



an introduction to copyright

There is no official register for copyright in the UK. Copyright arises automatically once a qualifying work is created and "fixed" in some tangible form, (e.g. on paper, on film, via sound recording, as an electronic record on the internet, etc.)

What type of works can be protected by copyright?

Copyright protects the expression of ideas, not the ideas themselves. Copyright protects original literary, dramatic, music or artistic works; films (including videos); and broadcasts.

There is unlikely to be any copyright in a name, title or slogan, but these may be eligible for protection as a trade mark or under the of passing-off.

Software is protected by copyright but only to the extent of the written program or screen layout. However, the function of the programme is not protected by copyright, so third parties can emulate it by using a different program. Although the end result may appear the same, if the third party's version was not created by copying the original program, there will have been no copyright infringement.

What are the benefits of copyright protection?

Copyright gives the owner the right to control use of his/her material by making copies, issuing copies to the public, performing of the work, broadcasting the work and using the work on-line. Authors of copyright works may also benefit from moral rights in the work entitling the author to be identified as the author and to object to derogatory treatment.

Who owns the copyright?

Ordinarily, the creator of a work will be the first owner of copyright. However, this will not be the case where a work has been created by an employee during the course of his/her employment. In these circumstances, copyright is owned by the employer. However, this does not extend to works created by an employee which do not fall within the scope of his/her employment, unless there is a written agreement to the contrary. It is therefore essential to use commissioning agreements with appropriate copyright provisions.

If a work is commissioned or produced for a company by a freelance worker, the copyright will remain with that author.

How long does UK copyright last?

Copyright in a literary, dramatic, musical or artistic work (including photographs) lasts for 70 years after the death of the author. The duration of copyright in a film is 70 years after the death of the last to survive of the principal director, the authors of the screenplay and dialogue, and the composer of any music specially created for the film.

Sound recordings are generally protected for 50 years from the year of publication. Broadcasts are protected for 50 years. Published editions are protected for 25 years.

If the work has never been made available to the public, the copyright can be extended beyond the normal period by a publication right which extends the rights attached to the work for a further 25 years.

How can I prove that my work came first and is original?

There are certain measures that you can take to ensure that you can prove originality. For example you could deposit a copy of your work with a bank or solicitor or even send a copy of your work to yourself by special delivery, leaving the envelope unopened on its return and the date – the postmark will help you.

What should I do if I suspect that my copyright has been infringed?

If you suspect your copyright has been infringed, we advise you to obtain legal advice from an IP specialist as soon as possible. You may need to go to court to prevent further copying.

Courts can grant a range of remedies, such as damages for loss of business or revenue brought about as a result of the infringement, injunctions (to stop the other person making use of the material) or orders to deliver up or destroy infringing goods.

Deliberate infringement of copyright may be a criminal offence. If the infringement is on a large scale (e.g. pirate or counterfeit copies of CDs are circulating) then informing the police, or your local trading standards department.

Can I protect my work abroad?

The UK is a member of several international conventions for example the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention (UCC). Copyright material created by UK nationals or residents is protected in each country that has subscribed to the conventions. The protection that is afforded will be that which is available according to the national law of that country. Protection can also arise from obligations in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which forms part of the World Trade Organisation (WTO) Agreement.

How do I use the © symbol?

The international copyright symbol © does not automatically create rights, but it alerts others to the fact that you believe your work to be protected by copyright. We strongly recommend that you use the symbol on all of your work alongside your name and the year of creation. For example, for this work © Morgan Cole 2006.

Can ownership of copyright be transferred?

Yes. Copyright can be bought and sold, inherited and licensed like any other property right.

However, it is important to note that copyright does not necessarily transfer with the physical work itself, it is an independent right.

Purchasing a copy of a book, CD, video, computer program, does not normally give you the right to make further copies (even for private use) or play or show them in public.

Can I use copyright material that does not belong to me?

Yes, generally with the permission of the copyright owner. There are a number of organisations that act collectively for groups of copyright owners in respect of particular rights and these organisations will sometimes offer licences to users.

However, it is not always necessary to obtain permission. For example, limited use of works may be possible for non-commercial research, private study or for teaching purposes. These exceptions are limited though. An acknowledgement of the name of the work and the author may be required even if you do not need permission.



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