

## Copyright & Public Domain

The purpose of the United States Copyright law is to protect the rights of authors of original works. The problem with the Copyright is the protection only exists for a fixed term.

<https://www.copyright.gov/what-is-copyright/>

Under the current law, works created on or after January 1, 1978, have a copyright term of life of the author plus seventy years after the author's death. If the work is a joint work, the term lasts for seventy years after the last surviving author's death.

Copyright is a type of intellectual property that protects **original works of authorship** as soon as an author **fixes** the work in a **tangible form of expression**. In copyright law, there are a lot of different types of works, including paintings, photographs, illustrations, musical compositions, sound recordings, computer programs, books, poems, blog posts, movies, architectural works, plays, and so much more!

Copyright is originality and fixation

### Original Works

Works are original when they are independently created by a human author and have a minimal degree of creativity. Independent creation simply means that you create it yourself, without copying. The Supreme Court has said that, to be creative, a work must have a “spark” and “modicum” of creativity. There are some things, however, that are not creative, like: titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; and mere listings of ingredients or contents. And always keep in mind that copyright protects expression, and never ideas, procedures, methods, systems, processes, concepts, principles, or discoveries.

### Fixed Works

A work is fixed when it is captured (either by or under the authority of an author) in a sufficiently permanent medium such that the work can be perceived, reproduced, or communicated for more than a short time. For example, a work is fixed when you write it down or record it.

Who is a copyright owner?

**Everyone is a copyright owner.** Once you create an original work and fix it, like taking a photograph, writing a poem or blog, or recording a new song, you are the author and the owner.

Companies, organizations, and other people besides the work's creator can also be copyright owners. Copyright law allows ownership through “works made for hire,”

which establishes that works created by an employee within the scope of employment are owned by the employer. The work made for hire doctrine also applies to certain independent contractor relationships, for certain types of commissioned works.

Copyright ownership can also come from contracts like assignments or from other types of transfers like wills and bequests.

What rights does copyright provide?

### **U.S. copyright law provides copyright owners with the following exclusive rights:**

- Reproduce the work in copies or [phonorecords](#).
- Prepare derivative works based upon the work.
- Distribute copies or phonorecords of the work to the public by sale or other transfer of ownership or by rental, lease, or lending.
- Perform the work publicly if it is a literary, musical, dramatic, or choreographic work; a [pantomime](#); or a motion picture or other audiovisual work.
- Display the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a pictorial, graphic, or sculptural work. This right also applies to the individual images of a motion picture or other audiovisual work.
- Perform the work publicly by means of a digital audio transmission if the work is a sound recording.

Copyright also provides the owner of copyright the right to authorize others to exercise these exclusive rights, subject to certain statutory limitations.

How long does copyright protection last?

The length of copyright protection depends on when a work was created. Under the current law, works created on or after January 1, 1978, have a copyright term of life of the author plus seventy years after the author's death. If the work is a joint work, the term lasts for seventy years after the last surviving author's death. For works made for hire and anonymous or pseudonymous works, copyright protection is 95 years from publication or 120 years from creation, whichever is shorter. Works created before 1978 have a different time frame. Learn more about copyright duration in our *Duration of Copyright Circular*, <https://www.copyright.gov/circs/circ15a.pdf>.

When can I use works that are not mine?

### **Agreements, Exceptions, and Limitations**

It is important to know that **we are all also copyright users**. When we read books, watch movies, listen to music, or use videogames or software, we are using copyright-protected works.

So, even if you are not the owner of a work, you still may be able to use it. In addition to buying or licensing works (or some other way of seeking permission to use the work),

you can also use one of the Copyright Act's exceptions and limitations, or rely on works in the public domain.

The Copyright Act's exceptions and limitations found in sections 107-122 include fair use, the "first sale doctrine," some reproductions by libraries and archives, certain performances and displays, broadcast programming transmissions by cable and satellite, to name a few. Interested in more information on fair use? Take a look at our [Fair Use Index](#). The complete list of exemptions to copyright protection can be found in chapter 1 of [Title 17 of the United States Code](#).

You can also use works that are in the public domain. Works in the public domain are those that are never protected by copyright (like facts or discoveries) or works whose term of protection has ended either because it expired or the owner did not satisfy a previously required formality. Currently, all pre-1926 U.S. works are in the public domain because copyright protection has expired for those works.

What is copyright registration?

Copyright exists automatically in an original work of authorship once it is fixed, but a copyright owner can take steps to enhance the protections. The most important step is registering the work. Registering a work is not mandatory, but for U.S. works, registration (or refusal) is necessary to enforce the exclusive rights of copyright through litigation. Timely registration also allows copyright owners to seek certain types of monetary damages and attorney fees if there is a lawsuit, and also provide a presumption that information on the registration certificate is correct.

