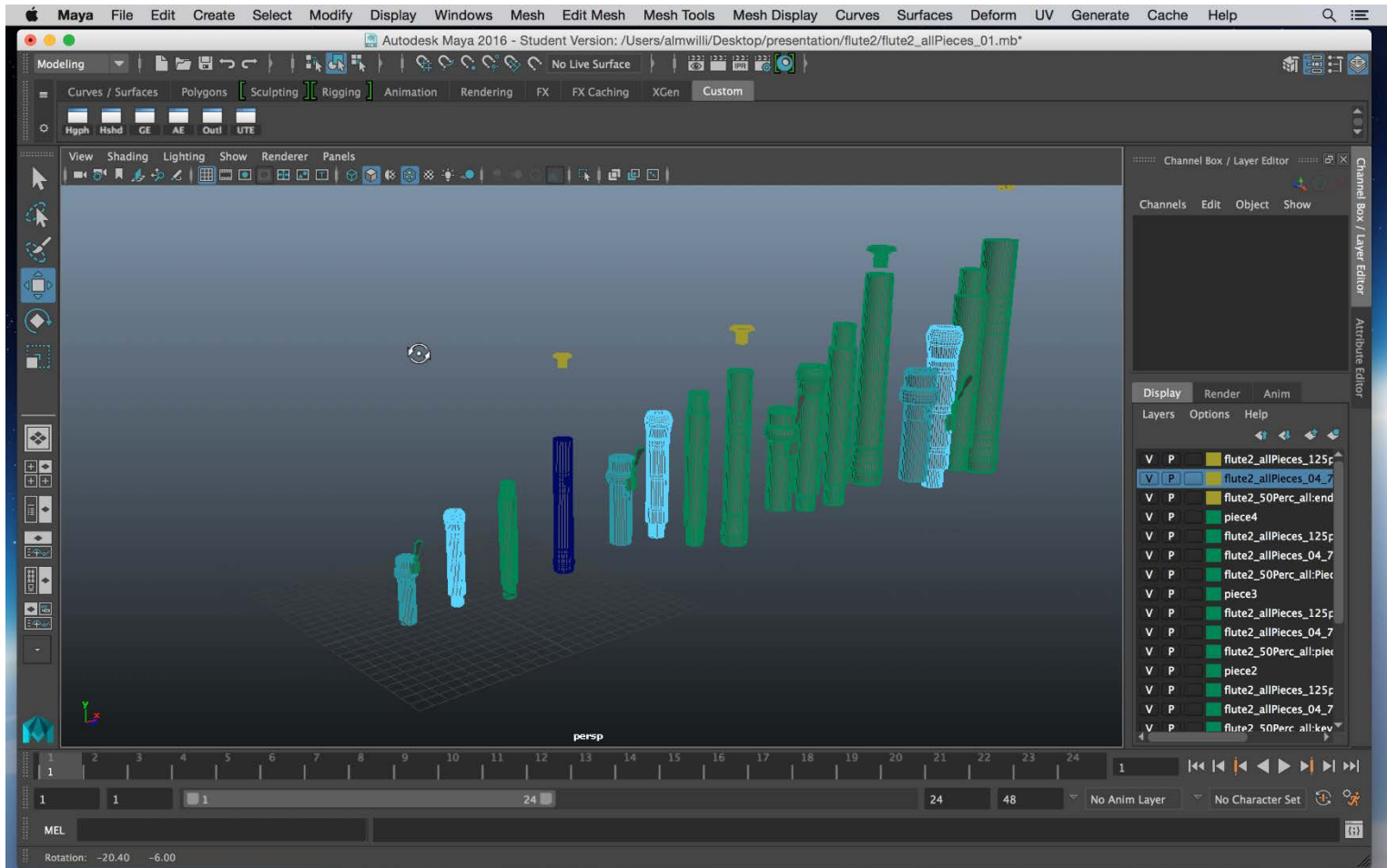
- Polygon models
  - ~7500 quads
- Built from simple shapes
- Keep as simple as possible
- Needs to be waterproof
- Clean up model, check for problems
- Can introduce design modifications





