



IP ESSENTIALS

A Toolkit for Entrepreneurs,
Innovators, and Business Owners

COPYRIGHTS



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A copyright is an original work of authorship that has been fixed in any tangible medium of expression. Examples include: literary works, software, dramatic works, music, lyrics, dances, pictures, sculptures, movies, sound recordings, and architectural works.

A copyright includes a bundle of rights: reproduction, derivative works, distribution, performance, and public display.

Q Do I have to file/register for copyright protection?

A No. The copyright of an original work of authorship vests in the author immediately upon creation unless transferred in writing. However, a registration might be beneficial if you plan to file a lawsuit for copyright infringement. Federal registration of copyright provides several benefits including the right to sue for infringement in a federal court, statutory damages, and, potentially, recovery of reasonable attorneys' fees.

Q What does the “©” signify?

A Notice of copyright includes the familiar symbol “©” or the word “copyright,” the year of first publication of the work, and the name of the copyright owner. One does not need to register the copyright to use the symbol.

Q What is a “work for hire”?

A A “work for hire” is a work commissioned under a written agreement or one produced by an employee in the normal scope of employment (where the copyright vests in the employer).

Independent contractors will retain ownership of copyrightable works unless there is an assignment in writing. Independent contractors are determined by a number of factors, including: the level of control in preparing the work, the degree of skill involved in creating the work, the duration of the relationship between the authors and employer, the amount of benefits and the tax treatment afforded to the author, and the possibility of additional projects.

Q What is a work “in the public domain”?

A When a work is said to be in the public domain (also referred to as “commons”), generally the copyright term has expired or the authors voluntarily included their works in the public domain through a procedure known as “voluntary relinquishment”.

Q What is the “fair use doctrine”?

A Under the fair use doctrine, a party may exercise the rights otherwise controlled by the copyright owner for the purpose of research (for limited purposes), comment, criticism, parody, or scholarship.

Q What is the Digital Millennium Copyright Act (DMCA)?

A The DMCA addresses copyright infringement on the internet. Among other things, it bans the creation and distribution of technology, devices, or services that are intended to bypass measures to control access to copyrighted works, whether or not there is actual infringement of copyright. The DMCA also limits the liability of online service providers for copyright infringement by users, provided that they meet specific requirements.

“The copyright of an original work of authorship vests in the author immediately upon creation unless transferred in writing.”

Q How long does a federal copyright protection last?

A Depending on the type of work, and whether, where, and when the work was first published, a copyright term may last up to 120 years from the date of creation.

Q Can I transfer my copyrights to another person or entity?

A Yes. Like any other property, all or part of the copyrights in a work may be transferred by the owner to another. Any copyright assignment must be in writing.

Q Do I lose my copyright if I post my original work on social media?

A No, but you generally give a non-exclusive right to use the work to the social media platform where you uploaded your work. It would be prudent to read the terms and conditions of these platforms before posting your work.

Q Is my copyright good in other countries?

A Most of the world including the United States are signatories to international treaties that recognize copyrights in works of authorship.

This IP Essentials Topic is one of a series:

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LANDO &
ANASTASI

60 State Street, 23rd Floor
Boston, MA 02109

lalaw.com | 617.395.7000