



SIX BASIC FAQ'S ABOUT COPYRIGHTS

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1. WHAT IS A COPYRIGHT?

A copyright is a legally protected monopoly giving the owner of the copyright the exclusive right to publish, perform, or display the work, and to create derivative works. In the United States the scope and duration of copyrights are governed by federal law.

2. WHAT CAN BE COPYRIGHTED?

"Works" including writings, books, photos, videos, music, and designs on useful objects can be copyrighted. Generally speaking useful objects themselves – such as clothing – cannot be copyrighted, although there are some specific exceptions in the copyright law. To be eligible for copyright protection, a work must contain a creative element (not merely an idea) and must be in tangible form.

3. HOW DO I OBTAIN COPYRIGHT PROTECTION?

Common law copyright protection arises automatically when a creative idea is put in a tangible form. Common law copyright protection is limited to the right to sue for actual damages. Registering a copyright with the Library of Congress creates constructive notice and gives the owner additional rights including the right to sue for injunction, impoundment, and statutory damages. To register a copyright in a work, you must complete a short registration form, submit a copy of the work, and pay a registration fee (currently \$45.00 for a basic registration). Forms and instructions are available from the U.S. Copyright Office website (www.copyright.gov).

4. WHO OWNS A COPYRIGHT?

The creator of a work owns the copyright unless it was created by an employee for an employer, or was created by an independent contractor under a written agreement which contains specific copyright "work-for-hire" language. If there is more than one creator, the copyright is owned jointly by those who helped create the work.

5. CAN I USE A COPYRIGHTED WORK?

You can use a copyrighted work only if you first obtain permission of the copyright owner, the work is in the public domain (no longer protected by copyright law), or the use constitutes "fair use" as that term is defined by the copyright law. "Fair use" is a defense to a claim of copyright infringement, not an excuse for failing to make a good-faith attempt to locate the copyright owner and obtain a license to use the work.

6. WHAT CAN I DO IF SOMEONE USES MY COPYRIGHTED WORK?

First you need to determine if the use constitutes infringement. If it does, you (or your lawyer) should send a "cease and desist" letter to the infringer. You should also register your copyright within three months of discovering the infringing use to receive full protection of the copyright law. If the infringer is unwilling or unable to stop the infringing use, or has substantially profited from the infringing use, you can bring a lawsuit against the infringer to prevent the use and for damages. In some cases it may make sense to offer to license the work to the infringer.