

COPYRIGHT LAW

The purpose of copyright law is to stimulate the creation of as many works of art, literature, designs, music, and other "works of authorship" as possible, for the benefit of the public. The United States recognizes no absolute, natural right in an author to prevent others from copying or otherwise exploiting his work. U.S. copyright laws give authors limited property rights in their works, but for the ultimate purpose of benefiting the public by encouraging the creation and dissemination of more works.

The balance in copyright is drawn by limiting property rights to the author's particular method of expressing an idea or information. Copyright never gives rights in the idea being expressed, or in facts or other elements of the public domain which an author may incorporate into his work. Others are free to express the same idea as the author did, or use the same facts, as long as they do not copy the author's original way of expressing the ideas or facts. In addition, even those rights granted in the author's expression are limited in duration and are subject to certain exceptions permitting public use under limited circumstances.

Copyright law includes, among others, the following types of works:

- Literary
- Musical
- Dramatic
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Audiovisual works
- Sound recordings
- Architectural works

The author of a work is the initial owner of the copyright in it, and may exploit the work herself or transfer some or all the rights conferred by the copyright to others. [17 U.S.C. § 201](#). The author generally is the person who conceives of the copyrightable expression and fixes it or causes it to be fixed in a tangible form. "Works made for hire" are an important exception of this rule: When a work is "made for hire", within the meaning of the Copyright Act, the employer or commissioning party, who pays for creation of the work, is deemed the author, rather than the employee or commissioned party who actually conceives and fixes the expression (or causes its fixation).

SCOPE OF PROTECTION

There are five basic rights protected by copyright law. The owner of copyright has the exclusive right to do and to authorize others to do the following:

- To *reproduce* the work in copies or phonorecords;
- To prepare *derivative works* based upon the work;

- To *distribute* copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- To *publicly perform* the work, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
- To *publicly display* the work, 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.

A violation of any of the exclusive rights of the copyright holder is said to be “copyright infringement”.

DURATION OF PROTECTION

Works created in or after 1978 are extended copyright protection for a term ending 70 years after the death of the author. If the work was a work for hire (e.g., those created by a corporation) then copyright persists for 120 years after creation or 95 years after publication, whichever is shorter.

COPYRIGHT REGISTRATION

While copyright in the United States automatically attaches upon the creation of an original work of authorship, registration with the Copyright Office puts a copyright holder in a better position if litigation arises over the copyright. Registration of copyright refers to the act of registering the work with the United States Copyright Office, which is an office of the Library of Congress. Registration is absolutely necessary to obtain statutory damages in case of infringement. The purpose of the registration provisions is to create as comprehensive a record of U.S. copyright claims as is possible.

The Copyright Office reviews applications for obvious errors or lack of copyrightable subject matter, and then issues a certificate of registration. The United States Copyright Office requires that applicants for registration must deposit with that office copies of the work for which protection is sought. This requirement serves two purposes. First, if an action arises from the infringement of the work, the owner may prove that the material that is infringed is exactly the same material for which the owner has secured a registration. Second, this requirement assists the Library of Congress in building its collection of works.

ENFORCEMENT OF COPYRIGHTS

Enforcement procedure usually follows this path:

- Send a cease-and-desist letter
- File lawsuit
- Seek a preliminary injunction

- Proceed through trial to arrive at a final decree on permanent injunction and damages

A person whose copyright has been violated (infringed upon) may pursue relief. These remedies, however, require the copyright holder to actively enforce his or her rights. Both temporary and permanent injunctions are available to prevent or restrain infringement of a copyright. Where the infringer is the government, however, injunctions are not available and the copyright holder can only seek monetary damages.

A copyright holder can also seek monetary damages. Injunctions and damages are not mutually exclusive. One can have injunctions and no damages, or damages and no injunctions, or both injunctions and damages. There are two types of damages: actual damages and profits, or statutory damages. During the course of the lawsuit, the copyright holder can ask the court for both, in the alternative. However, at the end of the case, they are mutually exclusive: Only one can be awarded and not the other.

Actual damages are the actual losses suffered by the copyright holder as a result of the infringement. Profits are the profits gained by the wrongdoer as a result of the infringement. In theory, the copyright holder can recover both his or her own actual damages, and also the wrongdoer's profits. Statutory damages are available as an alternative to actual damages and profits. This is sometimes preferable if actual damages and profits are either too small, or too difficult to prove, or both.

Source: Wikipedia.org