

## Copyright Law: A Primer

Matthew N. O. Sadiku<sup>1</sup>, Paul A. Adekunle<sup>2</sup>, Janet O. Sadiku<sup>3</sup>

<sup>1</sup>Roy G. Perry College of Engineering, Prairie View A&M University, Prairie View, TX, USA

<sup>2</sup>International Institute of Professional Security, Lagos, Nigeria

<sup>3</sup>Juliana King University, Houston, TX, USA

### ABSTRACT

A copyright is a type of intellectual property that gives its owner the exclusive legal right to copy, distribute, adapt, display, and perform a creative work, for a limited time. It provides creators with control over their original works. Copyright law protects original works of authorship from being used by others without permission. Copyright may apply to a wide range of creative, intellectual, or artistic forms, depending on the jurisdiction. These may include poems, theses, dissertationa, plays, motion pictures, choreography, musical compositions, sound recordings, paintings, drawings, sculptures, photographs, computer software, and radio and television broadcasts. This paper examines copyright law and its applications.

**KEYWORDS:** *copyright law, copyright infringement, intellectual property*

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### INTRODUCTION

Intellectual property loosely refers to an original or unique product that requires significant mental activity to create. Copyright is a form of intellectual property. Patent and trademark are other types of intellectual property that may cover works and are considered separately from copyright eligibility. Figure 1 shows different types of intellectual property [1]. Copyright is a legal doctrine that grants certain exclusive rights to a creator over their original works of authorship. It is a form of protection provided by the laws of the United States to authors of “original works of authorship.” This includes literary, dramatic, musical, artistic and certain other creative works. Copyright law is designed to protect the creators of original material. Their copyrighted work cannot be used or duplicated without their permission.

The concept of copyright developed after the printing press came into use in Europe in the 15th and 16th centuries. The concept of copyright was first developed in England in reaction to the printing of "scandalous books and pamphlets." In the US, the Constitution grants Congress the right to establish copyright and patent laws in 1790. Copyright laws

prevent products of creative human activities, such as literary and artistic production, from being exploited. Copyright laws and authors' right laws are standardized somewhat through some international conventions such as the Berne Convention and Universal Copyright Convention. The Berne Convention allows member countries to decide whether creative works must be "fixed" to enjoy copyright [2,3]. Copyright law in the US is governed by federal statute, namely the Copyright Act of 1976, which prevents the unauthorized copying of a work of authorship. Anyone dealing with issues related to copyright and licensing in the US needs a basic understanding of US copyright law. Figure 2 shows the universal copyright symbol, ©, used to mark materials protected by copyright [4]. It is a “c in a circle.” One can stamp or watermark a document with the sign in Figure 3 [5]. This will alert the reader that the document is copyrighted.

### WHAT IS COPYRIGHT LAW?

Copyright is a type of intellectual property that protects original works of authorship as soon as an author puts the work in a tangible form. It has several

components, as depicted in Figure 4 [6]. Works are considered original when they are independently created by a human author. Independent creation means that you create it yourself, without copying. Once you create an original work and fix it, like taking a photograph, writing a poem or blog, or recording a new song, you are the author and the owner.

US copyright law provides copyright owners with the following exclusive rights [5]:

- Right to reproduce their work.
- Right to distribute their work.
- Right to prepare derivative works.
- Right to perform their work publicly.
- Right to display their work publicly.

Copyright law covers a wide range of works, including:

- Literary works like books, essays, articles, blogs, and poetry
- Music and sound recordings
- Dramatic works
- Choreography and pantomimes
- Visual art works
- Audiovisual works
- Architectural works

Owner of original work can enhance the protection of the work by registering it. Even if you do not register your work for copyright protection, you are protected by copyright law the moment your original expression is reduced to a tangible form. Although your work is protected even if you do not register your work with the government, you will need a registered copyright if you are bringing legal action for infringement. Works can be registered through the Copyright Office in the Library of Congress. The Copyright Office provides forms for use in applying for registration of a claim to copyright. The registration can be done by mailing or online. Their address and website are presented below:

US Copyright Office

101 Independence Ave. S.E.

Washington, D.C. 20559-6000

(202) 707-3000 or 1 (877) 476-0778 (toll free)

Website: <https://www.copyright.gov/registration/>

The length of copyright protection depends on the type of work and when it was created. For most works created after 1978, copyright protection lasts for the author's life plus 70 years, as illustrated in Figure 5 [7]. If the work is a joint work, the term lasts for 70 years after the last surviving author's death. If the original author of the copyrighted material is a corporation, the copyright protection period is 95

years from the date of publication or 120 years, whichever expires first. When the copyright term expires, the work becomes part of the public domain and can be used by anyone without permission, and without payment. The original holder of the copyright may be the employer of the author rather than the author himself if the work is a "work for hire."

