

## A LAYMAN'S INTRODUCTION TO COPYRIGHTS

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## I. Copyrights

- (a) What is a Copyright? - In simplistic terms, a copyright is exactly what it says, a "right to copy" that is granted to the original author or later assignee of a copyrightable work. However, we must look to 17 USC §106 to understand the full range of rights given to the owner of a copyrighted work. 17 USC §106 gives the copyright owner the following exclusive rights:
- (I) to reproduce the copyrighted work in copies or phonorecords;
  - (ii) to prepare derivative works based upon the copyrighted work;
  - (iii) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease or lending.
  - (iv) in the case of literary, musical, dramatic, and choreographic works, pantomimes and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and
  - (v) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.
- (b) Categories of Copyrightable Subject Matter - Literary works; pictorial, graphic or sculptural works; musical, dramatic, and motion pictures; compilations; computer works (software); integrated circuits (protectable as Mask Works).
- (c) How Much Expression is Required for a Work to be Copyrightable? Copyrights cover forms of human expression that can be fixed in a "tangible medium." A tangible medium can be paper for a book, a DVD for a movie, a CD for software, a stone or bronze for a sculpture, etc. Some things are easily copyrightable due to their unique character (e.g. Steven Spielberg movie or an original painting or novel). However, copyright can be denied for things such as forms, phone books, or spread sheets because these works generally do not have enough originality to be considered copyrightable.
- (d) Penalties for Copyright Infringement - An infringer of a copyrighted work can be liable for money damages to the owner of the work. Also, in the case of large wholesale infringers who copy and sell infringing products by the container load, criminal liability can attach. In the case of criminal

liability, the U.S. attorney brings the criminal charges against the infringer.

- (e) Copyright Duration - Copyrights have various durations depending on which version of the Copyright Act they were registered under. However, under current law, the rule is the copyright will last for the life of the author plus 70 years.