



UK Copyright Law

This fact sheet outlines the laws covering copyright in the United Kingdom and the work to which it applies.

1. Introduction

Copyright law and copyright originated in the UK from a concept of common law; the Statute of Anne 1709.

It became statutory with the passing of the Copyright Act 1911.

The current act is the Copyright, Designs and Patents Act 1988.

2. About copyright law

Copyright law gives the creators of literary, dramatic, musical, artistic works, sound recordings, broadcasts, films and typographical arrangement of published editions, rights to control the ways in which their material may be used.

The rights cover; broadcast and public performance, copying, adapting, issuing, renting and lending copies to the public.

In many cases, the creator will also have the right to be identified as the author and to object to distortions of the work.

International conventions give copyright protection in most countries, subject to national laws.

3. Types of work to which copyright applies

i. Literary

Song lyrics, manuscripts, manuals, computer programs, commercial documents, leaflets, newsletters and articles etc.

ii. Dramatic

Plays, dance, etc.

iii. Musical

Recordings and score.

iv. Artistic

Photography, painting, sculptures, architecture, technical drawings/diagrams, maps, logos, etc.

v. Typographical arrangement of published editions

Magazines, periodicals, etc.

vi. Sound recording

May be recordings of other copyright works, e.g. musical and literary.

vii. Films

viii. Broadcasts and cable programs

Computer programs regulations in 1992 also extended the copyright of literary works to include computer programs.

4. When copyright occurs

Copyright arises whenever an individual or company creates a work:

A work is subject to copyright if it is regarded as original, and must exhibit a degree of labour, skill or judgement.

Interpretation is related to the independent creation rather than the idea behind the creation. For example, your idea for a book would not itself be protected, but the actual content of a book you write would be.

Names, titles, short phrases and colours are not generally considered unique or substantial enough to be covered, but a creation, such as a logo, that combines these elements may be.

5. Who owns the copyright on a piece of work

Normally the individual or collective who authored the work will exclusively own the copyright. However, if a work is produced as part of employment then normally the copyright belongs to the employer who hired the individual.

For freelance or commissioned work, copyright will usually belong to the author of the work, unless there is an agreement to the contrary, (i.e. in a contract for service).

Copyright does not subsist in any part of a work which is a copy taken from a previous work. For example, in a piece of music featuring samples from a previous work, the copyright of the samples would still remain with the original author.

Only the owner, or his exclusive licensee can bring proceedings in the courts.

6. Duration of copyright

The 1988 Copyright, Designs and Patents Act states the duration of copyright as;

i. For literary, dramatic, musical or artistic works

70 years from the end of the calendar year in which the last remaining author of the work dies.

If the author is unknown, copyright will last for 70 years from end of the calendar year in which the work was created, although if it is made available to the public during that time, (by publication, authorised performance, broadcast, exhibition, etc.), copyright will run for 70 years from the end of the year that the work was first made available.

ii. Sound Recordings and broadcasts

50 years from the end of the calendar year in which the work was created, or, if the work is released within that time, 50 years from the end of the calendar year in which the work was first released.

iii. Films

70 years from the end of the calendar year in which the last principal director, author or composer dies.

If the work is of unknown authorship: 70 years from end of the calendar year of creation, or if made available to the public in that time, 70 years from the end of the year the film was first made available

iv. Typographical arrangement of published editions

25 years from the end of the calendar year in which the work was first published.

v. Broadcasts and cable programmes

50 years from the end of the calendar year in which the broadcast was made.

7. Acts restricted by copyright

It is an offence to perform any of the following acts without the consent of the copyright owner:

- i. Copy the work.
- ii. Rent, lend or issue copies of the work to the public.
- iii. Perform, broadcast or show the work in public.
- iv. Adapt the work.

The author of a work, or a director of a copyright film may also have certain moral rights:

- v. The right to be identified as the author.
- vi. Right to object to derogatory treatment.

