

# Copyright Law: A Refresher

Copyright law is complex, but an understanding of its basic principles can help information professionals identify and address copyright challenges they face.

BY LESLEY ELLEN HARRIS

I have been writing this column since 2005 about domestic and international copyright and licensing issues, and still I find continuing myths and misinformation about copyright law that must be addressed. For this issue, I am providing a refresher on copyright law. Use this primer to get reacquainted with copyright principles and better understand copyright information that you come across.

## Defining Copyright

Copyright is, literally, the “right to copy.” Copyright comprises a bundle of rights, including the right to reproduce (for example, photocopy, photograph, or scan into a computer), perform in public (e.g., at a concert), publish in print or in electronic format (e.g., on the Internet), publicly display, adapt (as a book into a movie script), translate, publicly communicate, and broadcast. It is only the owner of the copyright who may do these things or authorize others to do so.

Copyright is one of the five traditional areas of intellectual property (IP) law, the others being patents, trademarks, industrial designs, and confidential information/trade secrets. Each type of IP protects a different kind of creation

or a different aspect of a creation, and each has its own rules of protection.

Copyright law protects many different elements in the cultural, information, content, and technology industries. It protects literary, artistic, dramatic, and musical works, as well as sound recordings, videos, and films; it also protects such diverse things as interoffice memorandums, printed and electronic books, images, translations, Website content, sculptures, and films. However, it does not protect *ideas*; it protects only the *embodiments* of ideas.

In at least 165 countries, including Canada and the United States, copyright protection is automatic upon the creation of a work (i.e., once the work is in some sort of tangible form). This means that no registration or deposit with a government copyright office is required in order to obtain copyright protection. There are, however, voluntary government registration systems wherein copyright owners can register their works, thereby gaining entitlement to certain benefits, notably protection in case of copyright infringement of their works. Similarly, copyright registration allows owners to use the copyright symbol (©), which, while not mandatory in many countries, serves as a good

reminder to the public that copyright exists in a work.

The duration of copyright is determined by the copyright statute in each country. In Canada, the general duration of copyright is life plus 50 (it lasts for 50 years after the author’s death); in the United States, it is life plus 70. Specific works and circumstances may result in deviations from these general rules of copyright duration. Once copyright in a work has expired, that work is said to be in the public domain.

## Ownership of a Work

Generally, the first owner of copyright in a work is its author. An author is usually the person who first fixes a work—that is, puts it in a tangible form, such as in writing or stored in a digital format.

Copyright protection gives authors exclusive use of their works and protects the paternity and integrity (i.e., the *moral rights*) of the author. *Neighboring rights* protect the rights of performers (for example, actors and musicians), record producers, and broadcasters. Neighboring rights are akin to copyright, but are distinct from it.

The owner of the copyright in a work may license (grant temporary permission) or assign (grant permanent permission) to others the right to use or own that work. When giving such permission, the copyright owner may grant the full bundle of rights that comprise the work’s copyright, or only some of those rights. The fee for the use of a copyright-protected work, and the nature of the rights that are granted,



**LESLEY ELLEN HARRIS** is a copyright lawyer who consults on legal, business and strategic issues. She is editor of a newsletter, *The Copyright & New Media Law Newsletter*, which is available at [www.copyrightlaws.com](http://www.copyrightlaws.com). She also teaches SLA’s Certificate in Copyright Management program and maintains a blog on copyright questions and answers. The second edition of her book, *Licensing Digital Content: A Practical Guide for Librarians*, was published last year.

are usually matters to be negotiated between the copyright owner and the user of the right(s).

### Exceptions in the Law

Copyright law provides for certain instances in which the user of a copyright-protected work does not have to obtain permission or pay for that use. Many copyright statutes contain specific exceptions for certain personal and educational uses as well as for library and archives uses (often for purposes of preservation and interlibrary loan). In addition, the U.S. Copyright Act contains a fair use provision (which includes making multiple copies for classroom use), and the copyright laws of many Commonwealth countries have a fair dealing provision. These provisions are defenses in the law for uses of copyright-protected works that would otherwise be considered infringements

of copyright.

While there is no single international copyright law, the citizens of many countries are afforded copyright protection in countries other than their own based on what is known as the principle of national treatment. For example, each of the 146 countries belonging to the Berne Convention (the leading international copyright treaty) automatically provides citizens from other member countries with, at a minimum, the same copyright protections it provides its own citizens.

### Continue Your Exploration

As even this simple primer makes clear, copyright law is a complicated area. I encourage you to refer to the copyright laws in your country to learn more about how copyright affects you and your clients. **SLA**

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