Copyright Glossary

Access Copyright

Access Copyright is the name of the foremost Canadian copyright collective. Access Copyright acts for its members by licencing certain uses of protected works, by assisting in the permissions process, and by collecting and redistributing royalties collected from consumers for the use of protected works. See also CARFAC and SOCAN.

Assigned Rights

Rights which have been transferred from the creator of a work to another person or body, usually by means of a contract or an agreement of sale.

CARFAC

The Canadian Artists' Representation/le Front des artistes canadiens, the copyright collective (administered by Access Copyright) for Canadian visual artists.

Copyright

The right to reproduce creative, original, literary works (or parts thereof) such as books, poems, articles, photographs, software, and digital documents. Copyright laws comprise one type of intellectual property protection. The chief instrument for copyright protection in Canada is the Copyright Act, but a variety of contracts and licences may also govern the copying rights on a given work.

Creative Commons licence

A flexible licence, applied to the use of digital works only, that allows creators to describe allowable and non-allowable uses of their works. For instance, the creator may allow use of a work under non-commercial conditions if attribution is given. Read more at the Creative Commons Canada website.
Educational Rights Collective of Canada

The Educational Rights Collective of Canada (ERCC) represents rights holders of radio and television broadcasts, in the case where educational institutions make copies of these programs. On December 18, 2002, the Copyright Board of Canada established an interim tariff, valid for 2003-2006, for the reproduction of broadcasts by educational institutions when copies are kept by the institution after a certain number of days.

Electronic Rights

Electronic rights, or e-rights, are part of the broader spectrum of rights and protections granted to creators under the Copyright Act. A recent trend has been to split, sever, or unbundle electronic from print rights by means of a contract, licence, or sale: for instance, a creator may assign print rights to a publisher while retaining the right to control electronic copies. Variously known as web rights, CD-ROM rights, new media rights, digital rights, etc. See also Split, severed or unbundled rights.

Exceptions

Allowable exceptions to the general copyright law. For example, according to the Copyright Act, certain exceptions to the general rule are granted to libraries, museums, and archives which make copies on behalf of their patrons. Instructors may also copy insubstantial portions of a work onto overhead transparencies or flipcharts, or may use them as part of an examination. Educational institutions may also copy audio/video broadcasts for a limited period of time for use by students in an educational setting. Other exceptions state that educational institutions cannot be not held responsible for possible infringements committed on their photocopiers and computers provided warning notices are posted in a prominent place. Note that copying under an exception is not being done under our Access Copyright licence or other specific product licences.

Exclusions

The list of excluded publishers (see Access Copyright exclusions list) who do not participate in the Access Copyright agreement and/or types of materials excluded from the Access Copyright licence.
"Fair Dealing" and "Fair Use"

"Fair dealing", a concept in Canadian copyright law, allows for the use of copyright-protected material without permission in certain cases. Recent revisions to the Copyright Act define fair dealing as limited copying (i.e., one copy, broadcast, etc.) for the purpose of: research or private study, criticism or review, or news reporting. In all cases, the source of original work must be properly cited.

In American law, a similar but much less clearly defined concept exists, and is known as "fair use".

Under American law (U.S.C. 17, s. 107), fair use allows consumers to make reasonable use of materials protected by copyright without the specific permission of the creator. Just what constitutes "reasonable" has never been set out in the U.S. legislation, however, although factors such as the purpose and character of use, the amount and substantiveness of use, and the effect of use on the potential market are taken into consideration.

Intellectual Property

A creative work which may be protected by one or more laws governing copyright, patents, trademarks, industrial designs, or integrated circuit topography. In Canada, the Canadian Intellectual Property Office is responsible for intellectual property registrations.

Life Plus Fifty Rule

The provision in the Copyright Act which states that copyright subsists in a work for the life of the creator plus fifty years. For anonymous works, the term of duration is publication-plus-fifty years.

Literary Work

With reference to the Copyright Act, a literary work simply refers to books, magazines, scripts, computer programs, etc., and not to the quality or nature of that work.

Moral Rights
The rights of a creator to claim authorship of a work (or to remain anonymous), and to preserve the integrity of the work by preventing modifications or restraining specific uses not in keeping with the creator's original purpose and/or prejudicial to his/her reputation. Moral rights cannot be assigned or transferred, although they can be waived by the creator. A recent potential example of infringement of moral rights concerned the use of a popular Sixties' protest song as the theme for a Canadian banking commercial.

**Originality Rule**

Although no specific law or guideline exists regarding the nature and degree of modification required before an adapted work becomes a "new" and original creation, common law looks for a *substantial* amount of original content. The moral: changing one or two words in a document does not grant you the right to copy without permission or to use the work without attribution!

**Patent**

Patents grant inventors the exclusive rights to the use, manufacture and sale of their invention, product, or process for a period of twenty years after the date of filing (with the Canadian Intellectual Property Office). See also Intellectual Property.

**Plagiarism**

The unethical and potentially illegal practice of using someone else's work without attribution, i.e., claiming it as one's own. Even when the requirements of copyright laws and licences have been met, one must cite one's sources fairly and accurately by means of footnotes, bibliographical notes, endnotes, etc.

**Public Domain**

When the term of copyright protection on a work has expired (See Life Plus Fifty rule), it is said to have entered into the public domain, and it may be used by anyone. The text of *Anne of Green Gables* is now in the public domain, for example.
Royalty

A fee paid to copyright owners for the use of their work.

SOCAN

The Society of Composers, Authors, and Music Publishers of Canada, a collective which administers copyright (performing rights) permissions on the part of its members.

Split, Severed, or Unbundled Rights

When the holder of copyright differentiates between uses of different types, media, or formats of a given work, the rights are said to be split, severed, or unbundled. For example, a creator may assign the rights to paper copies to another person or corporation, while retaining the right to control digital copies/uses of the work. This is usually accomplished by means of a contract, license, or sale. See also Electronic rights.

Trademark

A trademark is a unique word, logo, symbol, or design (or a combination of these) which applies to a particular product or service. In Canada, the Canadian Intellectual Property Office is responsible for the registration of trademarks. See also Intellectual Property.

WIPO

The World Intellectual Property Office, the body responsible for the development and administration of international treaties such as the Berne Convention and the Universal Copyright Convention.