

An Introduction to Copyright

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What is Copyright?

Copyright is a legal protection extended to creators of original works. It grants ownership rights to the authors of literary, dramatic, musical, and choreographed works; pictorial, graphic, and sculptural works; motion pictures and audio-visual works; sound recordings; computer software, digital media, and products; and other intellectual property.

When Does Copyright Begin?

Copyright begins as soon as something is fixed in tangible form. Until 1988, a work had to be either registered with the Library of Congress Copyright Office and/or identified by the © symbol or a copyright notice statement to be protected by copyright, but today copyright protection is automatically extended when a work is created.

How Long Does Copyright Protection Last?

Copyright is legally recognized for the life of the author plus 70 years. During this time, the holder of the copyright retains all legal right to publish, reproduce, perform, display, and distribute the work.

Why Copyright?

Copyright is a way that an author can control how his work is used, realize financial gain from that work, and, essentially, protect his livelihood. The creation of an original work requires a great deal of time and effort, and copyright guarantees that the creator is compensated for his efforts.

Copyright History Timeline

1710 – the first-ever copyright law is passed in Great Britain. The Statute of Anne gave authors legal protection regarding their own works. Prior to this legislation, publishing houses held all legal rights to ownership and reproduction of and to royalties generated from published works.

Copyright History Timeline

1787 – Article 1, Section 8, Clause 8 of the United States Constitution says:

Congress shall have the right “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.”

Copyright History Timeline

1790 – the Copyright Act of 1790 is passed by the United States Congress. It is modeled closely on Britain's Statute of Anne.

Copyright History Timeline

1886 – the Berne Convention for the Protection of Literary and Artistic Works becomes the first international agreement on copyright protection. This agreement sought to provide copyright protection to foreign authors similar to the legal protections enjoyed by native authors.

Copyright History Timeline

1909 – the Copyright Act of 1790 is revised to include new formats of work, including periodical articles, lectures and sermons, print reproductions used for advertising, and motion pictures.

Copyright History Timeline

1976 – the basis of modern American copyright law was passed as the Copyright Act of 1976. This legislation supersedes all previous copyright law and includes such key tenets as the idea of Fair Use, the extension of copyright protection to 50 years beyond the death of the creator, and library photocopying for the purposes of education and preservation.

Copyright History Timeline

1976 – the Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals is amended to the Copyright Act of 1976 to provide scholars and students with minimum guidelines for copyright compliance.

Copyright History Timeline

1981 – the Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes sets parameters for the use of recorded television programming for educational purposes.

Copyright History Timeline

1988 – the United States officially agrees to the tenets of the 1886 Berne Convention. A significant change in U.S. copyright law is that the © symbol or registration with the Library of Congress Copyright Office is no longer required for an item to be protected by copyright law.

Copyright History Timeline

1994 – the CONFU (Conference on Fair Use) agreement sets non-legally binding guidelines on the fair use of copyrighted material in such formats as multimedia projects, distance learning modules, and digital image collections.

Copyright History Timeline

1998 – the Digital Millennium

Copyright Act (DMCA) is signed to protect intellectual property rights across the Internet.

Copyright History Timeline

1998 – the Sonny Bono Act increased the period of copyright protection from 50 to 70 years beyond the death of the creator.

Copyright History Timeline

2001 – in 1999, the Recording Industry Association of America (RIAA) sued Napster in an effort to prevent the unlawful facilitation of peer-to-peer file sharing of copyrighted songs. In 2001, the courts found for the RIAA and Napster ceased its operations.

Copyright History Timeline

2002 – the Technology, Education, and Copyright Harmonization Act (TEACH Act) sets guidelines for the transmission and display of copyrighted materials in the online classroom environment.

What Does Copyright Protect?

Literary works, research and reports (graphs, tables, data), artwork, animations, movies and videos, musical works (including lyrics), computer programs, photographs and images, and architectural works.

What Copyright Does Not Protect

Ideas, commonly known facts, names, short phrases, titles, and works in the public domain.

So, if the copyright holder owns all rights to the material, how can we use that material without violating copyright law...?

It's a little concept called Fair Use.

What is Fair Use?

Fair Use is a set of criteria identified in the Copyright Act of 1976 that allows individuals to use limited portions of a work in the name of criticism, teaching, scholarly research, and news reporting.

The Four Criteria of Fair Use

- The purpose of the use (profit vs. non-profit);
- The nature of the copyrighted work;
- The amount and substantiality of the item used;
- The effect of the use on the potential market value of the work.

Purpose of the Use

If the purpose of the use is non-profit and/or educational in nature, the use is more likely to be protected under the Fair Use doctrine than if your intention is to use the material in a for-profit manner.

Nature of the Copyrighted Work

Usage is more likely to be protected if the work is factual in nature and was created for the purpose of criticism, commentary, teaching, or scholarship. It is less likely to be protected if the work is an original fictional or artistic expression. Also, since a copyright holder is granted the right to first publication, you have more protection when using

Amount and Substantiality of the Item Used

As a rule of thumb, the smaller the portion of the work you use the more protected you are. Regarding substantiality, even if it is a very limited portion of the overall work, you may not be allowed to use what is referred to as the 'heart of the work.'

Effect of Use on Market Value

Does your usage of the material negatively impact the author's ability to realize revenue from the sale of the work? Copying material that should have been purchased (chapters from a textbook, for example) is not protected under Fair Use.

Fair Use

All four of the criteria above must be addressed for you to be within the bounds of Fair Use. Satisfying three criteria but not the fourth means that you are not allowed to claim Fair Use when using the material.

Another option

You can always contact the holder of the copyright to ask permission to use the work. In many cases, creators are happy to have their work used for non-profit educational purposes. And if you plan to use more than a limited portion of a work, obtaining permission is required by law.

Public Domain

Items in the public domain can be used freely and without permission.

Typically, works enter the public domain due to old age. Anything published in the United States before January 1, 1923 is in the public domain and may be used without restriction.

In conclusion...

Not only is copyright compliance the law, it is accepted and encouraged in the university community as a way to protect the efforts of students and scholars and as a way to encourage further research. Please be respectful of others by always practicing copyright compliance when undertaking your research.

Helpful Resources

CMU copyright page:

www.cmich.edu/copyright/default.htm

United States Copyright Office:

www.copyright.gov/

IUPUI Copyright Management Center

www.copyright.iupui.edu/

Copyright Bay:

www.stfrancis.edu/cid/copyrightbay/