

## COPYRIGHT LAW BASICS

A copyright is an original work of authorship fixed by a tangible medium of expression (as examples: written down on paper, or recorded on record, tape or CD). An original work is protected under the copyright laws immediately upon fixation in that tangible form, regardless of formal registration.

An author is granted the exclusive legal right to reproduce, publish and sell his/her work and protected for the life of the author plus 70 years. Formal registration with the U.S. Copyright Office in Washington, D.C., at the Library of Congress, provides evidence of a claim of copyright and makes available to the author/owner certain legal, procedural advantages in the event there is infringement of the work. The duration of copyright protection is for the life of the author, plus 70 years. For "works made for hire," the duration of copyright is 75 years from "publication."

Copyright registration establishes a public record of a copyright claim, date of creation and may be necessary before a legal action for infringement can be initiated. If the copyright registration is made within three months after publication, prior to infringement, and if the copyright owner wins an infringement case, the owner may be entitled to award of attorney fees and statutory damages. However, the most important initial advantage of copyright registration is that it constitutes constructive notice to the public of a claim of ownership. If copyright registration was made before legal publication or within five years after publication, it constitutes "prima facie" evidence of the facts in the registration. "Do-it-yourself" methods, such as sending a pre addressed letter in the mail are not advised.

A work may be registered by completing a copyright form and sending it with a fee to the U.S. Copyright Office, with a complete copy of the work to the Library of Congress, location of the Copyright Office. In the past a © followed by the date and the name of the owner was required notice for copyright production. Under the Berne Convention for the Protection of Literary and Artistic Works, a copyright notice is not required. The U.S. Copyright Law (Title 17 of the U.S. Code) was revised substantially in 1976 (effective on January of 1978), changing the term of the copyright protection and the registration requirements, and further revised pursuant to the Berne Convention adopted by the United States in 1989. An original works is now protected from the moment it is fixed in tangible form, regardless of registration, and such a work published without proper copyright notice cannot fall into public domain whereby anyone could copy such work. A creator of a work owns the copyright unless he/she transfers it by either contract or operation of law (as examples: by collaboration whereby a song is jointly owned by one or more songwriters, or as a "work made for hire," whereby a song was created by specifying that songwriter has created work made for hire.)

Copyright infringement, in general terms, is any unauthorized use of a "substantial part" of a work, not within some exception in the copyright laws allowing that use (such as under a "fair use," for certain educational purposes, for example).