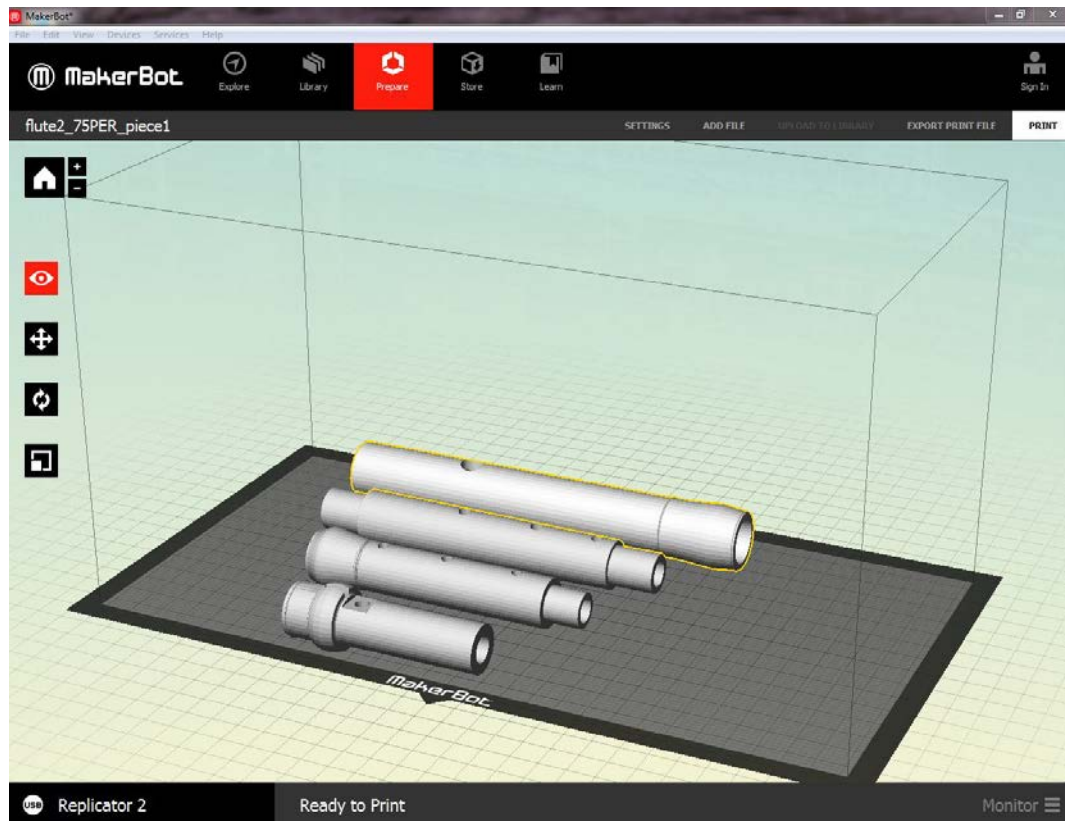


# SCALE MODELS

