

FAQs on Copyrights

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1. What is copyright?

Copyright is an intangible incorporeal right to certain literary, scholarly, scientific and artistic productions granted by statute to the author or creator of the work, and giving him, his heirs and assigns copyright or economic rights, which shall consist of the exclusive right to carry out, authorize or prevent the following acts:

- a) Reproduction of the work or substantial portion of the work;
- b) Dramatization, translation, adaptation, abridgment, arrangement or other transformation of the work;
- c) The first public distribution of the original and each copy of the work by sale or other forms of transfer of ownership;

- d) Rental of the original or a copy of an audiovisual or cinematographic work, a work embodied in a sound recording, a computer program, a compilation of data and other materials or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental;
- e) Public display of the original or a copy of the work;
- f) Public performance of the work; and
- g) Other communication to the public of the work

2. Who can claim copyright?

In the case of original literary and artistic works, copyright shall belong to the author of the work.

In the case of works of joint authorship, the co-authors shall be the original owners of the copyright, and in the absence of agreement, their rights shall be governed by the rules on co-ownership. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the copyright in the part that he has created;

In the case of work created by an author during and in the course of his employment, the copyright shall belong to:

(a) The employee, if the creation of the object of copyright is not a part of his regular duties even if the employee uses the time, facilities and materials of the employer.

(b) The employer, if the work is the result of the performance of his regularly assigned duties, unless there is an agreement, express or implied, to the contrary.

In the case of a work commissioned by a person other than an employer of the author and who pays for it, and the work is made in pursuance of the commission, the

person who so commissioned the work shall have ownership of the work, but the copyright thereto shall remain with the creator, unless there is a written stipulation to the contrary;

In the case of audiovisual work, the copyright shall belong to the producer, the author of the scenario, the composer of the music, the film director, and the author of the work so adapted. However, subject to contrary or other stipulations among the creators, the producers shall exercise the copyright to an extent required for the exhibition of the work in any manner, except for the right to collect performing license fees for the performance of musical compositions, with or without words, which are incorporated into the work; and

In respect of letters, the copyright shall belong to the writer.

3. What works are protected?

There are two classes of works that are protected, namely original and derivative.

a. Original work- Literary and artistic works, hereinafter referred to as "works", are original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

- i. Books, pamphlets, articles and other writings;
- ii. Periodicals and newspapers;
- iii. Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;
- iv. Letters;
- v. Dramatic or dramatico-musical compositions; choreographic works or entertainment in dumb shows;
- vi. Musical compositions, with or without words;

- vii. Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- viii. Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art;
- ix. Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- x. Drawings or plastic works of a scientific or technical character;
- xi. Photographic works including works produced by a process analogous to photography; lantern slides;
- xii. Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- xiii. Pictorial illustrations and advertisements;
- xiv. Computer programs; and
- xv. Other literary, scholarly, scientific and artistic works.

Works are protected by the sole fact of their creation, irrespective of their mode or form of expression, as well as of their content, quality and purpose.

b. Derivative work- The following derivative works shall also be protected by copyright:

- i. Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and
- ii. Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents.

The works referred to in paragraphs (i) and (ii) of b shall be protected as new works: Provided however, that such new work shall not affect the force of any subsisting

copyright upon the original works employed or any part thereof, or be construed to imply any right to such use of the original works, or to secure or extend copyright in such original works.

4. What is not protected by copyright?

No protection is extended to any discovery or mere data as such, even if they are expressed, explained, illustrated or embodied in a work; news of the day and other miscellaneous facts having the character of mere items of press information; or any official text of a legislative, administrative or legal nature, as well as any official translation thereof.

No prior approval or conditions are required for the use of any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character.

5. Is registration and/or fixation necessary for copyright protection of works?

No. Works are protected from the moment of their creation by the sole fact of such creation, irrespective of their mode or form of expression.

6. What is the duration of copyright protection?

The copyright for original and derivative works shall be protected during the life of the author and for seventy (70) years after his death. This rule also applies to posthumous works.

In case of works of joint authorship, the economic rights shall be protected during the life of the last surviving author and for seventy (70) years after his death.

In case of anonymous or pseudonymous works, the copyright shall be protected for ninety-five (95) years from the date on which the work was first lawfully published or one hundred-twenty (120) from the time it was created.

7. Can a copyright be transferred or assigned?

The copyright may be assigned in whole or in part. Within the scope of the assignment, the assignee is entitled to all the rights and remedies which the assignor had with respect to the copyright.

The copyright is not deemed assigned in whole or in part unless there is a written indication of such intention.

The submission of a literary, photographic or artistic work to a newspaper, magazine or periodical for publication shall constitute only a license to make a single publication unless a greater right is expressly granted. If two (2) or more persons jointly own a copyright or any part thereof, neither of the owners shall be entitled to grant licenses without the prior written consent of the other owner or owners.

The copyright is distinct from the property in the material object subject to it.

Consequently, the transfer or assignment of the copyright shall not itself constitute a transfer of the material object. Nor shall a transfer or assignment of the sole copy or of one or several copies of the work imply transfer or assignment of the copyright.

The copyright owners or their heirs may designate a society of artists, writers or composers to enforce their economic rights and moral rights on their behalf.

8. What are the rights conferred to the author of a work?

The copyright or economic rights of the owner of the work shall consist of the exclusive right to carry out, authorize or prevent the following acts:

- Reproduction of the work or substantial portion of the work;
- Dramatization, translation, adaptation, abridgment, arrangement or other transformation of the work;
- The first public distribution of the original and each copy of the work by sale or other forms of transfer of ownership;
- Rental of the original or a copy of an audiovisual or cinematographic work, a work embodied in a sound recording, a computer program, a compilation of data and other materials or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental;
- Public display of the original or a copy of the work;
- Public performance of the work; and
- Other communication to the public of the work.

The author of a work shall, independently of the economic rights or the grant of an assignment or license with respect to such right, have the right:

- To require that the authorship of the works be attributed to him, in particular, the right that his name, as far as practicable, be indicated in a prominent way on the copies, and in connection with the public use of his work;
- To make any alterations of his work prior to, or to withhold it from publication;
- To object to any distortion, mutilation or other modification of, or other derogatory action in relation to his honor or reputation; and
- To restrain the use of his name with respect to any work not of his own creation or in a distorted version of his work.

9. What are the remedies for infringement of copyright?

Any person infringing a right protected under the Intellectual Property laws shall be liable:

(a) To an injunction restraining such infringement. The court may also order the defendant to desist from an infringement, among others, to prevent the entry into the channels of commerce of imported goods that involve an infringement, immediately after customs clearance of such goods;

(b) Pay to the copyright proprietor or his assigns or heirs such actual damages, including legal costs and other expenses, as he may have incurred due to the infringement as well as the profits the infringer may have made due to such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or, in lieu of actual damages and profits, such damages which to the court shall appear to be just and shall not be regarded as penalty;

(c) Deliver under oath, for impounding during the pendency of the action, upon such terms and conditions as the court may prescribe, sales invoices and other documents evidencing sales, all articles and their packaging alleged to infringe a copyright and implements for making them;

(d) Deliver under oath for destruction without any compensation all infringing copies or devices, as well as all plates, molds, or other means for making such infringing copies as the court may order; and

(e) Such other terms and conditions, including the payment of moral and exemplary damages, which the court may deem proper, wise and equitable and the destruction of infringing copies of the work even in the event of acquittal in a criminal case. In an infringement action, the court shall also have the power to order the seizure and impounding of any article which may serve as evidence in the court proceedings.