

## COPYRIGHT BASICS

**Q:** *What is a copyright?*

**A:** A copyright is a grant of rights from the government for original works of authorship that are fixed in a *tangible medium of expression*.

**Q:** *What are "works of authorship"?*

**A:** Works of authorship include, but are not limited to, books, songs, plays, dances, computer programs, pictures, sculptures, motion pictures, CD-ROMs, and buildings.

**Q:** *What is a "tangible medium of expression"?*

**A:** It is any item which embodies or holds an original work of authorship, such as the canvas of the "Mona Lisa" or the CD on which the Beatles' song, "Yesterday," is recorded. The media can be paper (such as advertising, instructions, training manuals or drawings) or something that requires a machine to be perceived (such as DVDs or CDs).

**Q:** *I have a great idea. Can I copyright it?*

**A:** No. Copyright protection is limited to protecting *expression* and does not protect the *ideas* expressed in the work. For example, Microsoft cannot copyright the idea of having a computer program that will identify misspelled words; however, the computer program instructions that operate to identify misspelled words are copyrighted.

**Q:** *How do I get copyright protection?*

**A:** Copyright protection exists automatically from the moment the work is fixed on some type of tangible media. However, in the United States, generally the work must be registered with the Copyright Office of the Library of Congress before a lawsuit may be brought against an infringer. Copyright infringement most commonly occurs when a copyrighted work is copied, in whole or in part. Copyright infringement may occur even when the infringing copy is not identical,

but is only substantially similar to the original. Registration is also a prerequisite to the award of some types of damages for infringement.

**Q:** *Do I need a copyright notice?*

**A:** Until a few years ago, if a work was published without a copyright notice, all copyright protection was waived. That is no longer true for newly published works. It is helpful to display a copyright notice because it makes it easier to pursue infringers. The copyright notice includes the word "copyright" and/or the copyright symbol, ©, the name of the copyright owner, and the year the work was first published.

**Q:** *How long does copyright protection last?*

**A:** Effective in 1998, the Sonny Bono Copyright Term Extension Act increased the term of copyright protection in the U.S. Now protection extends for the life of the author plus seventy years, if the author is an individual and the work was created after January 1, 1978. The Act extended the term of protection by 20 years.

**Q:** *How long does the protection last for works created by an employee of a company?*

**A:** Copyright rights in works created by an employee in the course and scope of his or her employment are generally owned by the employer. The Sonny Bono Copyright Term Extension Act also extended the term of copyright protection for such works. If the work was created after January 1, 1978, copyright protection in the U.S. lasts for 95 years from the year of the work's first publication or 120 years from the year of creation of the work, whichever expires first.

**Q:** *Was the Copyright Term Extension Act named after the famous partner of Cher?*

**A:** Yes. Sonny Bono, the famous partner of Cher, was a member of Congress before his death. The Act was named in his honor.

**Q:** *Is copyright protection available in other countries?*

**A:** Yes. However, the rights that are protectable, the term of protection and what constitutes infringement can vary significantly depending on the law of the country.

*This "Law You Can Use" column was provided by the Ohio State Bar Association. It was prepared by Patricia A. Walker, an attorney and principal with the Medina firm, Walker & Jocke. Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.*