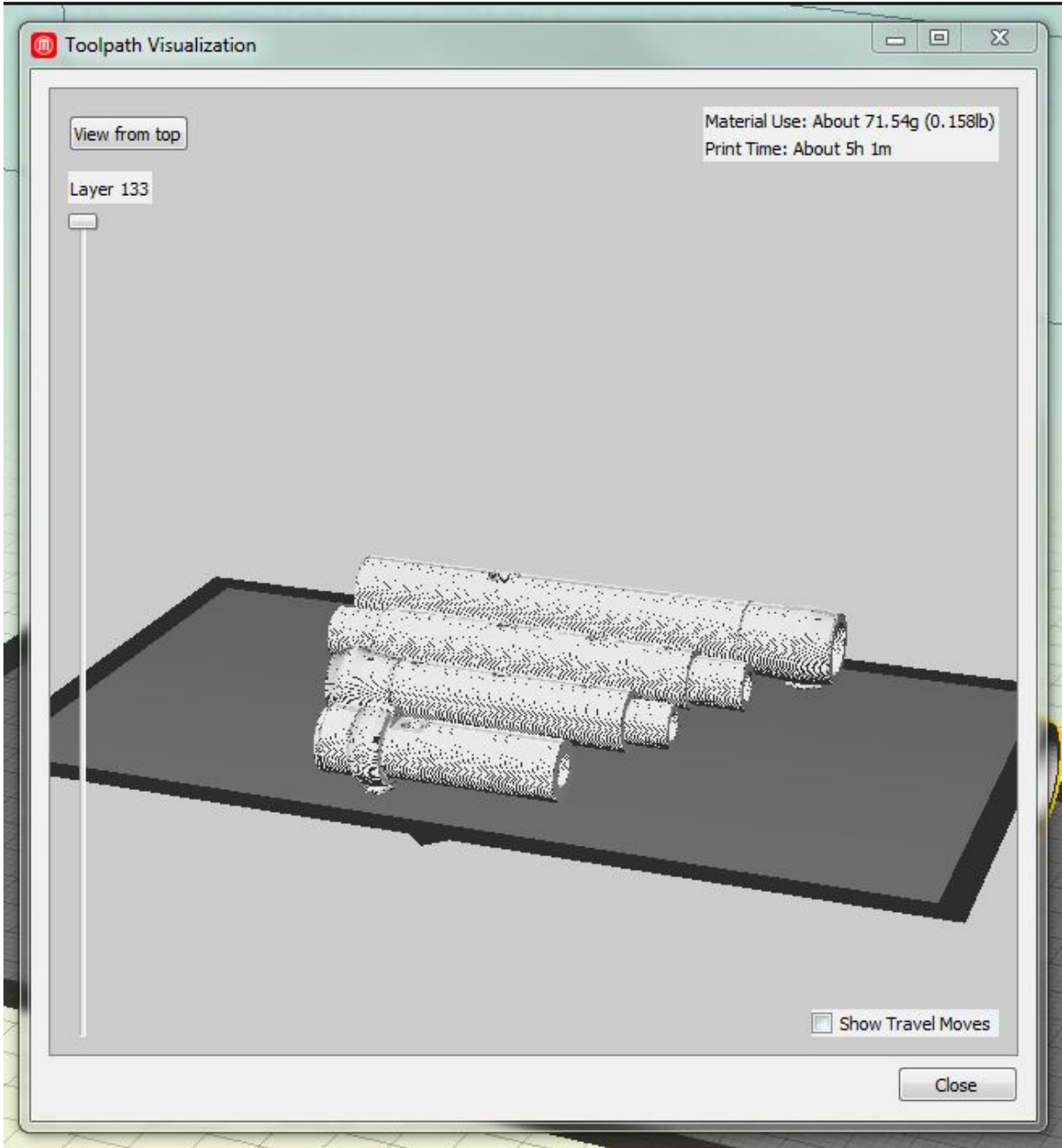


# MAKERWARE

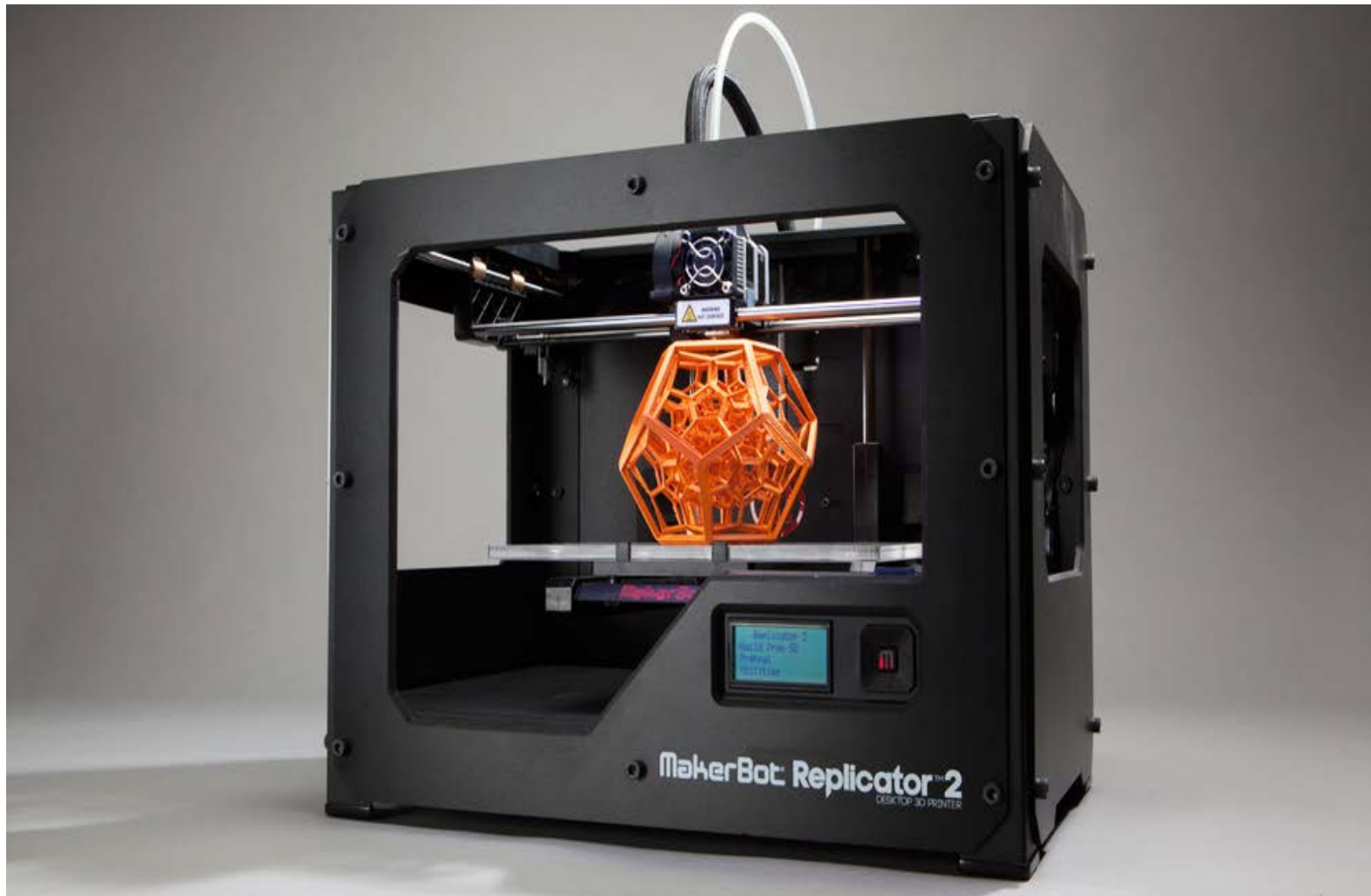
- Software for printer
- Slices the model
- Sends info to printer







