

Using Copyright to Protect Your Work

Introduction

Copyright is a legal right that is granted automatically to the creators of certain types of original work. These types of work include literary works such as novels, training manuals and song lyrics, computer programs, musical works such as an original score, dramatic works such as a ballet or play, and a recording or broadcast of an original work. Copyright protects the expression of an idea, but does not protect the idea itself. For example, it protects the words in a book, but not the plot. It may be possible to protect the underlying ideas in other ways, including patents and design registration.

The owner of copyright in a work can control how their material is used. As copyright arises automatically as soon as an original work is created, the creator does not need to fill in any forms or pay any fees for copyright protection.

This factsheet explains the principle of copyright and how you can use it to protect original work. It provides guidelines on what to do if you think your copyright is being infringed and information about licensing your copyright.

What is copyright?

Copyright is a legal right that enables the creators of certain original works to control how their work is used and to receive financial reward from others using their work. Without this legal right, it would be easy for anyone to use and benefit from original works without paying or compensating the creator.

Actions that a copyright holder can prevent include copying, adapting, issuing, renting and lending copies to the public, performing in public and broadcasting their work.

Copyright holders must decide how to exploit their work and how to enforce their copyright. It may be of benefit to the copyright owner to sell or transfer their copyright.

Copyright does not last forever. For literary works, films, dramatic, musical or artistic works, copyright protection ends 70 years after the death of the creator. For sound recordings and broadcasts, copyright protection ends 50 years after the creation of the work.

The copyright in an original work arises as soon as the original work is recorded, in writing or otherwise, and belongs to the creator unless the work is created by an employee in the course of their employment. Where work is created during employment, the employer is normally the first owner of the copyright, unless an agreement has been made between the employee and employer indicating otherwise. When work is created by a collaboration of authors or creators, they take joint ownership of the copyright in the work.

Works that are protected by copyright

The types of works that copyright protects include:

- Original literary works such as books, newspaper articles and song lyrics.
- Original digital works such as computer software, apps, databases and web-based content.
- Original dramatic works, including ballets, operas and plays.
- Original musical works such as written scores.
- Original artistic works such as paintings, drawings, photographs, sculptures, architectural designs, diagrams and maps.
- Original typographical arrangements (ie the style and layout) of publications.
- The recording of an original musical work on any medium, including sound recordings, or original dramatic works.
- The broadcast of an original work.

Protecting your copyright

As there is no need to apply for copyright protection, there is no official register of copyright works. Technically, it is an 'unregistered right' (unlike patents, registered designs or trade marks). Copyright comes into effect immediately, as soon as something is created or recorded, for example on paper, on film, as a sound recording or online.

It is sensible to mark your copyright work with the international copyright symbol ©, followed by your name and the publication date, to remind others that your work is covered by copyright. This is not legally required in the UK or in most other countries, but marking copyright material may help you if you ever find yourself taking action for copyright infringements.

Some countries do not recognise the copyright symbol and insist that 'copyright' is written out in full, which is why you will sometimes see both together on published works. For websites, it is sensible to mark every page. Sound recordings have copyright protection that is separate from the score, so sound recordings may have a phonographic copyright symbol (the letter 'P' in a circle) in addition to the © symbol.

If you are particularly concerned that others might infringe your copyright, you may consider taking additional steps so that, if necessary, you can provide evidence that you created a piece of work at a particular time. For example, you could deposit a copy of your work with your bank or solicitor. You could post yourself a copy by recorded delivery (so that you have a clear date stamp on the envelope), leaving the envelope unopened until such time as you might need it (but ensure that you open it in the presence of formal witnesses who can testify to the original date).

Licensing your copyright

A licence is a contract between the copyright owner and the licensee. As the copyright owner, you can decide how and when to license your copyright to others. You may, for example, grant an exclusive licence, allowing the licensee exclusive use of your copyright. Another option is a more

limited licence, for example limited in duration, in the countries that it covers or with regard to the medium.

There are various collecting societies or collective licensing bodies, such as PRS for Music (www.prsformusic.com). These organisations can license certain uses of your work on your behalf. Collective licensing means that a user may be offered a licence covering use of all the works covered by the collecting society.

Occasionally, the originators of work offer to provide it without claiming any rights over it or to retain copyright, but to allow others to use it freely or almost freely. You may come across terms such as 'Creative Commons', 'copyleft' or 'general public licence'.

Creative Commons is a non-profit organisation that attempts to make it easier for creators to share and build on the work of others (<https://creativecommons.org/licenses>). They provide free licences that creators can use, including:

- 'Attribution', where you allow anyone to copy, distribute, display or perform your copyrighted work. They can also adapt it, but only if they give credit in the way that you request it.
- 'Share alike', where you allow others to distribute derivative works only under a licence identical to the licence that you impose on your own work.
- 'Non-commercial', where you allow others to copy, distribute, display, perform and adapt your work for non-commercial purposes only.
- 'No derivative works', where you allow others to copy, distribute, display and perform your work. However, they are not allowed to adapt it.

'Copyleft' (a play on the word copyright) is not defined in law, but is essentially a type of licensing in which the creator of a work retains the copyright to the work, but allows others to reproduce, adapt or distribute the work provided that copies or derivatives are covered by the same licensing agreement.

