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A guide to copyright

From: [Canadian Intellectual Property Office](#)

This guide explores what copyright is, the process for registering copyrights in Canada and the benefits of registration.

i Important notice

This electronic version of the guide is the official version. If there are inconsistencies between this guide and the applicable legislation, the legislation must be followed. Read our [terms and conditions](#).

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Understanding copyright—The basics

Although this guide is not a complete text on law regarding copyright, we have designed it as an introduction to copyright and copyright registration.

Protect your valuable creations

A poem, painting, musical score, performer's performance, computer program—all are valuable creations, although perhaps no one can measure their worth. Some works may earn a lot of money in the marketplace, while others earn none at all.

Regardless of their merit or commercial value, Canadian law protects all original creative works, provided the conditions set out in the *Copyright Act* have been met. This means that if you own the copyright to a poem, song or other original work, you have rights that are protected.

Simply put, the Act prohibits others from copying your work without your permission. Its purpose is to protect copyright owners while promoting creativity and the orderly exchange of ideas.

Copyright defined

In the simplest terms, "copyright" means "the right to copy." In general, copyright means the sole right to produce or reproduce a work or a substantial part of it in any form. It includes the right to perform the work or any substantial part of it or,

in the case of a lecture, to deliver it. If the work is unpublished, copyright includes the right to publish the work or any substantial part of it.

Copyright also applies to performers' performances, sound recordings and communication signals, though the applicable rights may differ somewhat. For example, the copyright in a sound recording consists of the sole right to publish the sound recording for the first time, to reproduce it in any material form, to rent it out and to authorize any such acts.

People occasionally confuse copyrights with patents, trademarks, industrial designs and integrated circuit topographies. Like copyright, these others are rights granted for intellectual creativity and are forms of IP. However, there are important differences:

- **Copyright** provides protection for literary, artistic, dramatic or musical works (including computer programs) and other subject-matter known as performer's performances, sound recordings and communication signals.
- **Patents** cover new and useful inventions (product, composition, machine, process) or any new and useful improvement to an existing invention.
- **Trademarks** may be one or a combination of words, sounds or designs used to distinguish the goods or services of one person or organization from those of others.
- **Industrial designs** are the visual features of shape, configuration, pattern or ornament, or any combination of these features applied to a finished article.
- **Integrated circuit topographies** are the three-dimensional configurations of electronic circuits embodied in integrated circuit products or layout designs.

What copyright protects

Copyright applies to all original literary, dramatic, musical and artistic works provided the conditions set out in the *Copyright Act* have been met. Each of these general categories covers a wide range of creations, including:

- literary works such as books, pamphlets, computer programs and other works consisting of text

- dramatic works such as motion picture films, plays, screenplays and scripts
- musical works such as compositions with or without words
- artistic works such as paintings, drawings, maps, photographs, sculptures and plans

Copyright also applies to other subject-matter consisting of:

- performers' performances, meaning any of the following:
 - a performance of an artistic, dramatic or musical work, whether or not the work was previously recorded and whether or not the work's term of copyright protection has expired
 - a recitation or reading of a literary work, whether or not the work's term of copyright protection has expired
 - an improvisation of a dramatic, musical or literary work, whether or not the improvised work is based on a pre-existing work
- sound recordings, meaning recordings consisting of sounds, whether or not a performance of a work, but excluding any soundtrack of a cinematographic work where it accompanies the cinematographic work
- communication signals, meaning radio waves transmitted through space without any artificial guide, for reception by the public

The conditions for copyright

Works

Copyright applies to every original literary, dramatic, musical and artistic work where the author was at the date of the making of the work a citizen or subject of, or a person ordinarily resident in, Canada or some other treaty country. (A treaty country is defined as a Berne Convention country, a Universal Copyright Convention country or a World Trade Organization [WTO] member.)

Copyright also applies when a work is first published in a treaty country even if the author was not a citizen or subject of, or a person ordinarily resident in, Canada or some other treaty country. The Minister may also extend protection to other countries that are not treaty countries by way of notice in the [Canada Gazette](#).

Subject-matter other than works

Performers' performances

Copyright applies to a performer's performance if it takes place in Canada or a Rome Convention country, or if it is embodied in a sound recording whose maker is a citizen or permanent resident of Canada or a Rome Convention country. If the maker of the sound recording is a corporation, it must have its headquarters in Canada or a Rome Convention country.

