



THE WORLD OF COPYRIGHT AND YOU



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What Is Copyright?



Did you know that you automatically own the copyright of your work whenever you: write a letter, a short story or even an essay paper for a class; or create a drawing a painting or other artwork? Copyright is a form of protection given to the authors or creators (both young and old) of “original works of authorship,” including literary, dramatic, musical, artistic, broadcast and other intellectual works.



Why Is Copyright Important To Me?

When you create something, aren't you proud of your work after spending a lot of time and energy creating it? Think about that history report you finally finished, the photograph you took of your friend riding a bike, the map of Bermuda you drew for your geography class, that cool song you wrote for the school choir, or even your journal that you don't “have” to do but you enjoy it so much and it's special to you - all these are your creations and you'd probably be pretty upset if someone just copied any of them without your permission. That's where copyright comes in. Copyright law gives you a set of exclusive rights that prevents other people from copying your work and doing other things with your work that you may not like.

What that means is that, as an author of a work and according to the Berne Convention as well as under local Copyright law (the Bermuda Copyright Design Act 2004), you alone have the right to do any of the following or to let others do any of the following:

- make copies of your work;
- distribute copies of your work;
- perform your work publicly (such as plays, film, dance or music);
- display your work publicly (such as for artwork, or stills from audiovisual works, or any material used on the Internet or television); and
- make “derivative works” (including making modifications, adaptations or other new uses of a work, or translating the work to another medium).

In Bermuda, as with other countries, local artists (e.g. Sharon Wilson), photographers (e.g. Scott Stallard), musicians (e.g. Shine Hayward) and playwrights (e.g. Carol Birch)

create works to be displayed or performed or merchandised. This right to control one's work has actually turned into big business, but that's what allows all the creative people around us to get paid for coming up with all the wonderful songs, shows, books, paintings, movies and other great works that we enjoy.

Remember the favorite comic book you loved reading or all the cool songs that your favorite musical group or pop idol wrote and you enjoyed listening to, the art work at City Hall you love examining, the plays, movies and television shows you love to watch again and again. These talented musicians, authors, illustrators, artists and screenwriters deserve our respect and appreciation – and they also deserve to benefit from the hard work they put into their creative works – otherwise most of them wouldn't want to produce as many (or any) of the songs, books, plays, movies and TV shows that we enjoy. That's what copyright is all about. It reflects our appreciation for all the work that goes into creating "original works of authorship" and respect for the right of the creator of those work to control what people can and cannot do with them.



Does Copyright Protect Everything?

Copyright protects "original works of authorship" that are fixed in "a tangible form of expression." As illustrated by the World Intellectual Property Office (WIPO), copyright works include:



Written works – books, speeches, magazines and newspaper articles, novels, stories, poems, essays, plays, text books, web pages, advertisement and dance notations.



Musical works – musical compositions, lyrics, songs and ring tones, in all types of formats (sheet music, CDs, MP3 files, ect).



Artistic works – drawings, paintings, photographs, comics, sculptures, architectural works, and maps.



Dramatic and choreographic works – plays, operas and dances.



Films and multimedia production – movies, video games, TV programs, and cartoons.



Computer programs – human (source code) and machine (object code) computer programming language.

Copyright does **NOT** protect ideas or mere facts.

Copyright protects the way in which ideas are expressed. These expressions are unique ways in which words, musical notes, colors, shapes, etc. are chosen and arranged. It is the unique way in which ideas are expressed that makes a work original. This means that there can be many different works created using the same idea and all of them will be protected by copyright, as long as they express the idea in an original way.

For example, a teacher may ask her classroom students to draw a picture of a dog playing with a ball. Even though the idea (dog playing with a ball) is the same, all of the students will choose different colors and shapes to express (draw) the dog and the ball. Though the drawings are expressions of the same idea, they will all be original and therefore protected individually by copyright.



An idea (such as a dog playing with a ball) can be expressed in many different ways. Copyright only protects the expression of the idea, not the idea itself.

YOUNG AUTHOR: CHRISTOPHER PAOLINI

Christopher enjoys reading fantasy adventures so much that at the age of 15 he decides to write his own story. Inspired by the idea of a boy who sees a dragon hatch from an egg (from Bruce Coville's book *Jeremy Thatcher, Dragon Hatcher*), the young author plotted a fantastical trilogy about a boy, his dragon friend and their dangerous journey to save the world of evil. Christopher also drew inspiration for his story from other fantasy and science fiction works, including the *Lord of the Rings* series by J.R.R. Tolkien, the *Dragonriders of Pern* series by Anne McCaffrey, and George Lucas' *Star Wars* movies. Though clearly inspired by ideas used in other works, Christopher's expression of these ideas (the story line, descriptions, characters and dialogue) is original and therefore protected by copyright. By the time Christopher was 19, his first book, *Eragon*, had become a success, selling millions of copies worldwide and earning a place in the *New York Times* bestseller list.



Christopher's story, which drew on ideas from previous novels, has now inspired the creation of other original works: books translation into more than 30 languages, a movie, and a video game.

Source: WIPO Publication 2007

Which Works Are Not Protected by Copyright?

Not everything is protected by copyright law. The following are categories of things not protected:



Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices (but written or recorded descriptions, explanations, or illustrations of such things are protected copyright);



Titles, names, short phrases, and slogans; mere listings of ingredients or contents (but some titles and words might be protected under trademark law if their use is associated with a particular product or service);



Works that are not fixed in a tangible form of expression, such as an improvised speech or performance that is not written down or otherwise recorded; and



Works consisting entirely of information that is commonly available and contains no originality (for example, standard calendars, standard measures and rulers, lists or tables compiled from public documents or other common sources).