# MAKERBOT



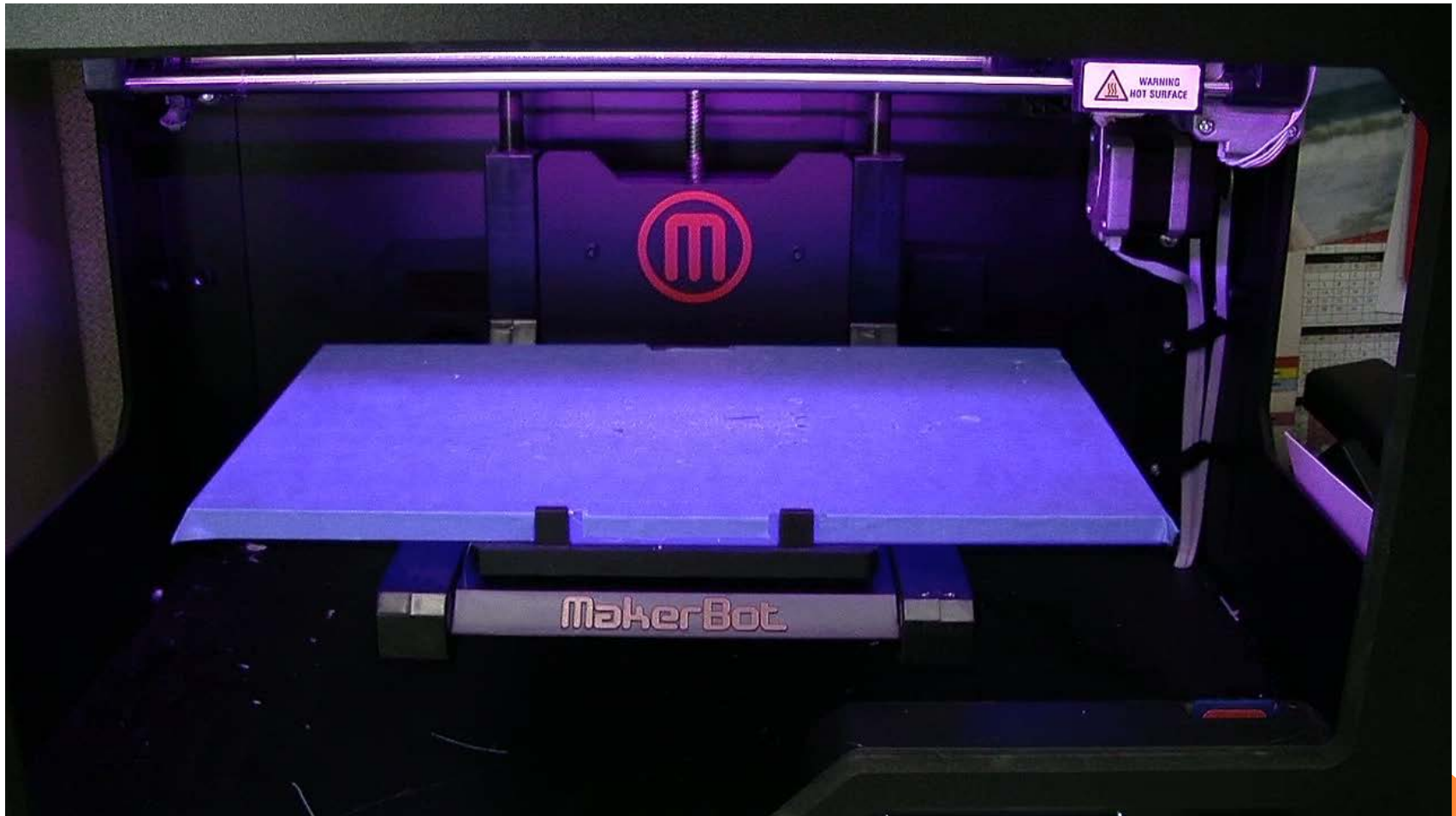


# MAKERBOT

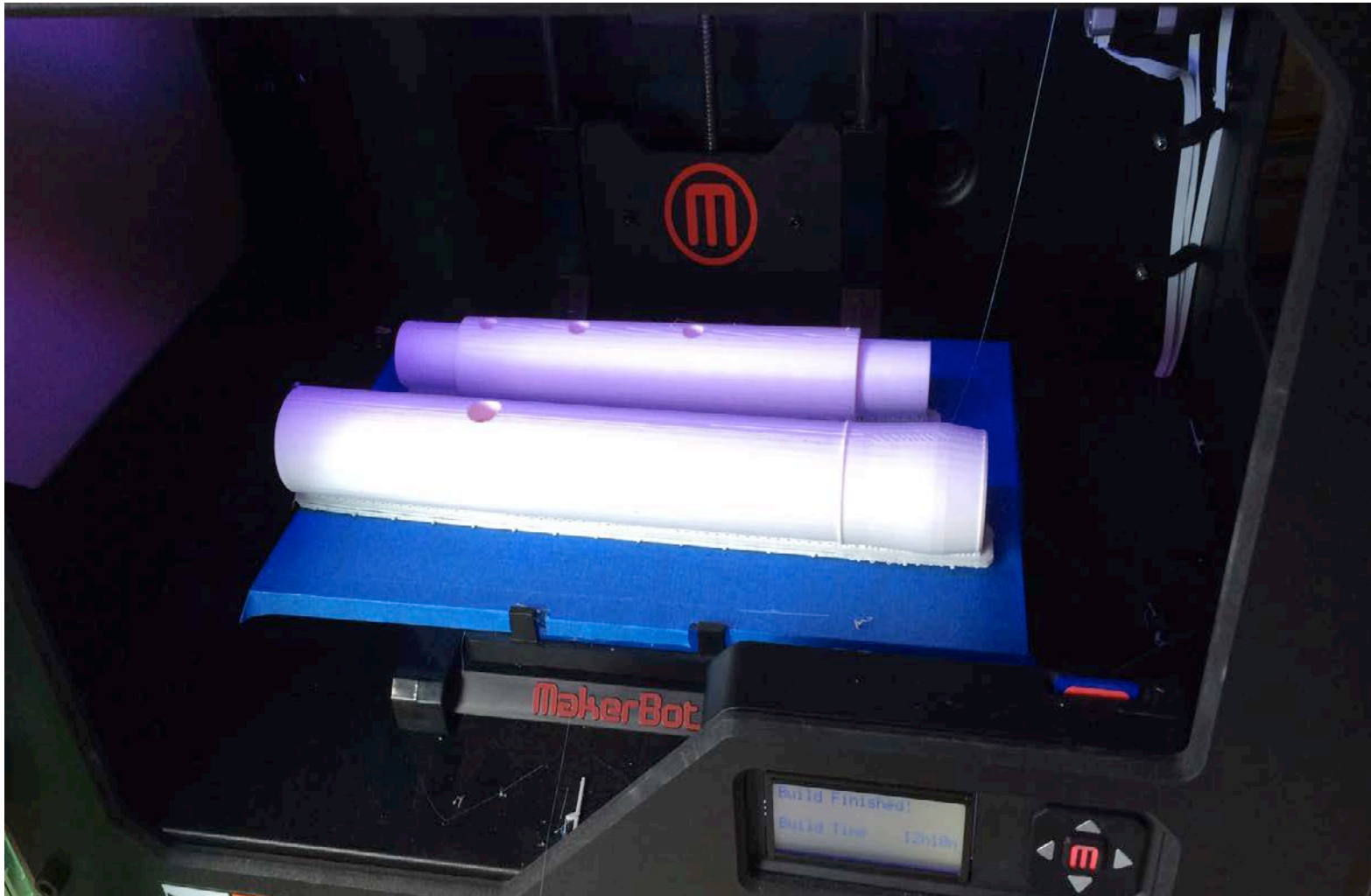
- Uses PLA plastic
- Can adjust many factors
  - Thickness of walls
- Extrudes a filament at 0.2 mm
- Lays down a raft and supports
- Print time varied from 2 hours to 22 hours

