



## COPYRIGHT FAQs

**Q: What type of material is covered by copyright?**

A: There are four categories of copyright works: literary, artistic, musical and dramatic,

- Literary works are text-based and include books, essays, stories, pamphlets, poems, screenplays, scripts, lyrics and the like. Computer programs are included in this category.
- Artistic works include sketches, drawings, paintings, photographs, maps, sculptures and architectural works.
- Dramatic works include plays, films, videos, choreographic work, recited work and mime
- Musical works include songs, orchestrations and other works whether consisting of both words and music or music only.

In addition, there are three other categories of work protected. These are called 'neighbouring rights' and include:

- "performer's performance" i.e. copyrights in the performances of actors, musicians, singers, dancers and other performance artists
- communication signals of broadcasters
- sound recordings such as compact discs, records, cassettes, and the like

**Q: What rights are included in copyright ?**

A: Copyright comprises a 'bundle of rights'. The specific rights depend on the type of work and include control over:

- copying
- publication
- translation
- public performance
- broadcast
- conversion into another form of work (for example, making a novel into a play or film)

Copyright also means the author has the right to choose not to do any of those things and prohibit others from doing so.

**Q: Can I licence some rights to other parties and retain the rest?**



A: Absolutely. Copyright is versatile in that rights may be divided many ways. Copyright may be limited to a single instance (ex. to perform a play one time in one place), or geographically (ex. rights to distribute a book within one province), or by exclusivity (ex. by making a licence, 'non-exclusive', you may share the work with an unlimited number of parties).

**Q: What about my right to have my name associated with the work?**

A: This falls under the category of "moral rights" provided for in the *Copyright Act*. Moral rights belong to the author and include:

- the right to be associated with the work
- the right to use a pseudonym
- the right to remain anonymous
- the right to the integrity of the work

The 'right to integrity' means no one, including the person who owns the copyright, is allowed to distort, mutilate or otherwise modify your work in a way that is prejudicial to your honour or reputation.

**Q: Can I assign my moral rights to someone else?**

A: No. They may be waived, but not assigned.

**Q: What if my work is based on or excerpts someone else's work?**

A: Works must be "original" to qualify for copyright protection. You cannot obtain a copyright for someone else's creative work. Whether something is "original" can be difficult to determine, however, and many court cases have dealt with this issue.

**Q: Can I ever make use of someone else's work?**

A: Yes. There are a few special circumstances where use is not infringing. These include:

1) "fair dealing" uses for:

- purposes of private study or research,
- criticism or review, or
- news reporting

In the case of criticism, review, or news reporting, the user must mention the source and the name of the author, performer or broadcaster.

2) incidental or insubstantial use of a work. What constitutes "incidental or insubstantial" is subject to legal interpretation, however, and extreme caution must be undertaken.

3) It is acceptable to make a back-up copy of a software program as well.

4) There are also several narrow, technical exceptions in the *Copyright Act* for educational institutions, libraries, research facilities, archives, museums etc. as well as for people with perceptual disabilities.

**Q: Is copyright law different in Canada than in the United States?**

A: Yes, in several ways. For example:

1) Registration of copyright is required in the US in order to enforce rights.

2 ) The "fair use" exception under the United States *Copyright Act* is much broader than the "fair dealing" provision in Canada. In the US, use may be allowed for "purposes such as criticism, comment, news reporting, teaching, scholarship, or research" provided that it is fair taking into consideration the following four criteria:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

The idea behind "fair use" is to strike a balance between providing reasonable protection for the original author while simultaneously encouraging new works inspired by them.

**Q: Do I have to register my copyright in Canada?**

A: No. Copyright exists as of right. In other words, if you created it, you are the 'author' and therefore the first copyright owner. The intention behind copyright is to encourage creative works by rewarding the author with the right to control it.

**Q: How long does a registration last?**

A: Copyright last for the lifetime of the author plus fifty years.

**Q: Is my work protected in other countries?**

A: Yes. Canada is a member of the World Intellectual Property Organization and a signatory of many WIPO treaties. These treaties provide for enforcement of copyright internationally. The extent of protection is subject to the law of the jurisdiction.