

Chapter 14

-- Copyrights --

A copyright protects the artistic and intellectual works of artists and others. The idea is to secure for those who produce a copyrightable work the opportunity to exploit the commercial value of that work. This, in turn, provides an incentive for the production of such works. The reward is determined by the value, measured by the popularity, of the work.

A wide variety of works qualify from some form of copyright. These works include, books, sculptures, stories, music, musical recordings, videos, software, architecture, dance choreography, etc.

The exact rights provided by a copyright depend on the nature of the work protected. For example, the copyright in a book or story prevents the unauthorized copying of the work. The copyright in a song prevents the unauthorized copying of the sheet music and the unauthorized performance of the song. The copyright in a recording of a particular rendition of a song includes the right to prevent public playing of that recording or a copy of the recording.

A copyright generally lasts for the life of the author plus 70 years. After that period, the work falls into the public domain and may be copied and used by anyone. If there are multiple authors of the work, the last to die starts the additional 70 year period running.

-- Obtaining Copyright Protection --

For a copyright to be created, the work must somehow be recorded. In more legalistic terms, copyright attaches when the work is fixed, for more than a transitory duration, in some medium from which it can be perceived by others, directly or with the aid of a machine.

As soon as the work is fixed in some medium so that it can be perceived by others, the author is automatically the owner of a copyright in that work. This is true of a novel, a painting or a term paper.

A copyright can be registered by filing an application with the U.S. Copyright Office. The Copyright Office is a part of the Library of Congress. The application for registration includes a form, a fee and copies of the work being copyrighted for deposit in the Library of Congress.

-- Copyright Notice --

To advertise and enhance copyrights, a copyrighted work should be marked with a copyright notice. The standard form of such a notice is a circle-C symbol followed by the year the work was first published or copyrighted and the name of the copyright owner. For example, © 2002 Steven L. Nichols.

-- Copyright in Software --

A copyright in a piece of software can be used to prevent another from actually copying all or significant portions of the files or code that compose that piece of software. However, if someone instead played with the software to learn how it operated and then, completely independently, coded a program that operated the same, and perhaps looked the same, as the original, there would be no copyright violation.

In this regard, a patent on software is much more comprehensive protection than a copyright. A patent on software protects the underlying method implemented by the software and provides protection even if the method is coded another way. The copyright in the software only prevents the actual copying of the software as it was coded by the original author or authors.

-- Work for Hire --

The owner of a copyright can be a company or other non-human entity. This may be the case because the company has purchased the copyright from the work's creators or because the work was produced for the company by an employee. A copyright can be bought and sold like any other piece of property.

If an employee of a company produces a copyrightable work in the course of his or her employment, the copyright in that work is automatically owned by the company. This is referred to as a work for hire.

If, alternatively, the company engages an independent contractor to produce a copyrightable work, the copyright in the work is the property of the contractor. However, the contract between the company and the contractor may stipulate that the copyright to the work becomes the property of the company commissioning the work.