

# 5 Things You Can't Copyright

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So you've written the next hit song, crafted a slogan to sell millions, and even come up with a recipe that puts Iron Chef to shame—the question is, can you Copyright them? Learn the five surprising things that you can't copyright (and what you can.)

## What Is Protected by Copyright?

According to the US Copyright Office in order for something to qualify for copyright protection, that something must exist in a tangible form. Specifically:

*Protection under the copyright law (title 17 of the U.S. Code, section 102) extends only to original works of authorship that are fixed in a tangible form (a copy). "Original" means merely that the author produced the work by his own intellectual effort, as distinguished from copying an existing work. Copyright protection may extend to a description, explanation, or illustration, assuming that the requirements of the copyright law are met.*

In other words, that great idea you told your friend about the other day cannot be protected by copyright in and of itself, but if you write that great idea down, the words can be protected.

Still, there's always room for interpretation, confusion, and ongoing debates over what is and isn't protected by Copyright law. So below we've outlined five things the US Copyright Office clearly states are not protected by Copyright—even if they are a tangible expression of an idea or thought.

## What is Not Protected by Copyright?

### 1. Ideas, Methods, or Systems

Ideas, methods, and systems are not covered by Copyright protection. According to the US Copyright Office, Circular 2, this covers quite a few things including making, or building things; scientific or technical methods or discoveries; business operations or procedures; mathematical principles; formulas, algorithms; or any other concept, process, or method of operation.

### 2. Commonly Known Information

This category includes items that are considered common property and with no known authorship. Examples include standard calendars, height and weight charts, telephone directories, tape measures and rulers, and lists or tables taken from public documents. A phrase such as "The sky is blue" also falls under this category since there is no known authorship associated with it.

### 3. Choreographic Works

A choreographic work, whether original or not, is not subject to Copyright protection unless it has been videotaped or notated. The same applies to speeches that have not been transcribed before or after they are given, as well as any other types of performances.

#### **4. Names, Titles, Short Phrases, or Expressions**

Also exempt: names, titles, short phrases, or expressions—such as that catchy slogan you came up with for your business—product descriptions, pseudonyms, titles of works, and business names. The good news is that while they are not protected by copyright, if they pertain to your business (for example, goods and services) they can be protected with a Trademark.

Recipes also fall under this category. Specifically the listing of ingredients (even if it's your own recipe ingredients) is not protected by Copyright. This applies to formulas, compounds, and prescriptions as well. There are exceptions however, such as when recipes are compiled in a cookbook for instance or if the recipe is accompanied by “substantial literary expression”, a term that refers to text such as directions, or when there is a combination of recipes, there may be a basis for Copyright protection.

#### **5. Fashion**

Contrary to what you might think, fashion (that is, a shirt, dress, or other article of clothing) is not protected by Copyright law. Despite the fact that Copyright law protects such things as architectural design works (Circular 41) or works of the visual arts (Circular 40), fashion is all about clothing and accessories, which under Copyright law are considered “useful articles”. It is possible however, to Copyright a specific fabric pattern (Burberry plaids for example), but not the actual dress. And, it should be noted that while designs can't be Copyrighted, they can be Patented.