

## **COPYRIGHT LAW**

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Copyright is the means which gives the author control over his work and it is an exclusive control. Your work cannot be copied, published, produced, used, stored, put in any library or retrieval system, downloaded from the internet or adapted without your prior written agreement.

This applies to all writers, authors and composers and this includes essays, dissertations and any thesis submitted to any college, university or seminary. It also includes notes, a draft and a synopsis.

Copyright exists in all creative work. It could be a novel, a historical treatise, poetry or prose, musical composition or a thesis. It could be a picture, painting, photograph or sculpture. It could be a drawing which is a design for a new dress, or plans for a new building. It could be a piece of music or an edition of some existing music. It could be a sketch or a synopsis on a scruffy piece of paper or even an idea on a used serviette in a restaurant.

You also have exclusive moral rights, that is to say that you are identified as the author of the work and that the copyright is yours and you have the right to object to and take action against any derogatory comments or treatment of your work.

You have the right to licensing entitlement so that, as the sole copyright owner, you can grant licenses for copying and storing of your work, including it being put into any library, and that constitutes a legally binding contract. Your granting of a license makes you entitled to an annual fee.

There is the law of confidence which means that you can protect the material when you discuss it with a third party. This means, for example, that if you submit a synopsis or anything else to a university or seminary, the law of confidentiality applies and the seminary must honour it. A synopsis is copyright as is a draft of the work and copyright also applies to unpublished work and work in progress.

To put it into common parlance your work is the fruit of 'your' labours not a springboard for others to use. It is your intellectual property.

Copyright is ownership and your sole right to allow, or not to allow, anyone to copy, store or use your work in any way whatsoever.

You do not have to apply for copyright. It is an automatic right. Copyright is what you write, not what you think. However, you would be strongly advised to put the copyright clause on all your work and lodge a copy of your work with a Bank who must give you a dated receipt.

If any educational facility, university, college or seminary believes that they have a right to your work to copy it, or reproduce it, or store copies anywhere, there must first be a contract between the writer and the seminary and in writing and signed by both parties. The author can charge an annual license fee.

This is common sense. Even if schools if a pupil or student copies from another's work, whether in part or the whole, it is unacceptable because it is a breach of copyright; it is cheating; it is theft and it is fraud. It is devious and it is dishonest.

The only exception is if an employer asks you to produce a written work for the firm. Generally speaking the copyright will belong to the employer but this is due to the consideration that the employee/writer was paid a salary or wage for the work.

Your work must exist in a permanent form such as on paper, audio or video cassette, computer, word processor or floppy disk. Even when the work is in progress it is still copyright. As we have said, even some scribbled notes on a serviette from a restaurant are copyright.

If anyone infringes the copyright, that is to say uses your work in any way without your express written and

prior permission, the civil court can issue an injunction to stop your work being so used and award damages and compensation as well as court costs to you. It also means that you can seize any profits that may have accrued to the person infringing your copyright ( and that does not only refer to monetary benefit) and there can be an order for all copies to be seized and destroyed and that would include any copying even if the amount copied was small. Often critical points in academic essays are brief and this is why copyright extends to small quotations not just 'chunks'.

Copyright notices are not essential but strongly recommended. As we have said, copyright is an automatic right but because of violations it may be best to have copies stored in a bank with a dated receipt or to send a sealed copy to yourself which remains unopened and shows the postmark date.

Artistic work, including a thesis submitted to a seminary is called intellectual property and only the author has exclusive rights to copy it. Only he has the right to allow copies, the right to perform, recite or read or display the work in public whether it be on a stage or in a library. Only he has the right to adapt it and the right to allow others to use it or copy it for which he can charge a fee.

There are at least two large international organisations with legal documents signed by the governments of many countries which endorse this.... Universal Copyright is one and the Berne University Convention is the other

Anyone who wishes to use your work or store it or copy it must have your written permission in advance. The law states that the work is not in the public domain and not a free for all to use unless the copyright has expired and, of course, copyright can be renewed indefinitely.

Copyright can be legally infringed if

- Parliament so designs

- It is in the national interest

- It is necessary for constitutional legal reasons, for example the defence of the royal family

Quotes can be legally made from works if

- The quote is general information e.g. Mozart was born in Salzburg in 1756

- The quote of trivia e.g. If you sit on a pin it will hurt

Quotes are used to review a book in an established newspaper or journal but there is a limit to how much you can quote.