We are all copyright users. When we read books, watch movies, listen to music, or use videogames or software, we are using copyright-protected works. Even if you are not the owner of a work, you still may be able to use it. To use a copyrighted material, you ask for permission from the publisher. The letter must have your personal information (name and address), the publisher of your work, the material you are seeking permission, date, and your signature. These days, copyright permission can be obtained online. You simply visit the website of the publisher and apply online. Cost of permission may vary from \$0 to \$150 depending on the publisher and the request.

## TYPES OF COPYRIGHT LAW

In copyright law, there are a lot of different types of works, including paintings, photographs, illustrations, musical compositions, sound recordings, computer programs, books, poems, blog posts, movies, architectural works, plays, etc. There are various types of copyright law, each pertaining to different aspects of creative ownership. The copyright protection applies to different types of original and creative works such as [8]:

- *Software & Apps*: Copyrighting your software or app gives you legal standing to pursue infringement cases if someone attempts to copy, sell, distribute, use, or modify it without your permission.
- *Books*: Copyright registration is recommended for authors who wish to protect their works from unauthorized use. Unlike with software and apps, people can still use aspects of your book legally and openly in quotes, in a review, or as satire.
- *Music*: Registering the copyright to a musical work makes it easier for the owner to defend their rights if anyone attempts to copy or use their music without permission. Music is closer to books in terms of how much protection copyrights give it.
- *Videos*: While video content does have copyright protections, they are more difficult to prove unless they copy aspects of a script. Visual techniques and styles are not copyright protected
- *Media Content*: Media content can include things online articles, blogs, podcasts, and webinars. Online articles receive protections and limitations

similar to books and music, whereas podcasts receive similar protections to videos.

- *Dramatic Works*: This includes movies, plays, and TV show scripts. Copyright here guards against unauthorized performances or adaptations of the script.
- *Architectural Works*: This involves the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The copyright prevents others from constructing buildings based on the design or creating, selling, or importing articles embodying the design.

## APPLICATIONS OF COPYRIGHT LAW

Copyright covers a broad range of original works. Below are examples of different areas where copyright law may be applied.

- *Copyright Infringement*: This occurs when someone uses a work protected by copyright law without permission, infringing certain rights granted to the copyright owner, such as the right to reproduce or perform the copyrighted work or to make derivative works. It pertains to any type of copyright. For a work to be considered to infringe upon copyright, its use must have occurred in a nation that has domestic copyright laws or adheres to a bilateral treaty or established international convention such as the Berne Convention. Copyright infringement can have serious legal and financial consequences.
- *Plagiarism*: This is the act of stealing a copyrighted work. Plagiarism is different from copyright infringement. Plagiarism is presenting someone else's work, including the work of other students, as one's own. Copying someone else's work without proper credit or permission amounts to stealing. Plagiarism is an issue not only for conducting research but also for textbooks, monographs, and grant proposals. Any ideas or materials taken from another source for either written or oral use must be fully acknowledged. Taking your own published results and reproducing them in another work as if they were new is known as "self-plagiarism." "Duplicate publication," which is submitting the same research results to two or more journals and treating them as separate publications, is also a form of self-plagiarism and must be avoided at all cost. Various software have been developed for checking plagiarism [9,10].
- *Moral Rights*: Copyright gives moral rights to be identified as the creator or author of certain kinds of material. Moral rights are concerned with the

non-economic rights of a creator. They protect the creator's connection with a work as well as the integrity of the work. Moral rights are only accorded to individual authors and in many national laws they remain with the authors even after the authors have transferred their economic rights. The Berne Convention requires these rights to be independent of authors' economic rights. Moral rights are only accorded to individual authors and in many national laws they remain with the authors even after the authors have transferred their economic rights.