Copyright also applies if the performance is embodied in a sound recording whose first publication occurred in Canada or a Rome Convention country, or if the performer's performance is transmitted by a communication signal broadcast from Canada or a Rome Convention country by a broadcaster that has its headquarters in the country of broadcast.

Sound recordings

The maker of a sound recording has a copyright in the sound recording if at the date of the first recording the maker is a citizen or permanent resident of Canada, a Berne Convention country, a Rome Convention country or a WTO member. If the maker of the sound recording is a corporation, it must have its headquarters in one of these countries. Copyright also applies if the sound recording is first published in one of those countries.

Communication signals

A broadcaster has a copyright in the communication signal that it broadcasts if it has its headquarters in Canada, in a country that is a WTO member or in a Rome Convention country and broadcasts the communication signal from that country.

Benefits of registration

The *Copyright Act* states that a certificate of registration of copyright is evidence that copyright exists and that the person registered is the owner of the copyright. However, the Copyright Office is not responsible for policing or checking on registered works and how people use them. It also cannot guarantee that the legitimacy of ownership or the originality of a work will never be questioned.

A lifetime of protection

Generally, copyright lasts for the life of the author, the remainder of the calendar year in which the author dies, and for 50 years following the end of that calendar year. Therefore, protection will expire on December 31 of the 50th year after the author dies.

We discuss a few exceptions below, but other exceptions exist. If you need clarity about the term of copyright in a particular work, you should seek the services of a legal professional knowledgeable in the area of intellectual property.

Works of Crown copyright

Crown copyright applies to government publications (thus, created for or published by the Crown). Copyright in these works lasts for the remainder of the calendar year in which the work is first published, and for 50 years after that.

Joint authorship

In the case of a work that has more than one author, the copyright will last for the remainder of the calendar year in which the last author dies, and for 50 years after that.

Unknown author

In the case of a work where the identity of the author is unknown, copyright in the work exists for whichever is the earlier of:

- the remainder of the calendar year of the first publication of the work plus 50 years, or
- the remainder of the calendar year of the making of the work plus 75 years.

Posthumous works

These are literary, dramatic or musical works, or engravings protected by copyright that have not been published, performed in public or communicated to the public by telecommunication during the author's lifetime.

Please see [section 7 of the Copyright Act](#) for details regarding the term of copyright for such works.

Subject-matter other than works

Performers' performances

Copyright lasts until the end of 50 years after the end of the calendar year in which the performance occurs. If the performance is embodied in a sound recording before the copyright expires, the copyright continues for 50 years after the end of the calendar year in which the performance is first recorded. If the sound recording is published before the copyright expires, the copyright continues until 50 years after the end of the calendar year in which the first publication occurs or 99 years after the end of the calendar year in which the performance occurs, whichever is earlier.

Sound recordings

Copyright lasts until 50 years after the end of the calendar year in which the work was first recorded. If the sound recording is published before the copyright expires, the copyright continues for 50 years after the end of the calendar year in which the first publication occurs.

Communication signals

Copyright lasts until 50 years after the end of the calendar year in which the signal was broadcast.

Additional considerations

The Copyright Office can provide you with the basic information you need to file an application for registration of copyright. However, we cannot prepare your application, interpret the *Copyright Act* or the *Copyright Regulations* for you, or assist you in any matters other than registration or the use of our records. You should consult an intellectual property lawyer for legal advice.

Search the Copyrights Database online

You may search the records of the Copyright Office for information such as copyright owners' names and changes to ownership. You can also search the [Copyrights Database](#), free of charge, for all Canadian copyrights registered as of October 1991.

You can search by author name, category, country of publication, owner/assignee name, registration number, title and year of publication.

Search at the Copyright Office

If you are searching for copyright registrations dating back to 1841, including copyrights registered prior to 1991 that are not accessible online, you may wish to visit the [Client Service Centre](#), where these records are stored.

Preparing your application for registration

Application forms

You can obtain application forms [online](#), at the [Client Service Centre](#) or from a regional Innovation, Science and Economic Development Canada office. You can file your application electronically, by mail or by facsimile.

You can obtain a registration of copyright by filing an application accompanied by the appropriate [fee](#).

Please do not send a copy of your work with the application. The Copyright Office does not review or assess works in any way.

Works

The following information is required in an application to register the copyright in a work.

Title of the work

The title must identify a single work. If the work is published in a series of books or parts, as in the case of an encyclopedia, a single application for the whole work is

sufficient. Do not include descriptive matter that does not constitute a part of the title.

