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# information outlook

THE MAGAZINE OF THE SPECIAL LIBRARIES ASSOCIATION



## THE MEANING AND IMPACT OF BIG DATA

Major industry players... T was 74% and 26% percent respectively. A further change in the economic situation in the market will be characterized by a more equal distribution of market share major players

In the total amount of active bond on the... account for more than 50%, or 700 million... which provides an annual gross production of 1.8 to 1.9 billion tons in developing countries... account for more than 60% of these

Projected sales of main products in 2013



TYU division  
FRT division

	TYU division			
GHT	254	550	254	27
RDW	650	320	754	27
TRG	241	450	144	36
RTG	254	650	874	65
WFF	784	145	124	75
HTP	451	367	650	27

Revenue growth divisions.

TYU division  
FRT division

Share of market



# Canadian Versus U.S. Copyright Law

Although they provide similar copyright protections, the United States and Canada differ on some important legal details.

BY LESLEY ELLEN HARRIS

Because Canada and the United States share a border, the 49th parallel, you may think the copyright laws in the two countries are pretty much the same. Think again. The laws are quite different, and they can result in very different outcomes when using, reproducing and sharing copyright-protected content.

Let's start with an example. You are based in Canada and reproducing an article written by a U.S. author and published by a U.S. publication. Do you need permission? How would you determine whether permission is necessary?

Under the global copyright law principle of national treatment, you apply the law where the work is being used. So, in this example, you apply Canadian copyright law and look at the Canadian Copyright Act to determine whether permission is needed.

One of the first questions you must address is whether the work is protected by copyright. Thus, you apply the copyright duration of life-plus-fifty (50 years after the death of the author) under Canadian copyright law rather than the longer duration of life-plus-seventy that exists under the U.S. Copyright Act. So, if the author of the article has been

dead for 60 years, the work is in the public domain (in Canada) and you do not need permission to use it.

Now, suppose you are based in the United States and reproducing the same article. You then apply U.S. copyright law and determine that the work is protected by copyright for another 10 years. So, unless an exception or fair use applies to the situation, you must obtain permission when using the article in the United States.

## Using Government Works

Duration of copyright is only one of the many differences between Canadian and U.S. copyright law. Another difference relates to the protection of government works. In Canada, federal government works are protected by copyright; U.S. government works, however, do not enjoy copyright protection. U.S. government works are in the public domain and may be freely used without permission. This rule applies to any work prepared by an employee of the United States that is created as part of that person's official duties.

So, what happens when a U.S. government work is reproduced outside

the United States? Is it freely available? The answer depends on where the work is being reproduced. If a U.S. government document is being photocopied in Canada, you apply the copyright laws of Canada. This means that in some situations, a work that is unprotected in the United States will be protected in Canada. It also means that you may be in the odd situation of seeking permission to use a U.S. government work in Canada even though that work is freely available in the United States.

To complicate matters, not all U.S. government works are freely available for use by the public. In some situations, the U.S. government does own copyright in works, or it may obtain copyright through an assignment, bequest or other transfer. For example, a work created by an independent contractor (such as a consultant, freelance writer or artist) may be assigned to the U.S. government. When a copyright is transferred or assigned to the U.S. government, the government is then a copyright owner.

In addition, the U.S. government may have a license to include copyright-protected material in a work created by or for the government. In this situation, the copyright owner continues to own the copyright in its material, regardless of the fact that the material is being included in a government work that, as a whole, is not protected by copyright. To reproduce that government work incorporating third-party-licensed content, you will need permission from that third-party copyright owner. (Third-party content is content owned by someone other than the government.)

## Moral Rights

The explicit moral rights protection in the U.S. Copyright Act applies to only one group of creators—visual artists, or, more accurately, those who create “works of visual art.” The moral rights provision provides the author of a work

**LESLEY ELLEN HARRIS** developed and instructs the Certificate in Copyright Management program in partnership with SLA. She is the author of *Canadian Copyright Law, Fourth Edition*, which includes a chapter on the comparison of Canadian and U.S. copyright law (see [www.canadiancopyrightlaw.ca](http://www.canadiancopyrightlaw.ca).) She also edits *The Copyright & New Media Law Newsletter*, which provides copyright information in plain English. She blogs at [www.copyrightlaws.com](http://www.copyrightlaws.com).



of visual art the right to claim authorship of that work (i.e., have his or her name on the work) and to prevent the use of his or her name as the author of any visual work that he or she did not create. In addition, the author of a work of visual art has the right to prevent the use of his or her name in situations where the work is distorted, mutilated or otherwise modified in a manner that would be prejudicial to his or her honor or reputation, and to prevent any destruction of a work of “recognized stature” and any intentional or grossly negligent destruction of that work.

The author may not transfer these rights and maintains them even if he or she is no longer the copyright owner of the work. The author may, however, waive these moral rights by signing a written document to that effect. The moral rights last until December 31st of the year in which the author dies.

In Canada, authors of all works—including paintings, computer software, and even corporate memoranda—have moral rights, which last 50 years after the author dies. Thus, if you reproduce or publicly perform any work in Canada (even a U.S. work), you must respect the moral rights of the author. You must include the author’s name on the work, refrain from making any changes that may be prejudicial to the honor or reputation of the author, and avoid using the work in association with a product, service, cause or institution in a manner that may harm the reputation of the creator. These rights may be waived, but they cannot be assigned or transferred to another person except upon the death of the author. These moral rights last 50 years after the author’s death.

Note, again, the differences—works being used in Canada may be entitled to moral rights even if those same works do not have moral rights in the United States or if the moral rights in the United States have expired. Conversely, Canadian authors do not enjoy the same broad moral rights in the United States as they do when their works are reproduced in Canada.

### Additional Differences

Both Canada and the United States have exceptions or special provisions for libraries and archives in the areas of preservation, inter-library loan, and some other specific purposes. The United States recognizes the copyright defense known as fair use, while Canada has fair dealing. Both defenses require judgment calls based on specific circumstances to determine when they apply. The registration of a work is not necessary in either country to obtain copyright protection, though it is helpful prior to commencing any court action to enforce one’s rights.

Both Canada and the United States are members of the leading international copyright treaty, the Berne Convention ([wipo.org](http://wipo.org)). This means that the two countries are obligated to provide similar copyright protections. However, as you can see from these examples, each country has interpreted the Berne Convention in its own manner and has a unique piece of copyright legislation.

### Further Information

The U.S. Copyright Office has extensive information on many aspects of its law. One of the office’s roles is to provide general information (not legal advice or opinions) on U.S. copyright law. The best place to begin your research is the office’s Website, [copyright.gov](http://copyright.gov). You can also submit a question electronically at [www.copyright.gov/help/general-form.html](http://www.copyright.gov/help/general-form.html).

The Canadian Copyright Office also has copyright information online, and most of its information is related to registering a copyright. Visit [www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr00003.html](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr00003.html). **SLA**