Copyright registration also provides value to the public overall. It facilitates the licensing marketplace by allowing people to find copyright ownership information, and it provides the public with notice that someone is claiming copyright protection. It also provides a record of this nation's creativity.

There is only one place to register claims to copyright in the United States: the Copyright Office. For more information on registration benefits and procedures, please see our *Copyright Registration Circular*, <https://www.copyright.gov/circs/circ02.pdf>.

What about other intellectual property rights?

Patent and trademark are other types of intellectual property that may cover works and are considered separately from copyright eligibility. For example, patents, which are granted by the government, protect certain inventions or discoveries, designs for articles of manufacture, and plant varieties. Trademark law, on the other hand, protects words, names, symbols, or devices used in trade with goods or services to indicate the source of the goods and to distinguish them from the goods or services of others. For more information on these other types of intellectual property, take a look at the United States Patent and Trademark Office's [patent](#) and [trademark](#) information.

What if there is change in ownership?

## Document Recordation

The Copyright Office also records documents related to Copyright. This is known as [Recordation](#), and means that the Office reviews and accepts documents, and keeps a record of, the documents people provide. Recordation relates to three different kinds of documents: transfers of copyright ownership, other documents relating to a copyright, and notices of termination, which authors or their heirs use when terminating certain transfers or licenses.

What is statutory licensing?

Statutory licenses are some of the limitations in the Copyright Act. They relate to certain uses of musical compositions, sound recordings, and cable and satellite programming. For comprehensive information on musical compositions and sound recordings, we have a number of useful resources like our [Circulars](#) and our dedicated [Music Modernization Act page](#). For information on cable and satellite uses, visit our [Licensing Division page](#).

We're here to help!

The Copyright Office website, [copyright.gov](http://copyright.gov), is the definitive source of copyright information. If you need additional assistance, the Public Information Office is available to help. You can contact us [online](#), call at (202) 707-3000 or 1-877-476-0778 (toll free), or visit the Office in Washington, DC, in the Library of Congress Madison Building. Staff is available Monday through Friday, 8:30 a.m. to 5:00 p.m., except federal holidays. Want to learn more about the Copyright Office and what we do? Visit our [overview page](#), where you can discover how we have been helping the public since 1870.

“Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

— United States Constitution  
Article I, Section 8

Copyright has been a part of U.S. law since the nation's founding. Congress passed the first federal copyright law in 1790, and has updated it throughout the years to keep up with the times. Our copyright [timeline](#) explains more of copyright's history.

## PUBLIC DOMAIN IN THE UNITED STATES

**Any Song or Musical Work Published in 1926 or Earlier is in the Public Domain in the USA.** No Sound Recordings are Presently PD in the USA. Sound Recordings Released in 1922 or Earlier will Enter the Public Domain in the USA on January 1, 2022.

<https://www.pdinfo.com/copyright-law/music-copyright-law.php>

Some of the Betty Boop films fell into the Public Domain, while others retained their copyright. Nimia licenses eight Betty Boop clips for commercial use and Internet Archives hosts 22 films that are all in the public domain.

For those who are unaware, Mickey Mouse, Walt Disney's beloved character who started it all, **will officially become public domain on January 1, 2024.**

<https://thedisinsider.com/2022/08/03/what-does-mickey-mouse-going-into-the-public-domain-mean/>

## PUBLIC DOMAIN IN THE UK

**On January 1, 2013, the Beatles' single "Love Me Do" entered the public domain.**

As of November 2013, European sound recordings are now protected for 70 years, which is not retroactive. In 2015, Canada changed the copyright length to 70 years.

My Baby Left Me by Elvis Presley

The song was originally recorded by Presley in 1956 and thus **entered the public domain on January 1, 2007.** Despite furious lobbying from the music industry, the government recently backed a recommendation that the copyright term for sound recordings should remain at 50 years.

Memphis Recording Service became **headline news** in the summer when its Presley release **My Baby Left Me** entered the Official U.K. Singles Charts at No. 19, becoming the first out-of-copyright recording to be a U.K. Top 40 hit. The song was originally recorded by Presley in 1956, so entered the public domain on Jan. 1 2007.

<https://www.elvis.com.au/presley/cd/copyright-new-york-sessions.shtml>

<https://www.elvis.com.au/presley/rock-n-roll-swindle.shtml>

**All Inquires Are Welcome!**

General Inquires

Email: [creatorsrightsmovement@aol.com](mailto:creatorsrightsmovement@aol.com)

To contact me directly, use my office number or email address listed below.

Mark G. Goldstein  
Chief Executive Officer  
MoonTown Records & Publishing Inc.  
Office Landline: (516) 822-8080  
Email: [zoommanagement@aol.com](mailto:zoommanagement@aol.com)  
<https://www.linkedin.com/in/markgoldstein>