Copyright Basics

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Origin of Copyright Law

“To Promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

United States Constitution, Article I, Section 8, Clause 8
What we should know about copyright law?

- What is protected by copyright...and for how long?
- What are a copyright holder’s rights?
- Are there limitations on a copyright holder’s rights?
- How does foreign copyright laws impact copyright status in the U.S.?
What is Protected by Copyright?

“Original works of authorship fixed in any tangible medium of expression, now known or later developed”

Copyright Act of 1976, 17 U.S.C. § 102(a)
Original Works of Authorship

- No protection for something that has already been authored by someone else.
- The work must be unique and not a copy.
Fixed in any tangible medium

Must be in an observable, concrete form – can be seen, touched, heard
What is protected?

- Literary works
- Musical works, including any accompanying words
- Dramatic works, including any accompanying music
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works
- Software
No matter how grand or trivial

- YouTube videos of your cat
- An unpublished by finished novel saved to your computer
- The poem you wrote and posted online
- Your original piano concerto arrangement
What is not protected?

• Ideas
• Titles
• Facts
• Processes
• Works prepared by the federal government
• Works that are in the public domain
Who can be an author?

- Students
- Professors
- Professional societies
- Government agencies
- Corporations
- Artists
But...Work for Hire

An author who creates a work in the scope of his or her employment is not the presumed copyright holder. In this situation the employer is the holder of the copyright. Employers can adopt policies transferring copyright back to employees.

Work for Hire Policies in Higher Education

• Most institutions have policies that state that copyright of a work which is created in the field or discipline in which the creator is engaged by the institution or is made with the use of institution support is owned by the University.

• Policies usually expressly exclude scholarly works.

• There is also usually language regarding online course materials and ownership and reuse by the faculty creator.
So, I’m a copyright holder ... what are my rights?

- Reproduce the work
- Prepare derivative work
- Distribute the work
- Perform the work
- Display the work
- Transmit the work

Copyright Act of 1976, 17 U.S.C. § 106
Clarification about copyright and plagiarism

- Copyright law does not require attribution
- By-lines / attribution must be specifically contracted
- Plagiarism (copying without attribution) is not a copyright violation; only unlawful copying is.
- Plagiarism is a matter of ethics/academic policy - not law.
- Exception: certain works of visual art (see the Visual Artists Rights Act)
How Long Does Copyright Protection Last?

• Copyright does expire and works then pass into the “public domain.”

• For a published work created on or after 1/1/78: Life of the author + 70 years. (See Public Domain Chart https://copyright.cornell.edu/public domain)

• Works made for hire: 95 years from date of first publication or 120 years from the date of creation, whichever comes first

• Out-of-print is not out-of-copyright.
Between January 1, 1923 and December 31, 1963

Notice

**Question One:** Was the work's registration properly renewed?

Yes

**Question Two:** Has it been more than 95 years from the publication date?

Yes → Public Domain

No → In-Copyright

No → Public Domain

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<th>Between January 1, 1964 and December 31, 1977</th>
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Renewals were automatic

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<th>Question Two: Has it been more than 95 years from the publication date?</th>
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<td>Yes → Public Domain</td>
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From *Is it in the Public Domain?* – Berkeley Law School
Limitations on Copyright Holder’s Exclusive Rights

• Copyright law imposes several limits on a copyright holder’s exclusive rights.

• If a use falls within one of these limits, permission does not need to be obtained from the copyright holder prior to using a copyrighted work.

• If a use exceeds these limits, permission must be obtained prior to use.
Statutory Exceptions to Copyright

• First Sale Doctrine (§ 106)
  • After first sale of physical copy, copyright holder cannot control further distribution (e.g., library lending)
  • Not applicable to digital content
• Fair Use (§ 107) - Webinar on Fair Use on February 23
• Library Exceptions (§ 108)
  • Interlibrary loan
  • Preservation/archival copies
  • Replacement copies
• Classroom Performance/Display (§ 110(1))
• Distance Classroom Performance/Display (§ 110(2) – aka TEACH Act)
• Reproduction for Visually Impaired Persons (§ 121)
Copyright Status of Foreign Works

- Berne Convention
  - National Treatment – authors from other member countries entitled to same degree of copyright protection as citizens
- Minimal Protections
  - Copyright Duration -- life + 50 years
  - Moral Rights – (in U.S. – only for works of art under VARA)
  - No Formalities
- Copyright Restoration (Uruguay Round Agreements Act)
  - Foreign works that had been treated as in the public domain for failure to comply with U.S. formalities of notice and registration pulled out of public domain and copyright protection restored if four conditions met:
    - Work created by citizen of Berne Convention member country
    - As of Jan. 1, 1996, work was protected by copyright in source country
    - Work was treated as in public domain in U.S. for failure to comply with formalities
    - Work not published in U.S. within 30 days of first publication abroad
  - For restored works, duration is either life of author + 70 years (Published after 1/1/78) or 95 years from first publication (Before 1/1/78)
Is it protected by U.S. Copyright Law?

1. Is Sweden party to Berne Convention? Yes
2. As of Jan. 1, 1996, was it in the public domain in Sweden? No
3. Would the 1945 work be in the public domain in the U.S. for noncompliance with formalities in effect at the time? Yes
4. Had the book been published in the U.S. within 30 days of publication in Sweden? No

YES!
Under Copyright Restoration – no longer in public domain in the U.S.
Thank you

https://atla.libguides.com/copyright