

# Guide to Copyrights in Canada

## Part - 6

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### Frequently Asked Questions

#### What is a copyright?

Copyright is the exclusive right to copy a creative work or allow someone else to do so. It includes the sole right to publish, produce or reproduce, to perform in public, to communicate a work to the public by telecommunication, to translate a work, and in some cases, to rent the work.

#### To what does copyright apply?

Copyright applies to all original literary, dramatic, musical and artistic works. These include books, other writings, music, sculptures, paintings, photographs, films, plays, television and radio programs, and computer programs. Copyright also applies to other subject matter which includes sound recordings (such as records, cassettes, and tapes), performer's performances and communication signals.

#### What is not protected by copyright?

Themes, ideas, most titles, names, catch-phrases and other short-word combinations of no real substance.

#### Who owns the copyright?

Generally, the owner of the copyright is:

1. the creator of the work;
2. the employer, if the work was created in the course of employment unless

there is an agreement to the contrary;

3. the person who commissions a photograph, portrait, engraving or print for valuable consideration (which has been paid) unless there is an agreement to the contrary; or

4. some other party, if the original owner has transferred the rights.

### **Do I have to do anything to be protected?**

It is a good idea to register your copyright and to indicate notice of copyright on your works.

### **What are the benefits of copyright registration?**

Registration gives you a certificate that states you are the copyright owner. You can use this certificate in court to establish ownership. (The onus is on your opponent to prove that you do not own the copyright.)

### **How do I register a copyright?**

You file an application with the Copyright Office along with a prescribed fee. The registration process normally takes three weeks. The fee covers review of your application, registration and your official certificate.

### **Once I have registered, do I have to pay further fees to maintain my copyright?**

No. The registration fee is a one-time expense.

### **How long does copyright last?**

Generally, copyright in Canada exists for the life of the author plus 50 years following death. There are some exceptions. Copyright protection always expires December 31 of the last calendar year of protection.

### **Does the Copyright Office check to ensure that my claim of copyright is legitimate?**

No, the Office does not verify ownership. Only the courts can do that.

### **Do I need to mark my work with a notice of copyright?**

This isn't necessary to be protected in Canada, however, you must mark your work with the symbol ©, the name of the copyright owner and the year of first publication to be protected in some other countries. Even though it is not always required, marking is useful since it serves as a general reminder to everyone that the work is protected by copyright.

### **Is the copyright of a Canadian author valid in foreign countries?**

Yes, as long as the country in question belongs to one or more of the international copyright treaties, conventions or organizations. These include the Berne Convention, the Universal Copyright Convention, the Rome Convention, and the World Trade Organization (WTO). These international conventions, treaties and organizations include most countries in the world.

### **Is the copyright of a foreign author valid in Canada?**

Yes. Please refer to the section entitled "Automatic Protection for Canadian and foreign works."

### **Should I send copies of my work with my application?**

No, the Copyright Office does not accept copies of a work.

### **What is the difference between an assignment and a licence?**

An assignment is a transfer of ownership of the copyright from one party to another. A licence is a contract which, for specific purposes, allows someone to use a work temporarily.

### **What is copyright infringement?**

Unlawful use of copyright material. Plagiarism — passing off someone else's work as your own — is a form of infringement.

### **What is "fair dealing"?**

Use or reproduction of a work for private study, research, criticism, review or news reporting.

### **Will the Copyright Office prevent others from infringing my rights?**

No. The responsibility for policing your copyright rests with you.

**Can libraries or educational institutions make multiple copies of parts of books or articles for student use?**

No. The making of multiple copies requires the consent of the copyright owner. This consent may be obtained through a licensing agreement with a photocopying collective. However, the Copyright Act does allow the copying by individuals of parts of works for private study or research. Such copying should be minimal. This exception falls within the "fair dealing" section of the Act.

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