

Copyright Basics

What is copyright?

Copyright is a form of protection established by U.S. law (Title 17, US. Code) that provides authors of “original works of authorship,” specific control over the reproduction and distribution of their work. Copyright protection takes effect immediately once an original work of authorship has been "fixed in a tangible form of expression" and does not require registration with the U.S. Copyright Office before these rights are conferred. This protection is available for both published and unpublished works.

Copyright provides authors the following exclusive rights:

- reproduce the work, in whole or in part
- distribute copies of the work
- publicly perform the work
- publicly display the work
- prepare derivative works based on the original, such as translations or adaptations

What works does copyright protect?

- Literary works
- Musical works, including accompanying words
- Dramatic works, including accompanying music
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works

Adapted from U.S. Copyright Office Circular 1, [Copyright Basics](#)

What is NOT protected by copyright?

- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration

- Titles, names, short phrases, and slogans; familiar symbols or designs, mere variations of typographic ornamentation, lettering, mere listings of ingredients or contents
- Works that are not fixed in a tangible form (such as an improvised performance that is not recorded)
- Works produced by the U.S. Government
- Works consisting entirely of information that is common property and containing no original authorship
- Works in the public domain

Adapted from U.S. Copyright Office. (2017) Circular 33, [Works not Protected by Copyright](#)

How long is a work protected by copyright?

Determining how long copyright protection lasts depends on several factors, including whether the work is published, and if so, the initial date of the publication. In general, works created after January 1, 1978, are protected for the life of the author plus 70 years and this term extends to the death of the last surviving author for joint authorship. For anonymous, pseudonyms, or corporate works, the protection lasts for 95 years or 120 years after its creation, or whichever expires first. Due to its challenging nature, it is never safe to assume that copyright protection has expired unless the work was published before 1924.

Where do I begin?

When faced with a copyright problem, it is often difficult to know where to begin. How do you determine which aspect of copyright law applies to your specific situation? Use the framework below to help guide you through this uncertainty by answering the following five questions.

A Framework for Analyzing any U.S. Copyright Problem

1. Is the work protected by copyright?
 - a. Is the work I want to use protected by copyright, or is it in the public domain?
 - b. If I wrote it, do I still own the copyright, or did I sign over rights for my intended use to the publisher?
2. Is there a specific exemption in copyright law that covers my use?

- a. Is my intended use covered by a specific exemption to the exclusive rights in the copyright law, such as the ones for libraries or for classroom performances and displays?
3. Is there a license that covers my use?
 - a. Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another useful work that is CC-licensed?
 - b. If affiliated with an educational institution, is there a license that governs how the copyrighted material I'm accessing through my library can be used? If so, can I comply with the license terms? If you are uncertain, your librarian should be able to help you.
4. Is my use covered by fair use?
 - a. Four factors are:
 - i. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
 - ii. the nature of the copyrighted work;
 - iii. the amount and substantiality of the portion used in relation to the copyrighted work as a whole;
 - iv. the effect of the use upon the potential market for or value of the copyrighted work.
 - b. Questions for transformative fair use under factor one are:
 - i. Does the copyrighted material help me make my new point?
 - ii. Will it help my readers or viewers get my point?
 - iii. Have I used no more than is needed to make my point? (Is it "just right"?)
5. Do I need permission from the copyright owner for my use?
 - a. If so, first locate the copyright owner and fully explain your intended use in your permission request.
 - b. If no response or the answer is no, reconsider your use of this work to see if you can make a fair use, or consider using another work.

What is Fair Use?

To create a balance between the interests of those who develop intellectual and creative works and those who benefit from accessing and using those works, copyright law includes the exception known as Fair Use.

Under the Fair Use provision, a copyrighted work may be copied or reproduced without permission of the author for the purpose of criticism, commentary, news reporting, teaching, research, and scholarship, depending upon whether the use meets the four factors of fair use.

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

[U.S. Copyright Act, 17 U.S.C., Section 107](#)