

GENERAL POINTS ABOUT COPYRIGHT

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 judgment".

Can Copyrights be inherited? Yes. The person who inherits the work will become the new copyright owner.

How long will copyright last? The copyright of a work will normally run for either

- 70 years from the death of the author, or if published
- 70 years from the date of first publication

Does the nationality of the author matter? No. Under the terms of the Berne Convention, authors are protected internationally under the terms of the law in their home country, as well as by any additional rights granted the convention.

PROTECTING COPYRIGHT: Fact sheet P-02

This fact sheet has been produced to help authors of original works identify potential problems and understand how to more effectively protect their copyright. The following points are recommendations aimed at minimising future risks.

Copyright notices - The copyright notice should be obvious and legible to prevent ignorance as a defence for infringement, and if applicable (e.g. web sites) the notice should appear on every page. Mark any copies of your work with a copyright notice, on the body of the work as well as the cover or sleeve.

The copyright notice should take the form of:

- the actual term 'copyright'
- the copyright symbol '©' [not just a 'c' in brackets '(c)' -as some countries do not recognise this]
- the year [normally when first published, but for unpublished work, use the year it was written]
- the name of the copyright owner (this can be an individual, collective or organisation) e.g. 'Copyright © 2000 Joe Smith'
- For sound recordings you should also include a phonogram copyright notice for the sound recording itself, using the ◆ symbol to denote the copyright of the sound recording e.g. 'Copyright © 2000 Joe Smith/◆ 2000 Joe Smith'

Copyright disclaimers - You should also include a disclaimer of some kind expressing your wishes as the copyright owner:

- a simple 'All rights reserved' is normally sufficient but a more explicit declaration is recommended such as: 'Any unauthorised broadcasting, public performance, copying or re-recording will constitute an infringement of copyright'.

Supporting evidence - Additional evidence is needed to support your claim in case of dispute. Keep as much of the background work as you can (e.g. lyric sheets, music score, midi files, demo tapes and rough recordings). If you ever make a claim to the Copyright Tribunal or a court this can be very valuable as it demonstrates evolution of your ideas.

Register your work - To prove your work was created before a certain date, and to give stronger supporting evidence, we recommend that you register your work with the UK Copyright Service, who can substantiate your claim in case of a dispute. Once registered, you are also permitted to state: "This work is registered with the UK Copyright Service" as an extra deterrent against infringement. (You could also use the ISA copyright service, which is free, or use a solicitor or bank manager).

Agreement between co-authors

In the case of jointly authored works, you should have some agreement, whereby if a member of your band, organisation or collective leaves you are all clear what will happen to the copyright of your work.

The most straightforward method to take when deciding your agreement is to think of the band, organisation, collective or principal writer/writers as an employer for whom you work. (Normally if you produce work under contract for a business or third party, the business will hold the copyright to that work). Here are some points to bear in mind when coming to your agreement.

- ❑ If one person writes the bulk of the work, they may wish to take the work with them if they leave,
- ❑ If works are written as a group effort, will they remain the property of the group after an author leaves?
- ❑ Copyright may exist in different forms (e.g. in music, as well as copyright in a sound recording, lyrics are entitled to separate copyright as a literary work. For the purposes of an agreement, it is normally easier to include them as part of the overall work, but think through what this means to each of you).
- ❑ What happens to royalties and commissions if any work is later published or sold?
- ❑ The key point is to think ahead, even if you think things will end amicably they may not, and it may cost you your friendship as well. The time to decide is before someone leaves, not after!

- ❑ If a work is produced as part of your employment normally the copyright belongs to the company which hired you, unless there is an agreement to the contrary.
- ❑ For freelance or commissioned work, copyright will usually belong to the author of the work, unless there is a contrary agreement, (i.e. in a contract for service).
- ❑ Only the owner of copyright, or his exclusive licensee can bring proceedings in the courts against an infringement.
- ❑ Copyright does not exist in names, colours, inventions or ideas, but may exist in a work expressing or composed from these concepts.

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