Category of the work

Literary — These are works consisting of text, including books, pamphlets, lectures (address, speech, sermon, etc.), tables and translations. Computer programs are also included in this category.

Note: Textual works in which a scenic arrangement or acting form is fixed in writing (e.g., a screenplay) fall within the dramatic category.

Musical — These include any work of music or musical composition with or without words, including compilations of musical works.

Artistic — These include paintings, drawings, maps, charts, plans, photographs (photo-lithograph and any work expressed by any process akin to photography), engravings (etchings, lithographs, woodcuts, prints and other similar works), illustrations, sketches, sculptures (a cast or model), works of artistic craftsmanship, architectural works (meaning buildings or structures or any model of a building or structure) and compilations of artistic works.

Dramatic — These include any piece for recitation, choreographic work or mime, where the scenic arrangement or acting form is fixed in writing or otherwise. This category also includes cinematographic works (having dramatic character or not) and compilations of dramatic works. Examples of dramatic works are screenplays, scripts, plays and motion picture films.

Note: A compilation is a work resulting from the selection or arrangement of literary, dramatic, musical or artistic works or parts thereof, or a work resulting from the selection or arrangement of data. Also, a compilation containing two or more of the categories of literary, dramatic, musical or artistic works is considered a compilation of the category making up the most substantial part of the compilation.

Publication

If a work is published, the date and place of first publication are required.

Publication means making copies of a work available to the public, constructing an architectural work (building or structure or any model of a building or structure), and incorporating an artistic work into an architectural work.

The following do not constitute publication:

- distribution of photographs/engravings of sculptures or architectural works
- exhibition in public of an artistic work
- performance of a literary, dramatic, musical or artistic work in public
- communication of a literary, dramatic, musical or artistic work to the public by telecommunication

Owner

You must include the name and complete mailing address of the owner of the copyright. If there is more than one owner, you can include additional names and addresses.

The copyright owner is usually the author of the work, the employer of the author or any other person (individual or other legal entity) that has obtained ownership through a transfer of ownership such as an assignment.

Author

You must include the name of the author of the work. The individual who created the work should be named as author, except in the case of a photograph created prior to November 7, 2012, where the author can be an individual or some other legal entity.

The complete mailing address of the author is optional. If there is more than one author, you can include additional names and addresses.

If the author is deceased, you should provide the date of death, if it is known.

Declaration

Your application must contain a declaration that the applicant is the author of the work, the owner of the copyright in the work, an assignee of the copyright, or a

person to whom an interest in the copyright has been granted by licence.

Subject-matter other than works

The following information is required in an application to register the copyright in a performer's performance, sound recording or communication signal.

Title of the subject-matter

The application must relate to the registration of only one performer's performance, sound recording or communication signal.

Type of subject-matter

The application must relate to a performer's performance, sound recording or communication signal.

Performer's performance means any of the following when done by a performer:

- performance of an artistic, dramatic or musical work, whether or not the work was previously fixed, and whether or not the work's term of copyright protection has expired
- recitation or reading of a literary work, whether or not the work's term of copyright protection has expired
- improvisation of a dramatic, musical or literary work, whether or not the improvised work is based on a pre-existing work

Sound recording means a recording consisting of sounds, whether or not a performance of a work, but excludes any soundtrack of a cinematographic work where it accompanies the cinematographic work.

Communication signal means radio waves transmitted through space without any artificial guide, for reception by the public.

For a performer's performance, the date of its first fixation in a sound recording or the date of its first performance if not fixed is required. For a sound recording, the date of its first fixation is required, and for a communication signal, the date of broadcast is required.

Owner

You must include the name and complete mailing address of the owner of the copyright. If there is more than one owner, you can include additional names and addresses.

The copyright owner is usually the performer in the case of a performer's performance, the maker in the case of a sound recording (person by whom the arrangements necessary for the first fixation of the sounds are undertaken), the broadcaster who broadcasts the communication signal in the case of a communication signal, or any other person who has obtained ownership through a transfer of ownership such as an assignment.

Declaration

An application for registration of a copyright in a performer's performance, sound recording or communication signal must contain a declaration that the applicant is the owner of the copyright in the subject-matter, an assignee of the copyright, or a person to whom an interest in the copyright has been granted by licence.

Fees

Depending on whether the application is filed electronically, by mail or by facsimile, you can make your payment by credit card (VISA, MasterCard or American Express), deposit account, postal money order or cheque payable in Canadian dollars to the Receiver General for Canada. Do not add federal and provincial taxes.

