

UNITED STATES
COPYRIGHT

**General information and overview
of U.S. copyright “law”.**

SOURCES

Copyright.gov

AIGA

Cornell University Law School

Creative Commons

Internet Surf & Turf Revealed

Wikipedia

disclaimer: I am not a lawyer !!!

PURPOSE

- Allow owner to distribute, perform, or display work
- Defines ownership and rights
- Protects against theft

NECESSARY TO UNDERSTAND SO,

- One doesn't infringe on rights of others

- Others don't infringe on your work

- Obtain appropriate rights from image/content providers:
 - photographers
 - illustrators
 - writers

on behalf of yourself or your client

- Original and creative work—*original authorship*—in tangible form
 - literary, dramatic, choreography, movies, audio visual, sound, architecture
 - artistic—pictorial, graphic, or sculptural works (2/3d works of fine, graphic, and applied art)
 - ads, clothing graphics, bumper stickers, maps, comics, collage, fabrics, games, greeting cards postcards, jewelry, patterns, photos, posters, prints (litho etc.)
 - not copied or derivative
 - minimal aesthetic quality

some aspects of graphic design may not be copyrightable as it may be considered arrangement, not original and creative.

- TRADE MARK
 - sign or symbol identifying a product or service such as a logo design—image, text

- TRADE DRESS
 - visual appearance or decor (store for example)
 - so as not confuse consumers (buy a “knockoff”)
 - “look and feel” (websites, etc)

- Style—(Art Nouveau as ex.) but original expressions of a style are copyrightable - a book jacket image in the Art Nouveau style.
- Basic geometric shapes—circles, square, etc., but creative combinations can be copyrightable.
- Utilitarian objects—a chair, but a design on the chair or its qualities beyond utilitarian could be.
- Typefaces—but the digital file/software version is copyrightable.
- Ideas, concepts
- Simple layout or arrangement
- Common information—calendars, rulers, etc.
- Slogans, phrases, etc.
- Work created by US government (taxpayer funded) (state and town governments also?)

- Rights are separate from actual work
- Sell a painting, sculpture, or photograph—artist retains rights unless otherwise stated
- Owner of copyright has exclusive rights to
 - reproduce
 - license to others
 - create derivative works
 - sue infringer
- *Does the Louvre own the copyright to the Mona Lisa ?*
- Copyright registration www.copyright.gov

- Creators life + 70 years

- As an employee:
 - 95 years from 1st published
 - 120 years from creation—Mickey Mouse as an example (cartoon) “symbol” is trademark

WORK FOR HIRE - EMPLOYEE

- Work prepared by an employee belongs to employer
 - Employee retains no rights, unless negotiated

- Ordered or commissioned for use in “collective works”—movie, instructional text, etc. (if written agreement)

- Rights depend on contract or work-for-hire considerations
 - no or limited rights to creator
 - all rights to creator

- purpose of use
 - personal
 - education
 - satire/news—The Daily Show

- amount of portion used—Kinkos sued

- other factors
 - effect on market for work
 - profit/not for profit

How much can you alter an existing copyrighted image and call it your own?

- Upon creation
- How do you prove creation?
- Copyright notice © name/date
 - notice is optional, what does it provide?
warning that a work is copyrighted

- infringer can be sued
 - to stop infringement
 - actual damages—loss of sales, infringers profits
 - statutory damages—\$750-30,000 per infringement, willful up to \$150,000
- must be registered with copyright office prior to infringement or within 3 months of “publication” (sale/distribution to public) for statutory damages

- Can use and create derivative works, but can't copyright it

use depends on

- attribution
- share alike—build upon with attribution and same license as original
- non-commercial
- no derivative

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