If a college university or seminary library wishes to keep copies of your work they must obtain your written permission first and the library must be a separate building or unit where fellow students have regular access to examine the works of other students as well as the standard works on any subject offered by the seminary. Thus if a seminary offers a course in Old Testament history their library might stock John Bright's History of Israel or a similar work of the same high degree. Such libraries should be open at all term times. If a college prospectus states that a student's work will be housed in their library and students will have access to it and yet do not have the student's written permission that is an infringement of copyright. The Copyright, Design and Patents Act of 1988 gives you as the author these rights.

There is also the matter of fair dealing which covers research and private study such as the use of a reference library and notes being taken. Such may be described as a permitted act. However this would be of major works e.g. MacCauley's History of England. In such cases the legal position as given by the Authors and the Publishers Association is that you can use no more than 400 words from such a volume. You are certainly not allowed to use more than 5% of any work ( Copyright Licensing Agency). Thus if you submit a short essay of 1200 words you could only quote a maximum of 60 words but you would have to acknowledge the writer and it would have to be shown that your usage was fair dealing and for academic purposes. However, to quote from any work and to protect yourself from any law suit, the only foolproof way is to obtain permission from the copyright owner.

To use or quote from someone's work, you may have to pay a fee to do so and that depends on the author or

if the work is published on the publisher. In each case you must identify the source and acknowledge it naming the author and, if applicable, the publisher and date of publication and state that you have permission to use the material.

The breach of copyright is illegal being theft and fraud. It is also plagiarism which word comes from the Latin "to kidnap".

As author, you are also legally protected from bad press, derogatory remarks and anything that could damage your reputation. This also applies in any thesis submitted to any place of education or learning. If an officer of that institution, or anyone else for that matter, states that some of the content should not be there or that an argument is ridiculous that is damage to the writer.

Infringement of copyright also exists when someone takes an original idea and develops it or its characters in another work. For example if someone were to write about a Coronation Street and use the same names as the characters in the TV soap opera that is an infringement of copyright.

Any breach of copyright could result in civil and criminal proceedings and a substantial fine or term of imprisonment could be imposed.

Some schools, colleges and seminaries have been severely fined for copying students work without permission. A theological college in the north of England had to pay out £100,000 in such a case in 1998.

Hyperion, the record company, has been sued for about a million pounds for failing to identify an editor of some music that they recorded on CD. The music is over 300 years old but a particular edition is recent. This was set out in the Times newspaper at the end of May 2005. It seems clear that this was merely an oversight.

The plea of ignorance of the law or innocence is no defence at law.

Letters are also copyright and cannot be copied or used with the prior permission of the author. Even a simple paragraph in any letter is copyright.

The tape recording of telephone conversations without the other party's permission is not illegal and can be used in a Court of law as evidence. Major firms and utilities like British Gas record telephone conversations and some organisations do not tell the callers. This is further proof that taping telephone calls is neither illegal nor dishonest.

There is a strange case. If you hear a piece of music and write it down having never seen the music itself, that constitutes a breach of copyright.

However, if, for example, a piece of music only exists in a version for one voice and piano and I wish to arrange it for choir I have to obtain written permission from the publishers, pay a fee and they have to approve my arrangement for choir.

Plagiarism is the passing off of someone else's ideas or work as your own. It is stealing what is not yours and saying or giving the impression that it is your work. You can quote from a work within the allotted allowance, as we have said, but you must quote the source.

Recently a review of one of my CDs appeared on a website site. Many months later the webmaster of this sites saw that it was also on my site and demanded I made a link between the two sites and acknowledge on my site that his site carried this review first and that if I did not acknowledge this on my site then I was guilty of plagiarism.

The fact of the matter was that the author of that review was a personal friend and gave me authority to put in on my site. It was, after all, his intellectual property and therefore I was not guilty of any offence.

The objecting webmaster wanted a link to advertise his own site by linking his site to my site as my site was

becoming increasingly popular.

In all my articles I have tried to work within the copyright laws. If I have erred, it is accidental.

I am aware of some who have stolen my articles and changed a few words and passed the article off as their own. Before I knew anything about the internet someone stole my article on Humphrey Searle and put it on a website without my knowledge or permission. That is a serious offence.

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