Visit our [fees page](#) for details or contact our [Client Service Centre](#).

Note: Fees will not be refunded once the application is received by CIPO. Once you have registered a copyright, no further fees are required to maintain the registration.

Submit your application

We encourage you to submit your [application for registration](#) online (at a reduced fee). You may also send your completed application by mail or by facsimile to the Copyright Office.

Corresponding with the Copyright Office

Business with the Copyright Office is normally done in writing. Address all correspondence to:

Office of the Commissioner of Patents
Copyright Office
Canadian Intellectual Property Office
Innovation, Science and Economic Development Canada
Place du Portage I
50 Victoria Street
Gatineau QC K1A 0C9
Fax: 819-953-CIPO (2476)

Visit our [correspondence procedures](#) page for more information.

If you are enquiring about the status of a pending application, please provide the application number, name of the owner(s) and title of the work. If you hire an agent, you should conduct all correspondence through that agent.

The Copyright Office will respond to all general enquiries, but cannot:

- advise you whether to file an application
- tell you whether your copyright meets registration criteria prior to the filing of your application
- advise you about possible infringement of copyright
- provide any other legal advice

Electronic services

Through our website, you can:

- file an application for registration of copyright at a reduced fee
- file a request for registration of an assignment or licence
- request a certificate of correction
- order copies

Visit our [forms page](#) to request these services online or to access forms you can complete and send by regular mail or by facsimile.

Copyright information—Beyond the basics

Anonymity

If you are the author of the work as well as the owner of the copyright of the work, and you wish to remain anonymous, you may use a pseudonym in place of your name. Note that you must still include a complete mailing address.

If you have any questions or need clarity on the use of a pseudonym, you should seek the services of a legal professional in the area of intellectual property.

Indicating copyright

Marking a work with the copyright symbol is not mandatory under Canadian copyright law but some other countries do require it. The marking consists of the symbol ©, the name of the copyright owner and the year of first publication.

Marking a work with this symbol serves as a general reminder to everyone that the work is protected by copyright. You can use this symbol even if the work is not registered.

Changes to the Register of Copyrights

The Federal Court of Canada may on request by the Registrar of Copyrights or any interested person order a rectification (correction) of the Register.

Changes of address

The Copyright Office cannot change addresses in the Register of Copyrights. However, we will note any changes brought to our attention on the file and this information will be available to those searching the Copyrights Database.

Clerical errors

The Registrar of Copyrights does not have the authority to correct errors on a certificate of registration with the exception of clerical errors pursuant to [section 61 of the *Copyright Act*](#).

In the case of clerical errors made by the applicant that fall within the scope of section 61 of the *Copyright Act*, the Copyright Office will issue a certificate of correction upon request and payment of the applicable fee. There is a reduced fee for requests made online. If the Copyright Office is responsible for the clerical error, it will issue a corrected certificate at no cost. It should be noted that corrections to errors that are not clerical must be done by order of the Federal Court pursuant to [subsection 57\(4\) of the *Copyright Act*](#).

Visit our [fees page](#) for details.

Assignments and licences

Assignments and licences may be registered with the Copyright Office.

An assignment occurs when a copyright owner transfers part or all of their rights to another party. The assignment may be for the whole term of the copyright or for a certain part of it.

A licence allows someone else to use a work for certain purposes and under certain conditions. The copyright owner still retains ownership.

You can register an assignment or licence by filing with the Copyright Office the original agreement or a photocopy of it, along with the prescribed fee for each work affected by the assignment or licence. You may submit your request online or by mail or facsimile. The Copyright Office will retain a copy of the documentation and return the original documentation along with a certificate of registration.

Additional contacts and information

Copyright Board of Canada
56 Sparks Street, Suite 800
Ottawa ON K1A 0C9
Tel.: 613-952-8621

Fax: 613-952-8630

www.cb-cda.gc.ca

The Copyright Board of Canada is the regulatory body that establishes royalties for the use of works protected by copyright when the administration of such copyright has been entrusted to a collective-administration society. The Board may also supervise agreements or licences between users and licensing bodies and issue licences where a copyright owner cannot be located.

Court orders

The procedure for obtaining court orders is outlined in the *Federal Courts Rules*, available through any local public library or bookstore selling government publications, and on the [Justice Canada](http://www.justice.gc.ca) website.

