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Protecting your writing, art and music

—Mark Levy, Esq.

What is a Copyrighted Work

When you create an original work of art, such as a painting, photo, video, music, poem, lyrics, story, novel, screenplay, computer program, or sculpture, the copyright law automatically protects it. That protection occurs immediately, upon creation. As a practical matter, though, you should place a copyright notice on the work and register it in the U.S. Copyright Office. The main reason for doing this is that registration is a prerequisite to bringing a lawsuit for copyright infringement. The so-called "poor man's copyright"—mailing a copy of your work to yourself to obtain a postage date—is not adequate to secure registration, and cannot be used in a court of law to support a case of copyright infringement.

Once you've created your work, only you, the copyright owner, can give permission to others to copy the work. As the copyright owner, you have a number of options. You can allow certain people or organizations to copy your work or distribute it free or for a license fee. Of course, if you do not want others to copy your work, that's also your right. You can simply refuse to license it, keeping all copyright rights for yourself, exclusively. If another party copies your work without your permission, you can bring a lawsuit against that party for copyright infringement. The court, using its discretion, can award you up to \$150,000 in statutory damages if someone willfully infringes your copyrighted work.

Now, a friendly word of advice: copyright law is serious business. Do not copy another's work or any part of it or make another work that is derived from it (a "derivative" work) unless you have the copyright holder's permission. Merely because it is ever easier



Mark Levy is a senior partner of Salzman & Levy, a Binghamton-based law firm specializing in trademarks, patents and copyrights. Here, he emceed the 2001 Invention Convention, which showcased hundreds of student inventions at the Broome County Veterans' Memorial Arena this past May.

The Invention Convention is a part of Imaginink, for which Mark also serves as vice president.

to copy the works of others, via tape recorders, VCRs, photocopiers and the Internet, for example, doesn't make it lawful to do so.

The Copyright Notice: What, Where and When

Even though copyright law automatically and immediately protects your work, it's a good idea to place a copyright notice on it as soon as you create it. If you provide this notice on your work, an infringer will be

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liable for all actual or statutory damages committed before receiving actual notice of the copyright registration.

Just be sure to place the copyright notice on your work yourself, when you create it. Make sure the copyright notice appears on all of your copies, too. Simply choose one of these forms of the copyright notice:

(c) Mark Levy 2001
Copr. M. Levy 2001
Copyright Mark Levy MMI

You must use all three components of the notice (the copyright word, abbreviation or symbol; your name; and the year date) on one line for the notice to be effective. Using the copyright symbol (c) by itself is defective notice and does no good.

The copyright notice is just that. It gives notice to the public that you own the work. There's no such thing as providing too much notice. For videos, you should place the notice on-screen at or close to the beginning of the video or at the end, not hidden somewhere in the middle. You should also include the notice on your videotape or DVD labels and on the box or sleeve that holds your video. For audio tape, place your copyright notice on all labels affixed to the cassettes or compact discs. If you are protecting your written poem, story, novel or script, place your copyright notice on the title page of your manuscript or at the top of the first page.

Which Copyright Application Form to Use

The Copyright Office has separate divisions for different types of works. Various types of copyright forms exist to simplify the job of registering the different types of works. Here are the most frequently used forms and their use:

Form TX "Text" Includes stories, novels, poems, treatments and outlines in written form on paper. Note: titles and short phrases are not protected under the copyright law.

Form SR "Sound Recordings" Includes music, audio narration, spoken or sung lyrics and sound effects on audio cassettes, compact discs, DVDs and (optionally) vinyl records or videocassettes.

Form PA "Performing Arts" This form is used for dramatic works, plays, scripts, motion pictures and other audiovisual works on videotapes and DVDs.

Form VA "Visual Arts" Includes still photographs, graphic designs, sculpture (usually non-moving) and art work.

You can order up to 10 forms directly from the U.S. Copyright Office by telephone or online (see below). Simply call the Copyright Office at (202) 707-9100 and leave a message on the answering machine: your name and address and the forms you need, with instructions.

Online Copyright Application Forms

A complete list of downloadable copyright forms is available at the U.S. Copyright Office's web page (<http://www.loc.gov/copyright/forms/>). In addition to

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the forms are instructions specific to each type of form. These copyright application forms are available in PDF format and are best viewed with the latest, free Adobe Acrobat Reader program, available at: <http://www.adobe.com/products/acrobat/readstep.html>. You can access fill-in versions of copyright applications and then complete them online. A second set of more specific instructions is available from the same web page as the copyright application forms. Read the instructions while filling out the application form online.

Finally, print the completed form on your own printer. Note that, although you can access the forms online, you will have to mail your application with your work (the "deposit") and filing fee to the Copyright Office.

What to Send to the Copyright Office

Note the checklist at the lower right corner of the form. It is always a good idea to check this list immediately prior to mailing your application, deposit materials (that's a copy of your work) and check or money order to the Register of Copyrights.

In one fairly large envelope, send your signed and dated copyright application, a check in the amount of \$30 and a complete copy of your work. That's a pretty good legal bargain for protection that will last 70 years beyond your life!

If your work is a written script, for example, send a written copy of it; if your work is an audio soundtrack, send an audio cassette or CD; and if your work is a complete video, send a videotape or DVD.

Since the Copyright Office receives over 50,000 copyright applications each month, you may wish to send your envelope certified, with a return receipt requested, so you know when the Copyright Office receives your materials. A self-addressed, stamped postcard included in your large envelope can accomplish the same thing and save you postage. On the message side of the postcard, you can write something like this:

The mail room staff of the Copyright Office will date stamp your postcard and send it back to you.

Received by the U.S. Copyright Office
Date: _____
Copyright application for PA for:
"Title of your work here"
Check for \$30 one manuscript.

Mail your copyright application, deposit materials and check or money order made payable to "Register of Copyrights" to:

Register of Copyrights
Copyright Office
LIBRARY OF CONGRESS
Washington, DC 20559

Now that you know everything you need to know about protecting your original work under the Copyright Act, you're all set. You can start copyrighting. That's the good news. The bad news (for us copyright lawyers) is that you no longer need a lawyer's services. You've just saved \$250.

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