8. Acts that do not infringe copyright

"Fair dealing" is a term used to describe acts which are permitted to a certain degree (normally copies of parts of a work) without infringing copyright, these acts are:

- i. Private and research study purposes.
- ii. Performance, copies or lending for educational purposes.
- iii. Criticism and news reporting.
- iv. Incidental inclusion.
- v. Copies and lending by librarians.
- vi. Acts for the purposes of Royal Commissions, statutory enquiries, judicial proceedings and parliamentary purposes.
- vii. Recording of broadcasts for the purposes of listening to, or viewing, at a more convenient time. This is known as "time shifting".
- viii. Producing a back up copy for personal use of a computer program.
- ix. Playing sound recording for a non profit making organisation, club or society.
(Profit making organisations and individuals should obtain a license from the Performing Rights Society.)

9. Useful addresses

The Patent Office
Harmsworth House
13-15 Bouverie Street
London
EC4Y 8DP
Tel: 08459 500 505
Web site: www.patent.gov.uk

Performing Rights Society/British Copyright Council
29-33 Berners Street
London
W1P 4AA
Tel. (0207) 306 4069 -B.C.C.
Tel. (0207) 580 5544 -P.R.S.
www.prs.co.uk

Copyright Licensing Agency
90 Tottenham Court Road
London
W1P 0LP
Tel. 020 7631 555
www.cla.co.uk

Mechanical Copyright Protection Society
Elgar House
41 Streatham High Road
London
SW16 1ER
Tel. (0208) 664 4400
www.mcps.co.uk

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- Any on-line reproduction must also provide a link to the Copyright Witness website.

10. Common questions**Can I copyright an idea?**

No. Copyright may protect a work, drawing or plan that outlines the idea, but copyright cannot prevent the idea itself from being used elsewhere. Dependent on what the idea is, i.e. an invention, it may be possible to apply for a patent.

Are names protected by copyright?

No. There is no copyright in a name, title, slogan or phrase. These may however be eligible for registration as a trade mark. For more information contact the Patent Office.

What about work published on the Internet?

It makes no difference how the work is stored or published, copyright law still applies.

What about music which is made up of sample and loops of other songs?

Although the work for the main part may be original, and copyright apply will apply to the specific arrangement, the parts which were copied from another track would retain the original copyright. You should seek permission from the author of the samples before you consider publishing or broadcasting such a work.

What about computer programs and material stored in computers?

Under the Copyright Designs And Patents Act, computer programs are now protected as literary works.

Databases may receive copyright protection for the selection and arrangement of the contents. Also database right may exist in the data itself. This is an automatic right and protects databases against the unauthorised extraction and re-utilisation of the contents of the database. Database right lasts for 15 years from the making but, if published during this time, then the term is 15 years from publication.

What constitutes a copyright work?

Any literary, dramatic, design, musical or artistic work. So long as the work, "exhibits a degree of skill, labour or judgement".

Can Copyrights be inherited?

Yes. The person who inherits the work will become the new copyright owner.

Does format or quality of the work matter?

Copyright exist in works regardless of format, i.e. electronic images or photographs, computer files or paper documents, and regardless of the quality of the work.

What happens when a copyright expires?

The work will fall into the public domain, making it available to all. This is why so many companies can publish works by William Shakespeare, classical composers etc.

Where can a copyright licence or permission for use be obtained from?

The Copyright Licensing Agency licenses users to copy extracts from books, journals and periodicals. They collect fees from licensed users and pay authors and publishers their shares of the copying fees. For other works you should contact the publisher of the work, as they will certainly know how to obtain permission or a licence to use the work.

Is a licence needed for the public performance of music?

Yes, to obtain a performance licence contact the Performing Rights Society.

How does copyright apply in works which contains extracts, quotes etc.?

Any extracts or quotes would retain the original authors copyright, and permission should be sought before using them.

How does copyright differ from a patent?

A patent protects the concept, idea or invention itself whereas copyright would protect the written description of the idea. A breach of copyright would occur if the written description was copied, whilst a patent would protect the idea being put into use.

For more information on patents, contact the Patent Office.



