

# Introduction to Copyright



## Trademark Tonic

### What is copyright?

Copyright protects against unauthorised copying in the fields of literature, music, art, drama, film and broadcasting (providing certain conditions are met). Copyright may reside in creative works that most businesses will produce and/or use such as brochures, books, photographs, drawings, labels, sketches, plans, logos, packaging, appearance and decorations of goods, designs, website content, typefaces, computer software and databases.

The purpose of copyright is to protect the expression or embodiment of a work which has been created using some form of labour, skill or judgement. It does not protect the general idea or concept underlying a work.

### How does copyright arise?

Copyright comes into existence once an original work is created and recorded in some form e.g. on paper or electronically. To be considered an original work, the author needs to have expended effort or skill to have created that work. Generally, the quality of the work will not be relevant.

### What rights does copyright protection provide?

Copyright law is governed in the UK by the Copyright, Designs and Patent Act 1988 (as amended from time to time).

Copyright owners can take legal action against the unauthorised copying, reproduction, recording or broadcasting of original works, or a substantial part of that work, or making an adaptation of that work. It should be noted that it is not an infringement for a similar work to be created independently by others i.e. where no copying has taken place.

### What are copyright owners entitled to do with their works?

Copyright owners have the exclusive right to copy and/or make an adaptation of their work and also to make their work available to the public (by issuing a copy, renting or lending, performing, showing, playing, communicating the work to the public). The copyright owner can permit or licence others to do any of these mentioned acts.

The undertaking of any of these acts by others without the permission of the copyright owner, is likely to amount to an infringement. It should be noted that infringement of copyright may also occur through the importation of/possessing or dealing with infringing copies of works, providing ways for others to make infringing copies, or permitting use of premises (and providing apparatus) for infringing performances.







## How long does copyright last for?

The term of copyright protection will depend on the nature of the creative work. In the UK, for literary, artistic or musical works, copyright protection lasts for the life of the author plus 70 years. Music and sound recordings - 70 years from when it was first published. Films - 70 years after the death of the director, composer, screenplay author. Broadcasts - 50 years from when first broadcast. Layout of published editions of written, musical or dramatic works - 25 years from when first published.

## Who owns copyright in a work?

The author of a copyright work is generally the first owner of the copyright (and usually the creator of the work). For sound recordings the author will be the producer, and for films the author is the producer and principal director. For the typographical arrangement of a published edition of a work the author will be taken to be the publisher.

An example of an exception to this general principle is where the work is made by an employee in the course of employment, where the employer will be the first owner of the copyright (unless there is an agreement to the contrary).

## What does copyright not cover?

Copyright does not protect technical inventions or plain brand names which are protectable under patent and trade mark law respectively (if certain criteria are met). While documents detailing designs and any artistic work incorporated within a design product can be protected by copyright, design products to be made commercially are better protected by design law. Design rights cover the shape, configuration and appearance of a product.

## Can I transfer ownership of copyright?

Under UK copyright law it is possible for ownership of copyright to be assigned and licensed to others. It is recommended to have a formal written assignment/licence document in place for any ownership transfers or licences.

## Can I protect my copyright in other countries outside of the UK?

The UK is a member of various international agreements relating to copyright, which gives UK nationals/residents automatic copyright protection (without formal registration) for copyright materials falling within and for countries covered by these international agreements. Most countries are covered by at least one of the international agreements.

Copyright will be protected in each member country of the agreement by the national law of that country. In the few countries where a formal copyright registration system exists e.g. USA, registration is not essential for copyright to subsist via the international agreements, but registration is recommended for enforcement purposes.



## What are the requirements for copyright protection?

In most countries including the UK, there is no formal copyright registration process, and copyright comes into existence as a free automatic right. There are a few exceptions - for example in the USA and China, copyright registration is possible. Obtaining copyright registration in these markets is useful to deter and take action against unlawful copying.

It is generally recommended to use the copyright symbol © in connection with your creative work and to state the author's name and date of creation/publication. There are no legal requirements in most countries for copyright symbol © marking, but is suggested for deterrent and evidence purposes.





## What are moral rights?

Moral rights protect non-economic interests in a work (e.g. emotional/intellectual investment of an author) and are also governed in the UK by the Copyright, Designs and Patent Act 1988.

Works covered by moral rights include literary, artistic, musical and dramatic works, film and some performances.

Moral rights give the author of a work the right to be identified as an author/director. Before this right applies it needs to be asserted, for example, at the beginning of a novel or book you may see the statement "XY has asserted their right under the Copyright, Designs and Patent Act 1988 to be identified as the author of this work."

Unlike copyright, moral rights cannot be assigned, licensed or transferred, although moral rights can be waived by an author/director.



## How can I help protect my copyright work?

It is recommended that you take steps to ensure that you have evidence to be able to prove your copyright ownership, in case you need to take legal action against third parties and/or to defend your rights in your creative works. For example, you could make sure that:

- (1) You or your business owns the copyright that is uses, where possible - either through direct creation by yourself or your business or where an employee has created the work, taking an assignment of the copyright (where appropriate).
- (2) The original work is kept safely and details of the creation and creator of the copyright are recorded - marking the original with the copyright symbol ©, the author/creator's name and the date the work was made. We suggest keeping a record of the date the work is published or made available to the public. Also, marking your public facing work and materials can help act as a deterrent to prevent copying.

Other suggestions to help prove your copyright ownership are to take a photograph of the works (with time recorded details), video part of your creation, and/or send yourself a copy of the work electronically, on a USB stick (if generated on a computer), and/or by recorded delivery in the post and keeping the envelope sealed. It could also be helpful to have an independent party such as an attorney/legal professional countersign the original work to show that it has been seen on the given date and represented as being an original work of the author.



## What can I do if I think someone is infringing my copyright?

If you believe someone is infringing your copyright, Trademark Tonic can help you to identify whether you have copyright in a work and whether there is an infringement of your rights. We always recommend seeking the advice of an attorney in infringement matters.



## How can Trademark Tonic help you?

We advise a range of businesses and individuals, including entrepreneurial start-ups, SMEs, creatives/independents, spin-outs and emerging growth companies, on copyright matters.

For more information on how Trademark Tonic can help you, please see our website [trademarktonic.com](http://trademarktonic.com) or contact us at [email@trademarktonic.com](mailto:email@trademarktonic.com)



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