

Copyright

What is it?

Copyright protects:

- Original literary, dramatic, musical or artistic works
- Sound recordings, films, broadcasts or cable programmes
- The typographical arrangement of published editions
- Computer programmes

As such, there is copyright in works such as brochures, instruction manuals, pictures, photographs, website layouts, maps, charts and computer programs.

Who owns it?

The author of a work generally owns any copyright in it, unless the design was made in the course of the author's employment in which case the copyright belongs to the employer. If there is an agreement that says otherwise, then that takes precedence. Importantly, works created under commission will belong to the designer. A written assignment between the author and the commissioning party, signed by both parties, is needed to assign the copyright to the commissioning party.

To avoid uncertainty and potential disputes it is important that ownership rights, and the rights to exploit the copyright work, are agreed in writing at the outset.

How do I get it?

Copyright comes into being automatically. For literary, dramatic and artistic works, copyright only subsists when the work is recorded in writing or otherwise. It is therefore important that sufficient records are maintained as to when and by whom a work was made, in order that the existence of copyright can be established if required.

Registration of copyright is not necessary or possible in the UK/EU. Works created on a computer will have time/date stamps. For other works, to be able to prove the date of creation if ever needed, you may wish to consider depositing a signed and dated copy of the relevant work with a solicitor, bank, or with us.

Copyright lasts a long time, longer than any other intellectual property right – typically as long as the life of the creator of the copyright work plus seventy years. However, for artistic works that have been industrially manufactured to produce more than 50 copies, copyright is reduced to 25 years from first marketing of the work.

Each copyright work should be dated and marked “copyright of.....”. Alternatively the symbol © can be used with the date and name of the copyright owner, for example © YEAR NAME. This will provide information to third parties, and may have a deterrent effect on competitors considering copying the work in question.

When is it infringed?

Copyright is infringed only by unauthorised reproduction of the work in question, or of a substantial part of that work. It is not infringed by independent creation of the same work. Since copyright comes into being automatically, copyright protection is easily obtainable. So if you are looking to copy or use someone else’s materials, beware that there may well be copyrights in force that you could be infringing.



So, for example, reproducing somebody else’s photographs and including them in a book would infringe copyright. By way of a further example, infringement may occur by unauthorised distribution or installation of programs, copying and/or modification of source and/or object codes, or through decompilation of programmes where the results of decompilation are used to produce a new programme. Conversely, legitimate users of a programme, such as those who have legally obtained the work or a license to use the work, are entitled to make security backup copies of it and they may carry out “reverse engineering” and use its operating principles without infringing copyright.

How can Barker Brettell help you?

In this electronic age, where information is so freely available, copyrights are plentiful, but so are unauthorised acts. Our attorneys have lots of knowledge and experience of this complicated area of intellectual property. We can advise you on what copyrights you have, and how you can enforce them against suspected infringers. We can also counsel you if you have been accused of copying somebody else’s work.

What do I need to remember?

- *Copyright is a tangible asset and can add value to your business.*
- *Copyright arises automatically and is long-lasting.*
- *Copyright can deter third parties from copying your works.*
- *To infringe copyright, there has to have been actual copying.*
- *Keep detailed, dated records in case you ever need to prove the date of creation*