Copyright Basics

Copyright is the legal protection for writers, artists, musicians, performers, and other creators of tangible works. Copyright is automatic and covers both published and unpublished works. Copyright legislation as mentioned in the U.S. Constitution\(^1\) is reserved for the federal government. While this document gives guidance to the use of materials found in libraries, it should not be relied upon for legal advice. For definitive legal advice please consult a competent intellectual property attorney.

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Works that may be copyrighted

Copyright protection is provided for 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. No filing, registration or copyright notice (©) is required in order to have the legal protections of copyright in an original work of authorship. However, for the most protection against law suits, registration is advised. The copyright protection exists automatically from the moment the original work is "fixed in a tangible medium of expression."

Works of authorship include the following categories:

- Literary works such as books and articles
- Musical works, including any accompanying words
- Dramatic works, including any accompanying music
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion Pictures and other Audiovisual Works
- Sound Recordings
- Architectural Works

Works that may not be copyrighted

Copyright protection does not cover the following:

- Ideas or concepts

\(^{1}\) 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 I, Section 8
Procedures
Processes or systems (These may be protected by patents.)
Principles or discoveries (These may be protected by patents.)
Works not fixed in a tangible form
Titles, names, short phrases, slogans (These may be protected by trademark law.)
Lists showing no originality (The amount of time required to compile a list does not matter.)
Factual information
U.S. government publications and other works

Copyright owners enjoy the exclusive right to:

- Reproduce the copyrighted work in print, non-print, electronic forms, or in forms not yet invented.
- Prepare derivative works based upon the copyrighted work
- Distribute copies, recordings, or visuals of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending
  - In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform 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, to display the copyrighted work publicly
  - In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

These rights may be assigned, sold, given, exchanged, or licensed to others.

Primary limits on the exclusive rights of copyright owners

Fair Use is covered by section 107 of the Copyright law - The "fair use" limitation on the exclusive rights of copyright owners provides a window of limited allowable uses of copyrighted material. There is no simple test to determine if a use of a copyrighted work is allowable under fair use. Generally one may make a copy of a journal article or a chapter of a book for the purposing of reading or studying it. One may not make copies when it infringes on the market for the work. One may not make copies without permission to distribute to your friends.

Special rights are granted to libraries under Section 108 of the Copyright Law when there is no commercial purpose for the copies. Allow purposes include:

- archiving lost, stolen, damaged or deteriorating works,
- making copies for library patrons
- making copies for other libraries' patrons (interlibrary loan)
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Performances, videos, and displays by instructors or pupils during face-to-face teaching activities at an educational institution is allowed. Motion pictures and other audiovisual works, must be made in accordance to the license granted when purchased. This exception does not permit copying and/or distribution of the work; only displays or performances during class time. Public performances licenses need to be purchased for non-classroom use.  

**Public Domain and Length of Copyright Term**

Copyright is only granted to a work for a limited amount of time, after which it passes into the public domain. The current law states the duration of copyright is the lifetime of the author plus 70 years. Works in the public domain may be copied, performed, or reproduced without payment to the creator(s). Intellectual rights last forever. That means one may not claim to have created a work that is in the public domain. The length of term of copyright depends on a variety of factors including what the laws were in effect when the work was published and the country of publication.

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2 Companies such as Swank, Inc. (http://www.swank.com/) negotiate deals with distributors of video and film content and sell licenses for schools and other non-theatrical presentations. The price depends on many factors such as use, duration, audience, and number of viewers. Districts and individual schools may negotiate blanket licenses based on enrollment.

3 Creative Common licenses are generally for non-commercial creations. They insure a creator gets credit for the works. For more information see Creative Commons copyright (http://creativecommons.org/licenses/)

4 Copyleft is a way to freely distribute computer code and programs to encourage others to change and improve them. See: What is Copyleft? (http://www.gnu.org/copyleft/) for further information.

5 The University of Chicago (http://www.lib.uchicago.edu/copyrightinfo/fairusechecklist.html) and Columbia University (www.copyright.columbia.edu) have checklists and further information for deciding if a particular use is within fair use or public domain.
Bibliography


Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code
http://www.copyright.gov/title17/


Nimmer, Melville B. Nimmer on copyright : a treatise on the law of literary, musical and artistic property, and the protection of idea. New York : M. Bender, 1978- 11 v.. This is a continually updated resource.


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