

Canada Copyright

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## CANADA COPYRIGHT

Copyright can be defined as “the sole right to produce or reproduce a work or a substantial part of it in any form”<sup>1</sup>. Simply put, it means “the right to copy”<sup>2</sup>. This means you are allowed to present the work or any extensive part of it or produce it to an audience, if teaching. Copyright also “includes the right to publish the work or any substantial part of it”<sup>3</sup> when you are dealing with work that is unpublished. Generally, the only person who is permitted to create or duplicate the work or to allow anyone else to do so is the copyright owner. Usually, this is the author of the work.

Copyright is a legal matter, which means that everyone is affected. Copyright has to consider the interests of both users and creators. However, with the Internet, this gap has become blurry. Nowadays, authors require information to produce, and those who are providing the information are therefore becoming authors.

In Canada, registration of copyright in a work is not mandatory. If the conditions specified in the Copyright Act have been met, copyright automatically exists “when an original work or other subject-matter is created”<sup>4</sup>. One can register copyright at the Canadian Copyright Office in Ottawa/Hull. There are several benefits of copyright registration, so it is certainly recommended. Obtaining a certificate of registration “provides evidence that the copyright

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<sup>1</sup> *Canadian Intellectual Property Office*. Accessed January 22, 2014.

<[http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr02281.html#glossary](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr02281.html#glossary)>

<sup>2</sup> *Canadian Intellectual Property Office*. Accessed January 22, 2014.

<[http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr00003.html](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr00003.html)>

<sup>3</sup> *Canadian Intellectual Property Office*. Accessed January 22, 2014.

<[http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr02281.html#glossary](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr02281.html#glossary)>

<sup>4</sup> *Canadian Intellectual Property Office*. Accessed January 22, 2014.

<[http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr02281.html#faq](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr02281.html#faq)>

exists and that the person registered is the owner of the copyright”<sup>5</sup>. This certificate can provide assistance to individuals requesting permission to copy and use the work and helps them locate a copyright owner.

Unfortunately, some copyright owners are hard to trace. In this case, the individual must be careful and methodical when searching. One can locate a copyright owner in many ways and it is best to try as many methods as you can before applying to the Copyright Board of Canada. If one is still unsuccessful despite making reasonable efforts, the Copyright Board will give a license allowing you to do what you need to do.

In 1997, the Copyright Act was revised to recognize the contribution of performers (musicians and vocalists) and record companies. These are called “neighboring rights” because they were created on an existing copyright. Before this, royalties or payments were only granted to songwriters and music producers for radio play or live performances. Re: Sound, a Canadian non-profit music licensing company, collects this revenue and separates it into two equal royalties’ streams. The MROC (Musicians’ Rights Organization Canada) illustrates these two streams: “The royalties for musicians and vocalists are disbursed to MROC, as well as to two other collective societies, for distribution to their respective eligible performers. The royalties for labels (makers) are disbursed to AVLA (Audio-Video Licensing Agency Inc.) and SOPROQ (Quebec Collective Society for the Rights of Makers of Sound and Video Recordings) for distribution to their respective eligible members.”<sup>6</sup> Performers are allowed to receive profits from both streams if they own their sound recording.

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<sup>5</sup> *Canadian Intellectual Property Office*. Accessed January 22, 2014.  
<[http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr02281.html#faq](http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr02281.html#faq)>

<sup>6</sup> *Musicians’ Rights Organization Canada*. Accessed January 22, 2014.  
<<http://musiciansrights.ca/royalties/neighbouring-rights>>

Cyber plagiarism can be defined as “copying or downloading in part, or in their entirety, articles or research papers found on the Internet or copying ideas found on the Web and not giving proper attribution”<sup>7</sup>. Plagiarism has an extensive history. Nevertheless, students are finding it easier to plagiarize with the arrival of the Internet. Postsecondary institutions have responded with disciplinary actions for students found guilty of plagiarism.

Generally, copyright in Canada continues for as long as the author lives and it lasts for an additional period of 50 years. After this, the work is available to the public as it is now entered into the public domain. However, there are some important exceptions. Philip B. Kerr, a Canadian lawyer and registered Canadian patent and trademark agent, explains: “One such exception relates to photographs, which are protected by copyright from the time the photograph was taken, up until the end of the calendar year in which the photograph was taken, and for an additional period of 50 years (that is, the termination date of copyright protection for photographs is linked to the date the photograph was taken, and not the date of the photographer’s death).”<sup>8</sup>

Moral rights and economic rights are two types of rights granted by copyright law. Moral rights are personal rights and their purpose is to protect the author’s reputation, including the right of credit. This guarantees the author the right to remain unidentified and the right to be associated with the work, where appropriate. These rights cannot be sold or assigned to anyone else, but they can be renounced. The purpose of economic rights is to protect the copyright owner’s financial interests. They also provide the absolute right to copy

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<sup>7</sup> *University of Alberta*. Accessed January 22, 2014.

<<http://guides.library.ualberta.ca/content.php?pid=62200&sid=3012762>>

<sup>8</sup> *Copyright Law in Canada*. Accessed January 22, 2014. <<http://users.trytel.com/~pbkerr/copyright.html>>

and approve reproduction, live performance, publication, alteration, translation and the right to speak to the public by telecommunication. These rights can be licensed, assigned, renounced or sold to someone else.

When an individual does something without the copyright owner's authority, it is copyright infringement. Usually, it involves copying part or all of a copyrighted work without the owner's permission. Direct infringement occurs when an individual copies or prints a copyright protected work, regardless of whether or not he or she knows copyright laws. Indirect infringement occurs when an individual rents, sells, distributes or processes copyright protected works with plans to sell or rent the material. In this case, the person is aware or should be aware that it is a copyright infringement.

Nowadays, the public is confused about what is legal regarding downloading music. In Canada, downloading music from the Internet is legal, as long as the songs are not sold. In other words, it is illegal to distribute the copyrighted files; therefore, this would be considered stealing.

All in all, with the Internet offering public access to an unlimited amount of information, it is imperative that copyright laws are in place to protect the integrity of authors' works. What's more, with copyright policies in effect, this makes the consumers more accountable for their actions. Information is very dominant and influential and we need to respect and acknowledge authors' ideas appropriately.

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