Using Copyright Notices

This fact sheet explains copyright notices and how to use them to best effect in protecting your work.

Copyright notices

1. What is a copyright notice?

A copyright notice is a piece of text which accompanies a work and expresses the rights and wishes of the copyright owner(s).

2. Do I need a copyright notice?

It is strongly recommended that you include one on your work. A copyright notice will:

- i. Announce that copyright exists in the work.
- ii. Make it clear who is the copyright owner.
- iii. Deter infringement.

By displaying a copyright notice, you demonstrate that you are aware of your rights and that you take copyright seriously. Simply having a copyright notice on your work may help to prevent infringement.

3. Where should the notice be placed?

The rule to adopt is to ensure that anyone with access to your work is aware of the copyright. If your work can be broken up into several pieces, then the notice should appear on each part. If it would normally be viewed as a whole then one will suffice.

i. Written work

For books, manuscripts and other written documents, you should only need one notice, typically this is on the first page or inside the front cover.

ii. Leaflets, commercial documents, etc.

Each item should contain a notice.

iii. Web sites

Web pages should have one on every page.

iv. Music

In the music industry, one is placed on the CD, cassette or LP itself, and one is included on the accompanying sleeve or booklet.

v. Photographs and designs

Place a notice at the bottom or on the reverse of the work.

vi. Films

Place one notice on the DVD or video cassette, and one on any accompanying sleeve or booklet. It is normal to also place a notice at the start of the film itself before any protected material may be displayed.

Include acknowledgements for the copyright of any images, excerpts etc. that you have used which are not your own. Ensure that you obtain permission before you use anyone else's work.

4. What does a copyright notice consist of?

i. Copyright

Some countries will not accept the copyright symbol, they also require the word Copyright to appear in order to consider the notice valid. Using the word ensures that there can be no confusion.

ii. ©

The normally recognised copyright symbol. Most countries across the world accept this as the correct manner of displaying copyright.

iii. Year of publication

In case of a dispute of ownership of a work, the date plays an important part. If your work was developed and published before any potential opponents then you can usually expect to win any case which challenges your rights.

In the case of work which is continually updated, (for example a web site), the year of publication may be shown as a period from first publication until the most recent update, (i.e. 2000-2008).

In the case of unpublished work, it is common practice to state the year of creation.

iv. Copyright owner's name

This may only be one person, or it may be a collective, a band, group or team for example:

If there is one person who owns the rights to a work, then his/her name will appear on its own. If however, your work is owned by several people then you may choose to include the name of each member of the collective, or include the name of the collective itself.

This would give your copyright notice the following appearance:

Copyright © 2008 Bobby Smith.

v. Title of work (optional)

You may wish to include this if you have several small works under one title. You can put either the overall title of the work or the title of the smaller work in the notice. The title is normally placed at the beginning.

This would give your copyright notice the following appearance:

Title of work. Copyright © 2008 Bobby Smith.

5. Copyright in sound recordings ®

Sound recordings have a copyright separate from the underlying musical composition, and a sound recordings should carry a phonographic copyright notice (denoted by the P in a circle) for the recording itself.

The standard © notice should also be used, but in the case of sound recordings this is used to protect the cover design, lyric sheets or other printed material included with the sound recording.

In our example, this would give the appearance of the notice as:

Copyright © 2008 Bobby Smith, ® 2008 Bobby Smith.

Tip: On most computers the ® symbol can be found within the Webdings font.

The information you have read so far gives you the minimum that both the Universal Copyright Convention and Copyright Witness suggest you include in your copyright notice.

You may also wish to increase your notice in order to clarify any further wishes you have as the copyright owner, this is dealt with in the following sections.

Extending your copyright notice

6. Why extend your notice?

This may be useful if there are certain conditions you wish to attach to the work, for example licensing requirements.

In some circumstances it may be beneficial to allow some activities that would normally be prohibited. You may include instructions about what conditions must be met, or how to apply for a licence to carry out these actions.