A general public licence (GPL) is a copyleft licence. One of the earliest originators of free software, GNU, wrote the first GPL. Documentation that accompanies software covered by a GPL is often issued with a free documentation licence (FDL). Go to www.gnu.org/licenses/licenses.html for further information.

Fair dealing

One exception to copyright protection, and therefore outside the need for a licence, is the concept of 'fair dealing'. This allows some unlicensed copying and other use without infringing copyright. Some copyright works may be used (photocopied, for example) to a limited extent, for research and private study.

Copying by someone other than a researcher or student is not allowed if copies will be given to more than one person at the same time for the same purpose, for example for a training course. Other exceptions include the recording of television or radio broadcasts so that individuals can watch or listen at a more convenient time.

The economic impact on the copyright owner is an important factor that the courts consider when deciding whether use is fair dealing.

Infringement of your copyright

If your work has been used or adapted without your permission and none of the exceptions apply, your copyright is said to be 'infringed'. It is not essential, but it may save you time and money if you attempt to resolve the matter directly with the person or organisation that you consider has infringed your copyright.

If you are unable to reach an agreement, you might have to pursue legal action including going to court, where there are a range of remedies including an injunction or other court order (to stop the other person making use of the material), as well as payment of damages.

You may have to demonstrate to the court that you have tried mediation or arbitration and that you have gone to court only as a last resort. If you decide to proceed with legal action, you should seek professional advice because this is a specialist area of law.

Protecting copyright overseas

Copyright material is usually also protected in other countries, but this is not always the case. Copyright material created by UK nationals or residents is protected in every country that is a signatory to the Berne Convention or the Universal Copyright Convention according to the law of that country. Most countries belong to at least one of the conventions.

The World Intellectual Property Organization (WIPO) has information about intellectual property protection by country. Go to www.wipo.int/directory/en for further information.

Overseas protection is also available from the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is part of the World Trade Organization (WTO) Agreement. Go to www.wto.org/english/tratop_e/trips_e/trips_e.htm for further information.

Legislation

The primary legislation in the UK is the Copyright, Designs and Patents Act 1988. However, the UK is also a signatory to the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention. These define copyright as a property right that can be given away, licensed or sold. Other legislation includes the following:

- The Copyright (Computer Programs) Regulations 1992 extend the definition of literary work to include software, permit limited copying of licensed software for the purpose of providing a backup, and provide for limited decompiling of licensed software to allow it to work with other software.
- The Copyright and Rights in Database Regulations 1997 (as amended by the Copyright and Rights in Database (Amendment) Regulations 2003) determine the circumstances for copyright protection of databases.
- The Copyright and Related Rights Regulations 2003 update the Copyright, Designs and Patents Act 1988 and make provisions regarding broadcasts, providing performers with more control over when and where recordings of their performances can be shown to or heard by the public. The Regulations also cover copies made by libraries and educational establishments and make changes to the penalties imposed for infringing copyright material.

Other types of protection

Copyright does not protect ideas. To protect an original idea, you will need to look for other types of protection such as:

- **Patents**, which protect inventions that are capable of being made or used industrially. For more information, see BIF094 Applying for a Patent.
- **Design rights**, which protect the 'design' of a product, for example its shape, colour and decoration. For more information, see BIF249 Protecting and Registering Product Designs.
- **Trade marks**, which protect the use of words, symbols and logos to market goods and services. For more information, see BIF219 Registering a Trade Mark in the UK.

Further information

BIF012 An Overview of Intellectual Property Rights

BIF094 Applying for a Patent

BIF157 Using the Copyright of Others

BIF219 Registering a Trade Mark in the UK

BIF249 Protecting and Registering Product Designs

Useful contacts

The Intellectual Property Office (IPO) is a government body responsible for operating the intellectual property system in the UK. It grants patents, trade marks and design rights, and supports the protection and enforcement of intellectual property rights.

Tel: 0300 300 2000

Website: www.gov.uk/government/organisations/intellectual-property-office

PRS for Music collects royalties on behalf of songwriters, composers and music publishers.

Website: www.prsformusic.com

PPL is a membership organisation that collects royalties on behalf of music performers and recording rights owners.

Tel: (020) 7534 1000

Website: www.ppluk.com

PPL PRS Ltd is a joint venture between PPL and PRS for Music. It grants TheMusicLicence, which allows businesses to play music legally for employees or customers on the radio, TV, other digital devices and in live performances.

Tel: 0800 0720 808

Website: <https://pplprs.co.uk>

The Music Publishers Association (MPA) is a membership organisation representing music publishers in the UK. It publishes information about musical copyright and runs training courses and events.

Tel: 0333 077 2350

Website: <https://mpaonline.org.uk>

DACS (Design and Artists Copyright Society) is a rights management organisation that collects royalties on behalf of artists and their estates. Its website includes useful information about copyright and licensing artists' work.

Tel: (020) 7336 8811

Website: www.dacs.org.uk

The Federation Against Software Theft (FAST) promotes the legal use of software. It provides training and advice about software management and copyright protection.

Tel: (01628) 640060

Website: www.fast.org

The Copyright Tribunal is a non-departmental public body sponsored by the Department for Business. It resolves licensing disputes between copyright owners (or collective bodies acting on their behalf) and people who use copyright-protected material in their business.

Website: www.gov.uk/government/organisations/copyright-tribunal

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