

Copyright & Fair Use, Intellectual Property Notes

Copyright - A form of protection provided by the laws of the United States for "original works of authorship", including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. "Copyright" literally means the right to copy but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright.

Fair Use - A legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use.

How Long Does Copyright Protection Last?

The term of copyright for a particular work depends on several factors, including whether it has been published, and, if so, the date of first publication. Generally, for works created after January 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years. For an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of 95 years from the year of its first publication or a term of 120 years from the year of its creation, whichever expires first. For works first published prior to 1978, the term will vary depending on several factors. To determine the length of copyright protection for a particular work, consult chapter 3 of the Copyright Act (title 17 of the *United States Code*).

Do I have to renew my copyright?

No. Works created on or after January 1, 1978, are not subject to renewal registration. As to works published or registered prior to January 1, 1978, renewal registration is optional after 28 years but does provide certain legal advantages.

Intellectual Property - Knowledge, creative ideas, or expressions of human mind that have commercial value and are protectable under copyright, patent, servicemark, trademark, or trade secret laws from imitation, infringement, and dilution. Intellectual property includes brand names, discoveries, formulas, inventions, knowledge, registered designs, software, and works of artistic, literary, or musical nature. It is one of the most readily tradable properties in the digital marketplace.

Trademark - Any name, symbol, figure, letter, word, or mark adopted and used by a manufacturer or merchant in order to designate specific goods and to distinguish them from those manufactured or sold by others. A trademark is proprietary and is usually registered with the Patent and Trademark Office to assure its exclusive use by its owner or licensee.

Patent - A form of protection that provides a person or legal entity with exclusive rights for making, using or selling a concept or invention and excludes others from doing the same for the duration of the patent. A patent is a grant of protection for an invention. It's granted by the U.S. Patent and Trademark Office (PTO) and has a term of 14 to 20 years. Owning a patent gives you the right to stop someone else from making, using or selling your invention without your permission.

Trade Secret - Type of intellectual property such as formula, know how, process, system, or confidential information that gives its owner a competitive advantage and unauthorized disclosure of which will harm the owner. Courts generally grant injunctions to prevent a threatened disclosure of a trade secret by the current or former employees because otherwise the relationship of trust between the employer and employee will be destroyed. The employer must, however, demonstrate that he or she actively safeguarded the trade secret and had informed the employees that it was to remain confidential.

Servicemark - A brand name or logo that identifies the provider of a service. A service mark may consist of a word, phrase, symbol, design or some combination of these elements.