In other cases you may wish to simply make it clear that you are withholding all rights, and often the notice is simply extended purely to emphasise the author's strong stance on copyright protection.

To extend your notice, you should simply include a statement that explicitly sets out these terms, the statement should appear as a sentence after the copyright notice.

7. Wording your statement

There are several items to think about when wording your statement. Decide in relation to your work, what you wish to permit. Be specific in your wording, make it clear what you will allow and what is prohibited.

Probably the best starting place is to think from the point of view of withholding all rights and then carefully word any allowances as exceptions, making sure it is clear that these are the only allowances you will make.

Here are some areas to consider:

i. Copying, duplication, reproduction

The right to produce a copy of the work

Do you wish certain groups to be able to copy your work? if so what terms would you attach?

ii. Selling, hiring

Normally this would be expressly forbidden without the copyright holders consent.

iii. Distribution

You may for example have written a shareware program which you will allow to be duplicated and distributed freely so long as you are identified as the author.

iv. Commercial, personal or educational usage

Will you allow your work to be used differently by certain groups or individuals?

Educational or private study use is generally permitted under law in any case, but you may want to allow copying for private use but not for commercial gain.

v. Licenses

For software, commercial and educational documents in particular, the copyright notice may carry information about obtaining a licence to reproduce the work

By not obtaining a licence, use of the work may be considered in breach of copyright.

8. Right to be identified as the author

If for example, the work is distributed without your control, you will wish to ensure that you are still identified as the author/copyright owner.

Note: Copyright is not normally infringed by acts done in the course of private research or study, criticism or news reporting.

9. Examples of statements

"All rights reserved."

A simple cover all statement. This is the most commonly used copyright notice, that simply emphasises the fact that you withhold all rights to the work, as applicable under law.

"Any unauthorised broadcasting, public performance, copying or re-recording will constitute an infringement of copyright."

Another cover all statement, this one is designed for use on sound recordings, but can easily be adapted to apply to other types of work.

The wording makes it clear that the copyright on the work is taken very seriously.

"Permission granted to reproduce for personal and educational use only. Commercial copying, hiring, lending is prohibited."

For businesses and organisations this kind of notice can be of mutual benefit as allowing reproduction may help to promote their message.

"May be used free of charge. Selling without prior written consent prohibited. Obtain permission before redistributing. In all cases the copyright notice must remain intact."

This is the type of notice often used for software distributed as "freeware" or "shareware", by specifying that the copyright notice remains intact you ensure that all copies will identify you as the author.

Remember, copyright notices are straightforward statements, there is no need to get tied up with legal jargon, the point is to state your wishes clearly and succinctly.

Additional deterrent against infringement

10. Notice of registration

Works that have been registered with Copyright Witness may also include a statement to that effect.

This is an additional deterrent which notifies others that there is very strong evidence with which to pursue a case if the work is infringed. The notice would normally appear next to or below the copyright notice and state: 'This work is registered with Copyright Witness'. The statement may also include the registration number.

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Copyright Infringement

This fact sheet outlines suggested procedure to follow in the event that your work is infringed.

1. Who can take legal action

Under the terms of copyright law only the copyright owner of a work (or his exclusive licensee) can bring legal action against the infringer.

2. Has an infringement actually occurred

Be clear in your mind that an infringement has actually occurred and that this is not simply a case of incidental inclusion or coincidence.

The work should be substantially similar in design, structure or content to the degree that it can be said that the work was copied or adapted from your original.

It is a good idea to show both works to a friend or colleague for a more objective opinion.

3. Gather your evidence

The success or failure of your case will rely on the quality of the evidence, so take time to gather your facts carefully.

Your evidence should include:

i. A copy of the infringing work.

Wherever possible, obtain a copy of the infringing work, this will prove valuable if the other party later changes the content in an attempt to deny your claim.

ii. A copy of your work.

Using the copy of your work, note specific examples of where the two works match.

Particularly good evidence is if you can find duplication of unique aspects of your work, for example, if an error in your original has been duplicated in the copy.

iii. Date of registration and a copy of the registered version of your work (where applicable).

