

INTRODUCTION TO COPYRIGHT

Updated 27 February 2008



Intellectual Property covers four main areas:

Patents - How something works

Designs – What it looks like

Trade Marks – What you call it

Copyright – Artistic or literary expression

Sometimes a single item can be covered by all four elements, for example, a new lock mechanism could be covered by a **Patent** for the mechanism, by a **Design** for the appearance given to the outside, by a **Trade Mark** for a logo and by **Copyright** for the installation instructions.

Many benefits come with copyright, it is a private right which, as with the other forms of Intellectual Property, gives the owner total control over their work. They can use, sell or lease it to a third party.

If you choose to lease your work you need to make sure there is a contract which clearly states the limitations of use. A good contract in the beginning will minimise the chances of legal problems in the future.

Copyright normally protects the work created by, or 'originated' with, their author. There must have been some skill, labour or judgment in the creation of the work and in the case of a database it must be the author's own intellectual creation. For instance, there is no copyright in straight photocopies or in direct transcriptions, because these are not 'original', but if the original work is in copyright, unless you have permission of the copyright owner, or the law specifically permits it, it would be an infringement of copyright to make copies or direct transcriptions.

The first owner will normally be the author. In most cases, the author is the person who created the work: the composer of the text or the music, the artist, the photographer. There are certain exceptions to this, see below, especially in the case of photographs, films and recorded sound. Also note that the author may have licensed or assigned the rights to a third party, often the publisher or commissioner of the work.

The employer is normally the first owner of copyright in any work which is made in the course of an author's employment under a contract of service (that is, as an employee rather than a freelance).

How to protect

Copyright is different to other forms of IP. It is an automatic right You can not register with the UK Intellectual Property Office, therefore there are no forms to complete and no fees to pay. Once created the copyright belongs to you.

It is recommended but not required that you mark your work © (*your name*) 2008

You would then need to create a record of your work in order to prove the date of creation and ownership . This can be done by depositing a dated copy with a bank or solicitor.

You can send a copy to yourself by registered post but this can become confusing as you must not open the letter as it is the date stamp on the unopened letter that creates the record you will need to have a way of knowing what the envelope contains as you may end up with a large number.

The type of things protected by copyright include books, novels, technical reports, manuals, paintings, sculptures, photographs, music, songs, dramatic works, films, television, and radio broadcasts, engineering, technical plans, promotional literature, advertising, computer software and databases.

The copyright in each type of work or other subject matter exists independently. For example, a song recorded on an audio CD may be protected by copyright - the score as a musical work and accompanying lyrics as a literary work. In addition, the sounds recorded on the CD capturing the performance of the song may be copyright protected as a sound recording. The former copyright rewards the creative effort involved in writing the song while the latter recognises the artistry and investment necessary to make and distribute sound recordings to the public.

Copyright only applies to the spoken word when it has been recorded.

Copyright protection lasts up to 70 years after the author's death.

It is up to you to make sure that your copyright is not breached. Policing your copyright will stop others from copying, adapting, publishing, renting, performing, or broadcasting your work.

There are some exceptions to copyright in this country

- Limited copying for non-commercial research or private study
- Quoting for critique or review, with acknowledgement of the Source
- Reproducing an artistic work by hand as a class assignment in an educational establishment
- Making a copy for a visually-impaired person if no accessible version is commercially available
- Time-shifting of radio or TV broadcasts for personal use

Moral rights

Moral rights are concerned with protecting the personality and reputation of authors.

Copyright creators also have non-economic rights - known as moral rights. The moral rights recognised in the UK are the right of integrity, i.e. to object to derogatory treatment, the right of attribution of authorship (which includes the director of a film), the right against false attribution of authorship and the right of privacy of a person who commissions certain photographs or films. Makers of sound recordings do not currently enjoy moral rights.

Database rights

An electronic database may be protected by copyright and database rights.

Copyright will cover the originality within a database. Database rights will cover a collection of copyrighted works. Permission must have been obtained from the copyright holders for the use of their work.

Database rights are automatic and have no registration forms or fees and give the owner total control over their work. You can use, sell or lease it to a third party.

Database rights last for 15 years from creation, but if published during this time the term is 15 years from publication.

Publication right

Publication rights give control to the person who publishes for the first time a literary, dramatic, musical or artistic work or a film in which copyright has expired. There is one major difference to the rights given to copyright and that is that publication rights only last for 25 years from the publication of the previously unpublished work.

References

The British Library Business & IP Centre

The Business & IP Centre has all the business and Intellectual property information you need as an innovator and entrepreneur.

Can be contacted by phone– 020 7412 7454/7919 or by email bipc@bl.uk.

You can take a look at our Web page <http://www.bl.uk/bipc/>

The UK Intellectual Property Office

The UK IPO is the official government body responsible for granting Intellectual Property rights in the United Kingdom.

Can be contacted by phone– 08459 500505 or by email-enquiries@ipo.gov.uk.

You can take a look at their web page <http://www.ipo.gov.uk/home.htm>