

Dolleymores[®]

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What is Copyright?

Information Sheet

What is Copyright?

Copyright is an automatic right that protects the creator/owner of a literary, dramatic, musical, artistic work, or published editions of works, sound recordings, broadcasts and films, against an unauthorised third party from making copies of their works, distributing copies to the public, performing in public and broadcasting.

So surely there is no real need to file a trade mark or patent application, as I can claim copyright in my mark or idea.

No, this is not the case. Copyright does not subsist in single words, name or titles. Neither is it possible to copyright "an idea".

What do you mean by a literary or artistic work?

These headings cover things such as novels, newspaper and magazine articles, instructional manuals, lyrics for songs, drawings, technical drawings, diagrams, paintings, engravings, sculptures, photographs, maps, works of architecture, works of artistic craftsmanship and logos.

What do you mean it's an automatic right?

Copyright is different from registered trade marks, designs and patents which are protected by filing applications and obtaining registrations at the UK Intellectual Property Office. Copyright is created the moment the work is created and recorded/logged in some way on paper, film, compact disc, electronic record, etc. There is no need to lodge details of the copyright at the UK Intellectual Property Office.

So if there is no Register, how can I prove I own the right?

You can deposit a copy with Dolleymores, or with a bank or solicitor. It is also possible to deposit a copy with private companies that operate unofficial registers, but take great care if you choose this option and look into the company in detail and find out what you are actually paying for if you use this service.

Your record does not necessarily prove that your work is an original or created by you. It does however give you a defence if someone accuses you of copying their work that was created at a later date i.e. you can prove an earlier creation date.

My marketing team tend to create any logos, or literature used by me.

Do I still own the copyright?

When considering literary, musical, artistic and dramatic works, the person who actually creates that work, the author, is the first copyright owner. However if the work is created in the course of employment then the copyright owner is the employer, the employee is still the author, which means they have moral rights in the work.

Care needs to be taken if work is sent out i.e. commissioned works. The person creating the work is the copyright owner, not the commissioner. Therefore if you use a design company to prepare your logo, it is the designer, or the company employing the designer who actually owns the copyright.

The commissioner/you will be able to use the logo in respect of the project it was designed for because there will be an implied licence between the commissioner/you and the designer/design company.

In the event that the logo is used and copied by an unauthorised third party, the courts are likely to take the view that the Commissioner/you are the beneficial owner of the copyright as you paid for

the work to be created. Therefore should be able to stop the unauthorised use. We strongly recommend that in situations such as these, a contract be drawn up, at the outset, between the Commissioner and the designer, ideally transferring all rights in the work to the commissioner.

How do I show others that I own the copyright in my work?

When the copyright material is published we recommend that you use the International Copyright symbol © next to the work, together with your name and the year the copyright was created e.g. © John Smith 2006. This will demonstrate to others that the work is a copyright and that you are serious in protecting it i.e. it will act as a deterrent to those thinking about copying it.

How long does my right last?

Copyright in a literary, dramatic, musical or artistic work lasts for the life of the author/creator plus 70 years from the end of the year in which the author died.

Copyright in a film expires 70 years after the end of the year in which the death occurs of the last to survive out of the principal director, the authors of the dialogue and screenplay and the composer of the music that may have been specially written for the film.

Copyright in a sound recording expires 50 years from the end of the year in which it was made, or if published during this time, 50 years from the end of the year of publication. If the music is not published during the 50 years, but it is played in public during that period then 50 years from the date it was played in public, or communicated to the public.

Copyright in a broadcast expires 50 years from the end of the year of making the broadcast.

Copyright in a published edition expires 25 years from the end of the year in which the edition was first published.

What can I stop unauthorised parties from doing, using this right?

Copyright enables you to prevent your work being copied in anyway, for example photocopying or scanning it, copying a printed page by handwriting it, taping live or recorded music, renting or lending copies of the work to the public, issuing copies of the work to the public. In the case of plays and music you can stop others from showing or performing those plays/music in public. This is still the case even if only part of your work is copied, provided it can be considered as a "substantial" part of a work.

The Courts tend to look at your rights are not adversely effected by individuals making a single photocopy of a short extract of a work for the purpose of private study or non-commercial research. This is known as fair dealing and the courts do not believe that this type of copying has any real economic impact on you, the copyright owner.

How do I stop unauthorised use?

We recommend that at the outset you try to resolve the matter as amicably as possible. Contact the offending party, notify them of your rights, advise them that they are infringing those rights, and request an undertaking that they will cease committing the infringing acts. If this does not resolve the matter then Mediation and/or Arbitration can be considered.

The worst case scenario is that the matter goes to the High Courts, where you could seek an injunction to stop them continuing infringing your rights, seek damages, or request an order whereby all infringing articles must be delivered to you and you arrange for them to be destroyed. A case through the Courts is very expensive and we would therefore recommend that you seek legal advice and look at all other options prior to taking this route.

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Est 1969

9 Rickmansworth Rd,
Watford, Hertfordshire
WD18 0JU

+44 (0)1923 238311
info@dolleymores.com

www.dolleymores.com