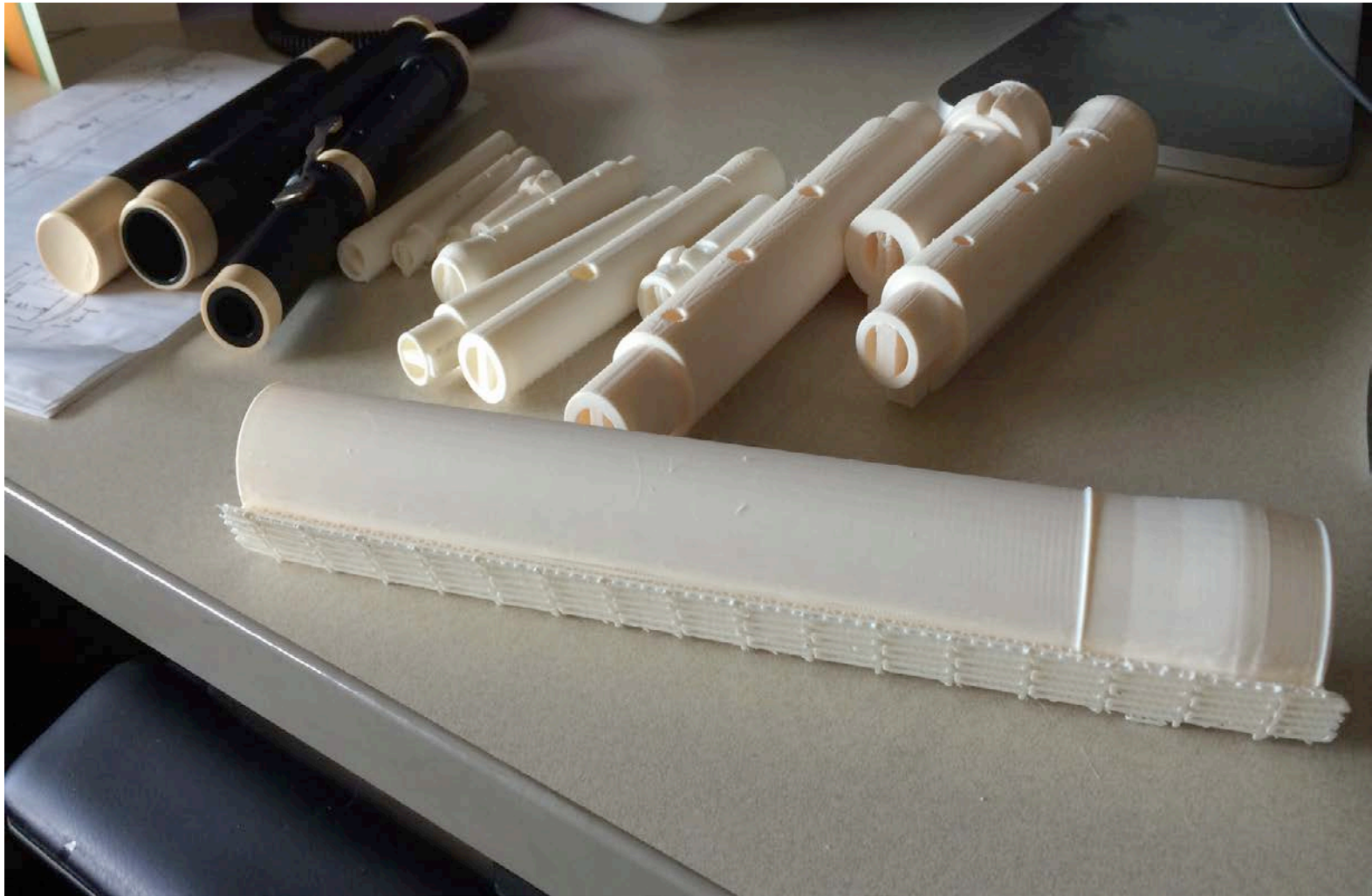


1 HOUR TO PRINT THIS PIECE



# RESULTS









# POST-PRODUCTION

- Need to clean up surfaces
- Remove rafts and supports
- Smooth out irregularities
- Use x-acto, dremel tool



# CLEAN-UP



# RESULTS

- Positive:
  - Easy to design and create
  - Easy to scale
  - Easy to print
- Negative
  - Not as accurate as we would like
    - tolerances
  - Some distortion in shape





# ADVANTAGES OF 3D PRINTING

- Complete control over the design
- Ease of scalability and modification
- The ability to make a series of prototypes
- Hardware that can quickly output the final product
- Can quickly think of other designs and other ways to build than traditional manufacturing
- Provides a good template for traditional builders
- Can be transferred to a lathe or CNC machine



