

Copyright Information Center

1. What is copyright?
2. What can be copyrighted and how can I tell that it is?
3. What cannot be copyrighted?
4. How long can something be protected under copyright?
5. What is public domain?
6. What is 'Fair Use'?
7. How does copyright affect me?
8. Additional online references and resources

What is copyright?

According to the United States Copyright Office and title 17 of the U.S. Code, copyright is a form of protection provided by the laws of the United States to the authors of "original works of authorship" including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

1. Reproduce the copyrighted work in copies or phonorecords;
2. Prepare derivative works based upon the copyrighted work;
3. 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. Perform the copyrighted work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
5. Display the copyrighted work publicly, 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; and
6. In the case of sound recordings, perform the work publicly by means of a digital audio transmission.

In other words, copyright exists to protect an individual's original work from being exploited or stolen by others. At the same time, copyright encourages creative ideas by making works available for others to use as a legitimate reference.

What can be copyrighted and how can I tell that it is?

Poetry, movies, CD-ROMS, video games, sheet music, plays, paintings, recorded musical performances, novels, software code, sculptures, photographs, digital images, choreography, and architectural designs are examples of works that can be copyrighted.

Here are a few criteria that need to be fulfilled in order for a work to be a candidate for copyright.

1. The work must be “fixed in a tangible medium of expression”. That is, it must exist physically for some period of time, even if it is short.
2. The work must be original or independently created. This work can even be similar to existing works, as long as the individual was thinking and working independently to create the new work.
3. The work must be a result of some creative effort. This relates to the previous criterion, except it goes a bit further. Creativity is not really measurable, but in terms of copyright, it is understood that the work must be more than an alphabetical list (ex. Student directory).

What is not protected by copyright?

Knowing what is not protected by copyright is important as scholars and artists strive to create new ideas and pass along important information to other scholars and artists. This is what you should know:

1. Ideas cannot be copyrighted. Even extremely creative ideas do not take physical form; therefore, they may not be protected by copyright. For example: Your idea to write a screenplay about a robbery, a chase scene, and a love story cannot be copyrighted; however, the finished, physical screenplay can be copyrighted. Copyrighting ideas would discourage the creation of new ideas.
2. Facts are not protected under copyright. This includes scientific facts, historical facts, and current events. Once an idea is established as fact, it enters the public domain (meaning that it is free to all). For example, anyone can use factual information about apples (apples come in several varieties; one variety of apple can be crossed with another to create a new, delicious variety) as long as they state it in their own words. Keep in mind:

- a. It doesn't matter how much time it took the original author to discover the fact.
- b. The author who originally published information on this fact does not receive payment for the use of the fact.

How long can something be protected under copyright?

The rules defining the duration of copyright are complex. It is best to keep a guide to this information at hand when questioning the duration of copyright. Remember:

COPYRIGHT PERTAINS TO BOTH PUBLISHED AND UNPUBLISHED WORKS.

Copyright and published works:

1. **Published after 1977:** Copyright lasts through the life of the author/artist plus 70 years.
2. **Published before 1978**, but after 1922: Copyright lasts for a maximum of 95 years.
3. **Published before 1923:** These works have now entered the public domain (meaning these works are not protected by copyright, no person holds or maintains the copyright to these works, and they are free to use by the public without seeking permission).

Copyright and unpublished works:

1. **Created before 1978:** Copyright lasts through life of the author/artist plus 70 years.

What is 'Fair Use'?

Fair Use is use of a work, which has not entered the public domain, without seeking or obtaining permission for that use. Individuals are not required to seek permission under Fair Use as long as that use falls under the following guidelines:

1. **Use for comment and criticism in an educational/scholarly environment:** For example, the work may be used in a scholarly presentation, as long as it is not presented as one's own work or idea.

In this instance, another artist's photograph may be used in the presentation to supplement the presenter's own ideas and research. Scholars attending the presentation may benefit from the use of the work to enhance comment and criticism of the presenter's research.

2. **To parody the work:** For example, a cartoonist may make fun of a television or film character in his cartoon under the protection of Fair Use.

The notion of 'Fair Use' is often used as a defense against copyright infringement. However, not all unauthorized use falls easily under Fair Use policies.

How does copyright affect me?

As a student, you can use copyrighted material to enhance your education or research without seeking permission from the copyright holder. However, if you would like to use an image in ways described below, you will need to seek permission from the copyright holder. Unauthorized use of copyrighted material is copyright infringement. It can lead to private lawsuits and monetary punishments.

Here are some ways that you could commit copyright infringement:

1. Privately downloading copyrighted works to avoid paying a purchase price.
2. Making an 'exact and perfect' copy, without requesting permission, for use in a publication or performance.
3. Using a copyright work in artwork intended for or resulting in a sale.

*****IT IS ALWAYS A GOOD IDEA TO FIND OUT IF A WORK IS PROTECTED BY COPYRIGHT BEFORE YOU COPY IT AND USE IT IN YOUR ARTWORK.** Many popular works of art are owned by museums, which may still maintain the copyright to these works. Many museums will grant reproduction permission for the use of an artwork (usually in its entirety) at no cost to students, scholars, or non-profit organizations. It is better to know for sure before you commit copyright infringement!

Additional Online References and Resources

You can find this and other information about copyright law and copyright

infringement at:

The US Copyright Office Homepage: <http://www.copyright.gov/>

The Stanford Copyright and Fair Use Center: <http://fairuse.stanford.edu/>

The Visual Resources Association: <http://www.vraweb.org/resources.html>

If you would like to learn more about obtaining copyright for your own original work go to:

The US Copyright Office Homepage: <http://www.copyright.gov/>

Creative Commons: <http://creativecommons.org/>

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