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[Copyright - Common Misconceptions](#)

Posted on October 13, 2010 by [Karen Brennan](#)

This is a departure from my typical blog, but it is a good opportunity to provide some basic information. As part of my practice I often have clients or referrals for clients seeking copyright protection for something they have created or plan on creating. What I have discovered is that there are some common misconceptions surrounding copyrights in the United States. Below are a few of the most common.

1. Misconception: You must register a work with the Copyright Office to obtain a copyright.

A copyright automatically exists the moment a new work is created (sufficiently original content fixed in some tangible form). No additional action is required to obtain a copyright in the United States. While it is not required, it is a good idea to register a work with the Copyright Office for numerous reasons (to be discussed in a later blog). If a work is published, the work should be registered shortly after publication (for reasons that will also be discussed in a later blog). "Publication" has a broad definition; a work is published for copyright purposes when copies are sold, given away, posted, distributed or made available in any other way to the public. "Public" is equally broad and can include very few people.

2. Misconception: If there is no copyright notice, it is not copyrighted and/or copyright notice is required in the United States.

As noted above, all works of sufficient originality are protected by copyright in the United States upon creation. If the work was created after 1978, notice (© symbol with owner's name and publication date) is not required on a published work to be protected by copyright in the United States. While not required, it is a good idea to place a copyright notice on a published work to put others on notice of your copyright claim and to deter potential infringers. If another party copies your properly noticed work, it would be difficult for that party to claim the infringement was innocent (that he or she did not know the work was protected) and the infringer will more likely be treated by a court as a willful infringer. Willful infringement can lead to a greatly increased damage award for the copyright holder.

3. Misconception: A copyright merely prohibits another party from copying the work or a portion of the work word for word.

Copyright law provides the creator of work with a bundle of rights over their work, including the right to reproduce the work (to make copies of a protected work), the right to create derivative works or adaptations



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(new works based upon the protected work), the right to distribute the work (in any manner), and the right to publicly perform or display the work (i.e., perform on stage or display in public). The author or owner of the copyright may enforce any of these rights against a party who is wrongfully using a work.
I hope this is helpful.



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