- *Fair Use*: Copyright does not prohibit all copying or replication. The fair use doctrine in the US (or fair dealing in UK) permits some copying and distribution without permission of the copyright holder or payment to same. Figure 6 shows fair dealing [11]. The statute does not clearly define fair use, but instead gives four non-exclusive factors to consider in a fair use analysis. Those factors are: (1) the purpose and character of one's use; (2) the nature of the copyrighted work; (3) what amount and proportion of the whole work was taken; (4) the effect of the use upon the potential market for or value of the copyrighted work.
- *Photography*: Whoever presses the button on the camera that takes a photo owns the picture and therefore owns the copyright. Copyright protection for photographs applies automatically once a photograph is originally authored and fixed in a tangible form. When a photograph meets the requirements for copyrightability, the copyright owner has several exclusive rights: the right to reproduce the work, the right to distribute the work, the right to create derivative works of the work, the right to publicly perform the work, and the right to publicly display the work. This applies to wedding photographer, fashion photographer, nature photographer, hobbyist photographer, or another type of photographer. Unlike other kinds of copyrightable works, photographers can register the copyright in their photograph with the US Copyright Office [12]. Most government buildings should be fine to photograph from public land, but shooting indoors may require permission. Although some photographers put a watermark on their photo, that would not stop someone intent on stealing the photo. A typical photographer is shown in Figure 7 [1].

## BENEFITS

Copyright protection is a fundamental legal concept that offers advantages for creators, artists, authors,



and businesses. Registration is not required to enjoy legal protection in a copyrightable work. Copyright protection plays an important role in encouraging enterprise and stimulating economic activity. It provides a vital incentive for the creation of many intellectual works. Copyright laws offer many benefits, including [4,13,14]:

- *Protection of Intellectual Property:* Copyright offers creators and authors protection for their original works, ensuring that they have the exclusive right to reproduce, distribute, and public display their creations. This legal safeguard encourages individuals and businesses to invest time, effort, and resources into creating innovative and valuable content without fear of it being stolen or exploited by others.
- *Automatic Protection:* In all countries where the Berne Convention standards apply, copyright is automatic and need not be obtained through official registration with any government office. Copyright protection automatically exists as soon as a work is created and fixed in a tangible medium of expression. Protection applies to published and unpublished works. For a work to be protected, it must meet three criteria: originality, fixation, and minimal creativity.
- *Evidence of Ownership:* Copyright registration serves as legal proof of your ownership as the original creator, making it easier to enforce your rights if needed. Copyright protection provides creators with exclusive rights to their works. This means that the copyright holder has the sole authority to reproduce, distribute, and publicly display their creative content. A copyright notice provides proof of ownership and can be used to show that others should have been aware of the creator's rights.
- *Financial Incentive:* Copyright protection allows creators to derive economic benefits from their works. It allows creators to monetize their works effectively.
- It enables content creators to earn a living from their talent and creativity. By retaining control over the use of their content, they can enter into licensing agreements, sell rights, and receive royalties. This ensures a steady stream of income from their intellectual property, whether it is a book, a song, software, or any other creative work.
- *Deterrent to Infringement:* Copyright acts as an obstruction for infringement, and offers protection against the unauthorized use of your work's expression. Knowing that there are legal

consequences for infringement can prevent people from taking unauthorized actions. Copyright protection acts as a shield against unauthorized use or reproduction of a copyrighted work.

- *Public Recognition:* Copyright laws ensure that creators receive credit for their work, which is important for establishing their brand and identity. Copyright protection ensures that creators receive proper recognition and attribution for their work. This is particularly important in creative fields, because it allows artists and authors to establish their brand, reputation, and identity.
- *Preservation of Creative Freedom:* Copyright protection gives creators the freedom to create without fear of their ideas and works being copied or misused. This encourages people to create new works because they know they will be able to benefit from their ideas.
- *Legacy:* Copyright protection extends well beyond the creator's lifetime. It allows for the transfer of rights to heirs and beneficiaries, ensuring that their creative legacy endures for generations to come. It helps preserve cultural capital by ensuring that creative works can endure for generations.
- *Encouragement of Innovation:* Copyright protection serves as an incentive for individuals and organizations to invest in creative endeavors. By safeguarding intellectual property, it fosters innovation and the development of new ideas, which ultimately benefits society as a whole. Copyright registration makes a work part of the public record, making it easier for others to license it.
- *Economic Rights:* Copyright holders can charge fees or royalties for the reproduction of their work. For example, authors can benefit from movie adaptations of their books, or from sales of merchandise related to their books or movies.