# DISADVANTAGES OF 3D PRINTING

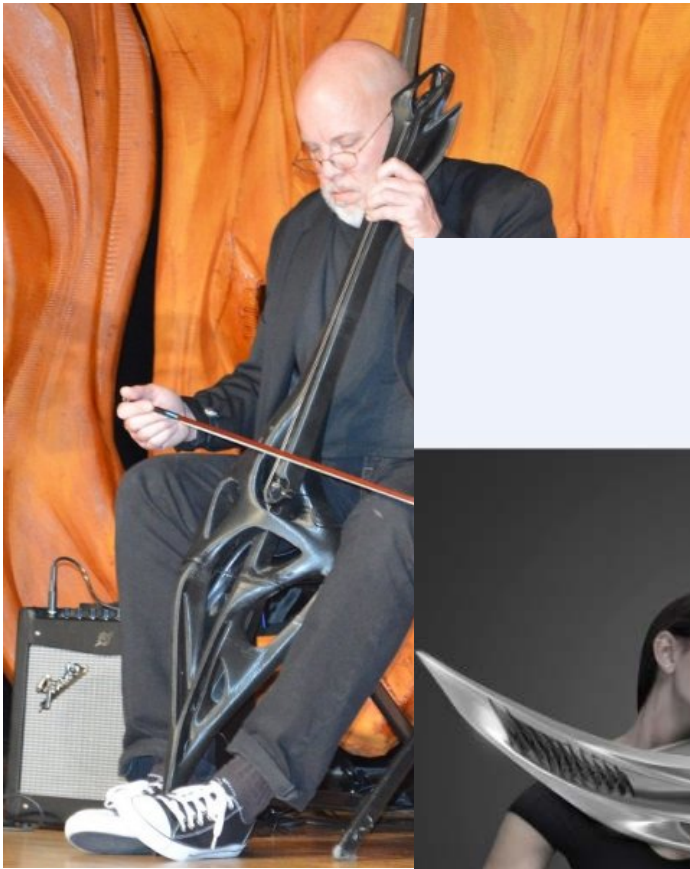
- The hardware has a significant impact on the quality of the output
- The materials currently available may not be “musical” enough
- It is easy for people to dismiss this technology, but having the digital model is so important because you can make modifications



## 3D PRINTING OF OTHER INSTRUMENTS

- 3D-Printed Cello: Video: Met Orchestra cellist performs 3D-printed cello. *The Strad* (April 23, 2015), <http://www.thestrad.com/cpt-latests/met-orchestra-cellist-performs-3d-printed-cello/> (last visited 7/22/15).
- 3D-Printed Violin: 2-string 3D printed violin to be revealed in New York. *The Strad* (March 9, 2015), <http://www.thestrad.com/cpt-latests/2-string-3d-printed-violin-revealed-new-york/> (last visited 7/22/15).
- 3D-Printed Violin Bow: Student Creates 3D Violin Bow. *The Strad* (May 27, 2015), <http://www.thestrad.com/cpt-latests/student-creates-3d-printed-violin-bow/> (last visited 7/22/15).
- 3D-Printed Guitar  
<http://www.odd.org.nz/atom.html>





# LEGAL ISSUES WITH 3D PRINTING

- Dasari, H. (2013). Assessing copyright protection and infringement issues involved with 3D printing and scanning. *AIPLA Quarterly Journal*, 41 (2), 281-318.
- Dillon, S. (2014). Infringement by blueprint: Protecting patent rights in a world of low-cost 3D printing. *AIPLA Quarterly Journal*, 42 (3), 426-458.
- And also being used in litigation: Laird, L. Physical evidence: A Florida company offers 3D printing for demonstrative evidence. *ABA Journal*, Feb. 2015, p. 11.



# COPYRIGHT ISSUES

- With the Fiddler's Fruit Shoulder Rests
- With the 3D-Printed Flute
- Can they be protected by copyright law? Why or why not?
- What other legal doctrine could protect them?



# SUMMARY

- Many legal issues for entrepreneurs and creators to think about
- Knowing the basics can really help you protect yourself, your career and your own creative work and avoid infringing on the rights of others
- Important to think about the law (especially intellectual property law) as part of your toolbox for protecting your work
- Many options that a lawyer with expertise in this area of the law can help you with
- Also remember that just because something is “legal” (or not illegal) still does not mean it is ethical – the law cannot account for every instance of human behavior

