

Copyright Ownership & Assignment

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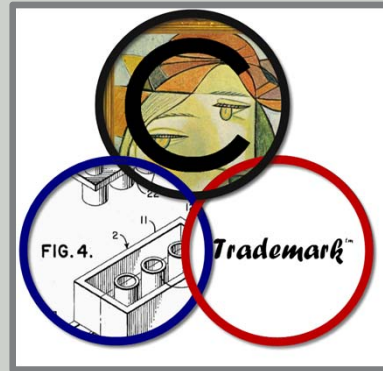


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- Copyrights
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Areas of Intellectual Property Law

Subject Matter Protected:

- Copyright → Creative Works
- Patent → Inventions/Useful Objects
- Trademark → Source-Identifying Words, Names, Symbols or Devices

Copyright

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What Does Copyright Protect?

Copyright law protects **original** works of authorship fixed in a **tangible** medium of expression.



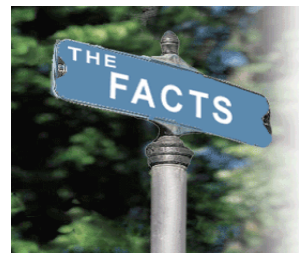
Types of Copyrightable Works

- Novels
- Plays
- Poetry
- Film
- Music
- Photography
- Software
- Databases
- Websites
- Works of Architecture

Copyright

Copyright does NOT protect:

- Concepts or ideas
- Facts
- Blank forms that merely record basic information
- Common information such as standard calendars
- Names and titles (including titles of books, movies, and songs)
- Listings of ingredients or contents



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Copyright

Purpose?

Promote creativity, enrich society and promote progress.

When Does It Begin?

Copyright protection begins immediately upon creation.

How Long Does It Last?

Life of the author plus 70 years

Works made for hire – 95 years from the publication or 120 years from creation (whichever is shorter)

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What Rights?

Copyright – a bundle of **exclusive rights** that protect original works of authorship fixed in a tangible medium of expression.

The exclusive right to:

1. reproduce a work
2. distribute copies
3. create adaptations ("derivative works")
4. publicly perform
5. publicly display
6. digitally perform sound recordings

Who Owns a Copyright?

The **owner of the copyright** is:

- **Default Rule:** The person who creates the work is the legal author and the owner of the copyright in the work.
- **Exceptions:**
 1. Work for Hire: You created the work for your employer OR the work fits within 1 of 9 statutory categories and you've signed an agreement.
 2. Joint Works: You created the work with someone else.
- **Employees vs. Independent Contracts**

Determining Copyright Ownership

Three Ownership Options When Dealing with Independent Contractors

1. Work Made For Hire
2. Transfer of Copyright (complete or partial)
3. License of Copyright (complete or partial)

Determining Copyright Ownership

Work Made for Hire:

1. Copyrightable work created by employee within scope of his/her employment, **OR**
2. Independent Contractor:
 - a. Must sign written agreement, **AND**
 - b. Work must fall in one of nine statutory categories



Determining Copyright Ownership

Work Made for Hire Categories

1. Contribution to Collective Work
2. Audiovisual Work
3. Translation
4. Supplementary Work
5. Compilation
6. Instructional Text
7. Test
8. Test Answers
9. Atlas

Determining Copyright Ownership

Work Made for Hire:

1. Copyrightable work created by employee within the scope of his/her employment, **OR**
 2. Independent Contractor:
 - a. Must sign written agreement, **AND**
 - b. Work must fall in one of the nine statutory categories
- **Example #1:** Marketing assistant writes a **blog post** to promote an upcoming event.

Determining Copyright Ownership

Work Made for Hire:

1. Copyrightable work created by employee within the scope of his/her employment, **OR**
 2. Independent Contractor:
 - a. Must sign written agreement, **AND**
 - b. Work must fall in one of the nine statutory categories
- **Example #2:**
Company commissions **photographs** to use for marketing campaign, including print ads, brochures, on website.

Copyright Can Be Transferred

The Assignment

- Assignment is the transfer of rights
 - “If for any reason at any time in the future the Work is deemed not to be a work made for hire, this Agreement shall serve as a full and irrevocable assignment to Company of all right, title, and interest in the Work...”
- Remember that rights can be unbundled
- Right of termination
- Representations & Warranties
- Get it in writing!

Copyright Can Be Transferred

The Assignment

- Assignment is the transfer of rights.

“I hereby irrevocably, without limitation or reservation of rights, and worldwide assign all right, title, and interest in and to the Work to the Company...”
- Remember that rights can be unbundled
- Right of termination
- Reps & Warranties, Indemnity
- Get it in writing!

Copyright Can Be Licensed

The License

- License is just a permission
- What needs can be anticipated?
- Unbundling
- Exclusivity? Territory? Field?
- Reps & Warranties, Indemnity, Transfer-ability, Enforcement
- Express or implied



Takeaway: Get It in Writing!

Terms of the Agreement

- Who will own the copyright?
- Who can do what with the work?
- For how long?
- Be clear in the writing about all terms. Leave nothing to the imagination.



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Best Practices - Agreements

- Types of agreements to look out for:
 - Work Made for Hire
 - Copyright Assignment
 - Copyright License
 - IT Agreements – website development, software development
 - Marketing Agreements – video production, graphic design
 - Consulting Agreements
 - Research Agreements
 - Distribution Agreements

Best Practices – Copyright Compliance

- What copyright and licensing issues are important to you?
- A copyright policy can provide:
 - Education/Awareness
 - What is and is not subject to copyright
 - Red flags (i.e., Internet ≠ Free)
 - Contracting requirements
 - Resources/Protocol
 - Identify licensing/permissions contact
 - Establish process for requesting permission, tracking licensed uses

Let's Talk...

QUESTIONS?