Some of these benefits are shown in Figure 8 [9].

## CHALLENGES

Copyright entails both advantages and disadvantages. A copyright is subject to limitations based on public interest considerations, such as the fair use doctrine in the United States. Copyrights granted by the law of a certain state or nation do not extend beyond the territory of that specific jurisdiction. Other challenges of copyright law include the following [4,14]:

- *No Protection of Ideas:* Work must be available in physical form for it to be protected by copyright. Copyright protects expression, and

never ideas, procedures, methods, systems, processes, concepts, principles, or discoveries. Ideas can be freely used by others unless they are expressed in a tangible form. In other words, copyright does not protect ideas, discoveries, concepts, or theories although other forms of protection such as patents and trademarks exist for those products. Brand names, logos, slogans, domain names, and titles cannot be protected under copyright law.

- *Costly and Time-consuming:* Registering copyright involves a lot of paperwork, interactions with copyright offices, and a considerable amount of time and effort. Additionally, there is a fee to pay, and this cost can be a barrier, especially for individuals or small businesses with limited resources. To maintain copyright protection in some jurisdictions, you must renew your registration periodically, which may involve additional administrative efforts and fees. Failing to meet these renewal obligations could result in the loss of copyright protection. The expenses associated with complying with copyright law, including designating individuals to enforce copyright rules and potential legal representation, can strain their financial capabilities.
- *Public Disclosure:* By registering your copyright, you disclose information about your work, which may result in others gaining access to your ideas and expressions. There is a risk that competitors or individuals may use this information to create derivative works.
- *Limited Duration of Protection:* Copyright protection has a limited duration, requiring you to actively monitor and potentially renew your registration to maintain protection.
- *Need for Enforcement:* While copyright grants you exclusive rights, enforcing those rights may require resources and legal action on your part. This can involve hiring legal representation, pursuing litigation, or engaging in negotiations to resolve infringement issues.
- *Complexity:* Copyright law can be complicated, and understanding its nuances may necessitate legal advice, adding to the overall complexity of copyright management. This can be particularly challenging for individuals or small businesses without legal expertise at hand.
- *Sueing for Infringement:* In the United States, you cannot file a lawsuit for copyright infringement unless the copyright is registered. While you own a copyright as soon as you create a piece of IP,

you cannot prove it without registering the copyright. Courts are predisposed to assume that whoever holds the oldest copyright is the one who owns the rights to the IP.

- *Potential for Litigation:* In the event of infringement, pursuing legal action may involve litigation, which can be costly, time-consuming, and uncertain. The outcome of copyright infringement cases can be unpredictable, and the financial burden of litigation can outweigh the potential benefits.
- *Geographic Limitations:* Copyright protection is limited to the jurisdictions where it is obtained, and legal rights and enforcement may not extend globally. This can create challenges when dealing with infringement occurring in different countries where copyright laws may differ.
- *Limitations on Creativity:* Copyright law's strict enforcement can stifle creativity, as creators may hesitate to build upon existing works or incorporate elements from others due to fear of infringement.
- *Digital Challenges:* In the digital age, enforcing copyright becomes more challenging due to the ease of copying and distributing content online. This can lead to issues of piracy, unauthorized sharing, and difficulties in tracking and enforcement.
- *Global Standards:* It is challenging to create unified global standards for copyright protection due to the variety of legal systems.

## CONCLUSION

Copyright is a form of protection that attaches to an original work of authorship the moment the work of authorship is fixed in a tangible form. It protects original works of authorship. When you create original works such as books, music, videos, and other forms of intellectual property, they are automatically protected by copyright law.

Copyright protection prohibits individuals other than the owner from reproducing, displaying or performing the protected work. For more information about copyright law, one should consult the books in [15-26].:

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**Figure 1** Different types of intellectual property [1].



**Figure 2** The universal copyright symbol [4].



**Figure 3** One can stamp or watermark a document with this sign [5].



Figure 4 Components of copyright [6].



Figure 5 Length of copyright protection [7].



Figure 6 Fair dealing [11].





Figure 7 A typical photographer [1].



Figure 8Some benefits of copyright [9].