

Teaching Copyright

Copyright Frequently Asked Questions

“The Congress shall have Power 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 Discoveries”

— United States Constitution, Article 1, Section 81

What is copyright?

Copyright is a form of legal protection automatically provided to the authors of “original works of authorship,” including literary, dramatic, musical, and artistic works.

U.S. copyright law generally gives the author/creator or owner of an original creative work an exclusive right to:

- Reproduce (copy) or distribute the original work to the public (e.g., create and sell copies of a film)
- Create new works based upon the original work (e.g., make a movie based on a book)
- Perform or display the work publicly (e.g., perform a play)

Violation of one of these rights is called copyright infringement. However, the use may be authorized by copyright limitations (such as fair use) described below.

What types of works are protected by copyright?

- Literary works
- Music and lyrics
- Dramatic works and music
- Pantomimes and choreographic works
- Photographs, graphics, paintings and sculptural works
- Motion pictures and other audiovisual works
- Video games and computer software
- Audio recordings
- Architectural works

What is not protected by copyright?

- Unfixed works that have not been recorded in a tangible, fixed form (e.g., a song you made up and sang in the shower)
- Work in the public domain (see below)
- Titles, names, short phrases, and slogans; familiar symbols or designs; numbers
- Ideas and facts



- Processes and systems (e.g., the Dewey decimal system)
- Federal government works (e.g., the tax code)

If I have an idea in my head, is it automatically copyrighted?

No, ideas are not copyrightable. Only tangible forms of expression (e.g., a book, play, drawing, film, or photo, etc.) are copyrightable. Once you express your idea in a fixed form — as a digital painting, recorded song, or even scribbled on a napkin — it is automatically copyrighted if it is an original work of authorship.

Who owns the copyright?

- Author/Creator
- Author/Creator's heirs if the creator is dead (living family)
- Creators of a joint work automatically share copyright ownership unless there is a contrary agreement. (e.g., If two students write an original story together, they share the copyright.)
- Anyone to whom the author/creator has given or assigned his or her copyright (e.g., an employer if the copyrighted work is created under a "work made for hire" agreement, a publisher or record company if the copyrighted work is given in exchange for a publishing or recording contract). Usually this means that the author/creator has given up his or her own copyright in the work.

Who owns the copyright in recorded music?

It depends. If a person writes a song and records it, that person is the creator and owns the copyright. But professionally produced music can have many copyright owners as a result of contracts and legal deals that essentially split up the copyrights in a work. For example, the copyright to a particular sound recording may be owned by the songwriter, the performer, the producer, a record label, a publisher, or a combination thereof.

When I buy music, either online or offline, do I get copyright in the work?

No, when you buy music, you own that copy of the music. If you bought a CD, you are allowed to sell that particular copy or make fair uses of it, but you don't own a copyright in the work. If you bought a song on iTunes or other service, your ownership of it may be subject to certain restrictions.

When does copyright start? Do I have to register the work with the government?

Copyright status is automatic upon creation of your original creative work in a fixed, tangible form. Registration with the U.S. Copyright Office is not necessary for copyright status and protection, though registration is needed in order to pursue an infringement claim in court.

How do I formally register my original, creative work?

You can fill out the form and submit a filing fee at the U.S. Copyright Office website.

How long does copyright last?

- For original works created after 1977, copyright lasts for the life of author/creator



- + 70 years from the author's death for his/her heirs.
- For "works made for hire" corporate works and anonymous works created after 1977, copyright can last from 95-120 years from publication.

Are there any copyright limitations?

There are several limits on copyrights. For example:

Fair Use allows the public to use portions of copyrighted work without permission from the copyright owner. To decide whether a use is a fair use, courts look at four factors:

1. The purpose and character of the second use: Is it just a copy, or are you doing something different with the original work?
2. The nature of the original: Was the original work creative or primarily informational?
3. Amount used: How much of the original work was used, and was that amount necessary?
4. Effect: Did the use harm the market for the original work? For example, would people buy this work instead of the original?

First Sale allows a consumer to resell a product containing copyrighted material, such as a book or CD that the consumer bought or was given, without the copyright owner's permission.

Public Domain works can be freely used by anyone, for commercial or noncommercial purposes, without permission from an original copyright owner/author. Public domain status allows the user unrestricted access and unlimited creativity! These works may be designated for free and unlimited public access, or they may be no longer covered by copyright law because the copyright status has expired or been forfeited by the owner.

What is licensing?

Licensing is when a copyright owner gives explicit permission for someone else to do something normally restricted by copyright law. For example, the creator of a song may *sell* a license to an advertising agency, allowing the ad company to use parts of her song in a television commercial.

Licenses are not always sold. Sometimes a creator may want to give *everybody* the permission to make copies of his or her work. For example, some musicians want fans to make copies and share their songs, so they license their songs in a way that gives others explicit permission to copy and share them. One increasingly common set of licenses that exist for this purpose are Creative Commons licenses.

What about plagiarism?

Plagiarism and copyright each address the legitimacy of copying, but plagiarism and copyright differ in important ways. While plagiarism is concerned with the protection of ideas, copyright doesn't protect ideas – it protects "fixed expressions of ideas."

Plagiarism is the act of misrepresenting the ownership of an idea. In school, it usually means passing off someone else's ideas as your own in a research paper or other academic work. Plagiarism is wrong, dishonest, and can lead to serious negative



consequences in any school or professional setting. One way to avoid plagiarism is to properly cite your sources – a key academic skill.

By contrast, copyright is a legal concept extensively embodied by U.S. laws and policies. Copyright law permits individuals to make copies under certain conditions, but violating certain copyright rules is copyright infringement. You can't avoid a copyright infringement claim just by citing your sources (though it may still be the right thing to do).

