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Nuts and Bolts of Copyright: Creation, Protection, Length and Ownership - Part I

Sunday, September 9, 2012 by [Doron F. Eghbali](#)

Copyright law today not only protects authors or publishers from making unauthorized copies, but also copyright law encompasses other rights including without limitation a "derivative work", distribution of the copyrighted material, public performance, public display and digital audio transmission of sound recordings. In this article, we briefly explore some of the basic questions in copyright law, including: When Does Copyright Protection Start? What Are Protected by Copyright Law? How Long Does Copyright Last? And Who Owns Copyright?

A. WHEN DOES COPYRIGHT PROTECTION START?

Copyright protection starts as soon as the creation takes a tangible form. Such tangible form may not only be in the form of books. Even writing letters, taking pictures or drawing on a piece of napkin would constitute the tangible form. In fact, writing a book, manuscript, making a video or even piece of sculpture would form copyright protection immediately upon their creation.

Generally, no notice is required for copyright protection until the work is published i.e. the work is distributed by sale, lease, license, or other transfer of ownership. Nonetheless, it is prudent business practice to attach notice to all copies of the work immediately upon fixation in a material medium.

Notice consists of attachment of the following elements on the work:

1. The Symbol ©
2. The Word "Copyright" or the Abbreviation "Copr."
3. The Year of Publication
4. The Name of the Owner of the copyright
5. The Words "All Rights Reserved" Beneath the Copyright Notice



B. WHAT ARE COVERED BY COPYRIGHT?

Now, the next question to ponder is what rights and privileges an owner of copyright obtains. In the motion picture business, there are at least four (4) of such rights and privileges:

- 1. COPY:** In fact, it behooves copyright owners and others to ascertain even making one copy of a protected work constitutes copyright infringement, despite some rather specific exceptions.
- 2. "DERIVATIVE WORK":** A "Derivative Work" is referred to as modification or alteration of a pre-existing work. Hence, even making "minor" changes to the original is protected. Accordingly, filmmakers must obtain owners' permission for any modification or alteration.
- 3. DISTRIBUTION:** Distribution means making a copyrighted work available to the public at large through sale, lease, rental, lending or forms of transfer of ownership. Again, for distribution, copyright owner's permission is required.
- 4. PUBLIC PERFORMANCE:** Whenever an audience attends a performance at which a movie is played or a song is sung, there is generally a public performance. The operative fact is whether the public is invited to attend. In other words, it is immaterial as to whether the attendees were charged or not. Again, for public performance, permission from copyright owner is required.

C. WHEN DOES COPYRIGHT PROTECTION END?

The copyright nowadays lasts for the **LIFE OF THE AUTHOR PLUS 70** years. This means if somebody owns the copyright to a book, movie or piece of music, even their grandchildren could be receiving royalties from permitted exploitation of the copyrighted work.

Nonetheless, if a **CORPORATION** is the author the copyright lasts 95 years from the day it was published **OR** 120 years from the day it was created, whichever is shorter. A corporation is the author when the work is created by an employee of the corporation within the course and scope of the employee's employment **OR** when the work is made for hire.

D. WHO OWNS COPYRIGHT?

Generally, author is the owner of copyright. Nonetheless, when the author is employee of a company and within the scope and course of employment the employee creates a work, then the employer i.e. the company becomes the owner of the copyright.

Furthermore, a work for hire also bestows copyright ownership in the person or entity paying for the work. Work made for hire is if you have an agreement with another person or entity which states the commissioned work is a work for hire.



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NOTE

Work Made for Hire ONLY Applies to the Following:

1. Part of a Motion Picture or Other Audio-Visual Work
2. A Test
3. Answer Material for a Test
4. A Contribution to a Collective Work
5. Supplementary Work
6. An Atlas
7. A Translation

DISCLAIMER

This article NEITHER supplants NOR supplements the breadth and depth of such rarefied topic. In fact, this article ONLY provides a rudimentary synopsis of such esoteric subject matter.

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