What is Copyright Infringement?

Copyright infringement takes place when a copyrighted work is used (reproduced, translated, adapted, exhibited or performed in public, distributed, downloaded, broadcasted, or communicated to the public) without the owner's permission or under a limitation to copyright.

Copyright infringement reduces the possibilities that authors have of earning income from their works, and harms us all by lowering the incentive for authors to create new works that we can all enjoy.

What is Plagiarism?



Plagiarism and copyright each address the legitimacy of copying, but plagiarism and copyright differ in important ways. While plagiarism is concerned with the protection of ideas, copyright doesn't protect ideas – it protects “fixed expressions of ideas.”

Plagiarism is the act of taking credit for someone else's work (“to steal and pass off the ideas and words of another as one's own original work” - Webster Ninth New Collegiate Dictionary). If a student downloads an essay on the “Rise and Fall of the Aztec Empire” and hands it in to his or her teacher, that's plagiarism because he or she is pretending that someone else's essay is his/her own. Remember there is nothing wrong in writing an essay on the “Rise and Fall of the Aztec Empire”. However, in order to avoid plagiarism, we have to express the idea in our own unique way or own words.



Sometimes an author has expressed an idea so well that we cannot put it better in our own words. In this case, we can copy the original text word for word as long as “quotation marks” are used. It is then clear to the reader that this particular text is taken from another author's work. The original author must be credited in the text above or below the quotation, or with a footnote.

Normally in schools plagiarism involves writing, but other kinds of works can be plagiarized as well, including music, ideas and artwork. Taking credit for work that someone else created is stealing and is a violation of intellectual property law. So plagiarism is more than just a violation of school policies and teacher's trust. It is an illegal activity that isn't so different than stealing someone's bike or cell phone.

Beware!! A copy can be considered as infringing even if it is not exactly the same as the original work. In fact, infringement occurs when the copy is substantially similar. This is usually determined by a court, which compares the language, appearance, format, sequence, sound, etc. of both the original work and the work accused of infringement.

In order for infringement to take place, the infringer must have had access to the original work. After all, it could be possible that the accused created a very similar work by pure chance, without ever having seen the original work. If this is the case, there is no plagiarism or infringement.

Source: WIPO Publication 2007

What is Peer-to-Peer File Sharing?



— **“If you can’t protect what you own – you don’t own anything”** Motion Picture Association of America

It’s the holiday season and your daughter wants the new Beyonce CD, or perhaps you’re looking to make a nice Christmas music compilation for playing over the holidays. For many people it is as simple as opening one of many peer-to-peer (P2P) file share programs, selecting the tracks, downloading and burning the tracks to a CD.

P2P file sharing is the practice of distributing or providing access to digitally stored information, such as computer programs, multi-media (audio, video), documents, or electronic books.

The downloading and uploading that takes place in P2P file sharing involves copying and communicating the work to the public – both of which are exclusive rights of the author (or other right holders) of the work. Therefore, when done without permission of the right holders, P2P file sharing is an infringement of copyright. Some P2P file-sharing platforms are legitimate services, which obtain the necessary authorizations from the right holders. Unfortunately, it is estimated that most of the files shared in P2P networks are unauthorized and therefore illegal. For example, the Christmas music compilation CD you intend to make for the holidays would be an illegal act if not done through the proper channels.

Computers, the Internet, and other digital technologies such as MP3 formats are wonderful tools that help us work faster and obtain infinite information about our world. However, these tools also create a big challenge for authors by making their works more vulnerable. With digital technology it is both cheap and easy to perfectly copy and distribute works worldwide in a matter of seconds. While it can take years for an author to compose the right words and catchy melody for a hit song, it only takes a few seconds for a computer user to copy that song into a file in his computer and share it (through P2P networks) with millions of people around the world, and the author receives nothing for his work.

Reason why we should not upload/download illegal copies of works include:

- 1) **Risk of computer viruses and hacking.** Downloading contaminated music files can spread viruses. In addition, P2P software can sometimes contain “spyware” which gathers information about the computer without the user’s knowledge or consent. The P2P software that allows the sharing of music files can also allow strangers to view other files in the computer which the user would not want them to see.

- 2) **Risk of lawsuits.** The Internet is not anonymous, it is possible to identify individuals who illegally upload and download copyright material on P2P networks. Since 2003, the music industry has demonstrated that it will sue illegal users, regardless of their age.
- 3) **Reduce choice of music.** Illegal P2P file sharing reduces purchases of legal CDs, which means that recording studios have a harder time recovering their investment on artists. By making the investment on new talent a risky business, illegal P2P file sharing makes it harder for new authors and performers to sign production and distribution deals. Recording studios may also try to reduce the risk of not recovering their investment by producing only the average type of music that many people like, making it less likely for truly original and creative authors and performers to be signed up.
- 4) **Downloading music legally has never been easier.** There are hundreds of sites where music can be downloaded legally either on a pay-per-song or subscription basis. The following website provides up-to-date links to many legal-downloading sites: <http://www.pro-music.org/musiconline.htm>

As stated above copyright infringement is the unauthorized or prohibited use of works covered by copyright law. It violates the copyright owner's exclusive rights, such as the right to reproduce or perform the copyrighted work, or to make derivative works. A person committing an infringing act can accordingly be held liable for damages in a civil lawsuit.

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