

# CONCERNING © COPYRIGHT #1

## COPYRIGHT

“Copyright is a form of protection provided by the laws of the United States to the authors of ‘original works of authorship’ that are fixed in a tangible form of expression. An original work of authorship is a work that is independently created by a human author and possesses at least some minimal degree of creativity. A work is ‘fixed’ when it is captured (either by or under the authority of an author) in a sufficiently permanent medium such that the work can be perceived, reproduced, or communicated for more than a short time.” Copyright is one of several rights granted to authors and inventors by the U.S. Constitution and is distinct from patents and trademarks.

## COPYRIGHTED WORKS

The following are examples of works that can be copyrighted:

Books	Sheet Music	CDs
Articles	Paintings	DVDs
Newspapers	Photographs	Videos
Poems	TV Programs	Websites
Plays	E-mails	Blogs
Letters	Software	Podcasts

## COPYRIGHT OWNERS

Copyright protection in the U.S. exists automatically from the time the original work of authorship is “fixed” and regardless of whether the copyright symbol (©) is attached to it. As the creator of a work, its author is the owner of the copyright and has certain exclusive rights by law. These include the right to:

- “Reproduce the work in copies...”
- “Prepare derivative works based upon the work.”
- “Distribute copies of the work... to the public by sale or other transfer of ownership or by rental, lease, or lending.”
- “Perform the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a motion picture or other audiovisual work.”
- “Display the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a pictorial, graphic, or sculptural work.”
- “Perform the work publicly by means of a digital audio transmission if the work is a sound recording.”

Copyright law allows copyright owners to transfer or authorize others to exercise these exclusive rights subject to limitations. Also copyright law supports a practice called “works made for hire.” When a work is made for hire, the author and copyright owner is not the individual who actually created the work. It is

the party that hired the individual to create the work. Finally, a copyright owner has the option to register his or her work with the U.S. Copyright Office to obtain certain legal benefits.

## COPYRIGHT TERMS

A copyright term depends on whether the work was created and thus obtained copyright protection before or on or after January 1, 1978, the date current copyright law took effect.

### ► Works Created on or after January 1, 1978

The copyright term is the life of the author plus 70 years after the author’s death. If a work has more than one author, the term lasts for 70 years after the last surviving author’s death. For “works made for hire” and anonymous or pseudonymous works, the duration of copyright is 95 years from publication or 120 years from creation, whichever is shorter.

### ► Works Created before January 1, 1978

For works that were not published or registered as of this date, the copyright term is generally the same as for works created on or after January 1, 1978. But the law provides that in no case would the term have expired before December 31, 2002, and if the work was published on or before that date, the term will not expire before December 31, 2047.

For works that were published or registered before this date, the initial term of copyright was 28 years from the date of publication with notice or from the date of registration. At the end of the initial term, the copyright could be renewed for another 67 years for a total term of up to 95 years.

## COPYRIGHT VIOLATIONS

Copyright violations occur when a person or entity exercises the exclusive rights of a copyright owner without his or her permission. Depending on circumstances, some examples of common copyright violations include:

- Photocopying a book or magazine in its entirety.
- Modifying a photo or graphic and posting it on a website.
- Showing a motion picture to a small public audience.
- Sharing a digitized musical recording on the Internet.

Nevertheless, copyright law places what are called “fair use” limitations on the exclusive rights of owners. It says “the fair use of a copyrighted work... for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright” (17 U.S.C 107). To learn more about the factors that govern what is fair use according to copyright law, please see Concerning Copyright #2.

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