For work registered with Copyright Witness the registration date (which is found on the registration certificate) represents the date from which you can prove that the work was in existence. If the work has evolved since registration, it is a good idea to also have a copy of the registered version, and match the infringing work against this.

iv. Other dated documents.

Any letters or other documents referring to the work before the date of infringement.

v. Developmental work.

a. Rough drafts.

b. Previous versions.

c. Synopsis, etc.

These represent what is called evolution of ideas and are good as evidence to demonstrate that you developed the work rather than stealing it.

4. Contact the copyright infringer

The first step is to make the infringer aware of your objection and put forward a reasonable settlement and time scale to reach the settlement.

In your letter you should include:

- i. The name of the work(s) you are objecting to.
- ii. The reason why this is an infringement, i.e. an unauthorised copy, adaptation etc.
- iii. State that you believe this act constitutes an infringement of copyright. That your work is protected under copyright law and that this infringement constitutes a breach of your legal rights.
- iv. State that the infringement must stop.
- v. State what action is required to resolve the dispute, usually you would request the withdrawal of all copies of the work, (and any other encroaching materials).
- vi. Specify a deadline for your conditions to be met; i.e. 14 days.
- vii. State that you are seeking legal advice and that the case will be pursued if they do not comply with your request within the time period.

It is normal to simply request the withdrawal of all infringing work as the first course of action, if however you believe that you are entitled to financial remuneration, such as damages or royalties, then contact a solicitor or lawyer immediately.

5. Important points to note

- i. If the infringing material is being published on-line, also contact the service provider hosting the site, or providing the network access for the site, and let them know of the infringement. In many countries the Internet Service Provider can also be liable if they knowingly allow infringement on their networks to continue, so they will often act swiftly to remove the offending content of the site owner does not.
- ii. Wherever possible, keep a dated copy of the infringing material, (and ideally also send this to your solicitor). This will ensure that you always have evidence of the infringement in case of future problems.
- iii. Keep a copy of all correspondence you send or receive.
- iv. Do not enter into negotiations yourself, unless you are certain what you agree is in your interest.
- v. Do not sign any contracts or agreements unless you are certain what they involve.
- vi. If you are in any doubt, or do not receive satisfaction, speak to a solicitor or lawyer.
- vii. If you are a trading company, and the infringement is by a competitor with a similar name, though not directly a copyright claim, if you can establish that you were there first, then the infringer may also be guilty of trading off your name or reputation.
- viii. Always remain calm and courteous in your correspondence, do not allow yourself to get drawn into heated argument or debate. A professional and fair attitude will be a credit to you in the long run.

6. Contact a solicitor

If you have not settled the dispute within the deadline, or if you believe that you are entitled to damages and/or royalties, then you should present your evidence to your solicitor or lawyer.

If you do not have a solicitor, contact your local Citizens Advice Bureau, or Business Advice Centre who will be able to put you in touch with a recommended solicitor in your area. Many solicitors will offer a free half hour consultation for new clients, and it is well worth taking advantage of this to have the merit of your case professionally assessed.

7. If you receive further correspondence

Now that your case is in the hands of a solicitor it is best to stick to this course and refer all correspondence through your solicitor. This also has the benefit of demonstrating that you are not likely to back down, and you will have a good chance of being taken seriously.

8. Further action

As each case must be handled on its individual merits, this is where this fact sheet ends and leaves you in the hands of solicitor.

9. Benefit of a Copyright Witness registration

If your work is registered with the Copyright Witness, the independent evidence your registration provides gives you the best possible chance of proving your case. Effectively forcing the other party to provide similar evidence which pre-dates your registration if they are to have any chance of defending their position.

The irony is that by having such strong evidence you are often unlikely to need it in a formal legal proceeding. When the other party realises strength of your case they will normally wish to come to an amicable agreement.

You can of course call on Copyright Witness for duplicate certificates and to provide a copy of the registered work if required, but your solicitor will be the best informed person to advise you on how to pursue the case from this point.

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