Justice Canada

Laws enacted by the Government of Canada, decisions and reasons for decisions of federally constituted courts and administrative tribunals are subject to special copyright rules. Anyone may, without charge and without asking permission, reproduce federal laws, decisions and reasons for decisions of federal courts and administrative tribunals. The only condition is that due diligence be exercised in ensuring the accuracy of the material reproduced and that the reproduction not be represented as an official version. Electronic copies of federal government acts and regulations (including the *Copyright Act* and *Copyright Regulations*) are available on [Justice Canada's website](http://www.justice.gc.ca).

Library and Archives Canada

Under the [Library and Archives of Canada Act](http://www.libraryandarchives.gc.ca) and the [Legal Deposit of Publications Regulations](http://www.libraryandarchives.gc.ca), Canadian publishers are obliged to send copies of their publications to Library and Archives Canada within one week of the date they are published.

For more information, please contact:

Legal Deposit

Library and Archives Canada

395 Wellington Street

Ottawa ON K1A 0N4

Tel: 819-997 9565

Toll-free number for Canada: 1-866-578-7777

Fax: 819-997-7019

www.collectionscanada.gc.ca

Frequently Asked Questions (FAQ)

Expand all

Collapse all

▼ 1. What is copyright?

Copyright is a type of intellectual property protection provided to original literary, musical, dramatic or artistic works. Through copyright, an author enjoys several rights including the right to prevent others from reproducing their work or copying any substantial portion of it. Copyright laws also apply to performers' performances, sound recordings, and communication signals.

▼ 2. What works are not protected by copyright?

There are work products that despite being literary, dramatic, musical, and artistic creations cannot be protected by copyright. These include ideas, facts, short and one-word titles, and works that are not fixed in a material form (i.e. works that have not been written down or recorded in a somewhat permanent digital format). Additionally, works which are unoriginal (i.e. works which do not require skills and judgment to create) cannot be protected by copyright law.

▼ 3. Do I need to register my copyright in order for my work to be protected? What are the benefits of copyright registration?

No, a copyrightable work is protected by copyright laws the moment it is created and fixed in a material form. Registering your work with the Canadian

Intellectual Property Office is voluntary, but can be beneficial.

First, if you have to enforce your copyright in a lawsuit against an alleged infringer, the copyright registration may be used as evidence against the infringing party that pleads "innocent infringement." An "innocent infringer" can argue in court that they were unaware of any copyrights in the infringed work due to the lack of registration. The courts will generally award lesser penalties if indeed the infringer is found to be an "innocent infringer."

Second, a registration can be produced in the court as evidence to support that copyright exists and that the registrant is the owner of the work.

▼ 4. How long does copyright last?

Currently, copyright protection lasts for the entirety of the author's life plus 50 years after his or her death. In the case of a work that has multiple authors, the copyright will last for 50 years after the death of the last surviving author. However, the Canada-United States-Mexico Agreement will require Canada to extend to terms of copyright protection offered in the *Copyright Act*.

▼ 5. What happens when copyright protection ends or expires?

When the duration of copyright protection expires, works fall into the public domain and are free to be used and enjoyed by anyone without the need to acquire permission. For example, William Shakespeare's plays are part of the public domain, and therefore everyone may produce or publish them without having to acquire permission or pay royalties.

▼ 6. Do I need to mark my work with the copyright symbol?

No, Canadian copyright laws do not require marking a work with the copyright symbol (©) for the work to be protectable. Nonetheless, there may be some benefits to marking your works with the copyright symbol. For instance, the copyright symbol serves as a deterrent and a reminder that copyright is being

claimed in the work. In case of a lawsuit, the copyright symbol could also be used as evidence against an "innocent infringement" claim. Additionally, since there are some jurisdictions that do require works to be marked, it may be a safer option to mark the works with the copyright symbol when using them online or in a foreign jurisdiction.

Generally, an acceptable use of the marking consists of the symbol ©, the name of the copyright owner and the year of first publication. As examples, "© Jane Doe, 2019" or "Copyright © - 2019". The copyright symbol may be used even if the work has not been registered.

▼ 7. How can I register the copyright in my work?

In order to register your copyright you must file an application accompanied by the appropriate fee to the Canadian Intellectual Property Office (CIPO), a federal agency responsible for the administration and processing of intellectual property rights in Canada, including the registration of copyrights.

You can file your application for copyright registration with CIPO electronically, by mail or by fax. Applications submitted electronically pay a fee of \$50 (CAD), whereas any application submitted via mail or fax will pay a fee of \$65 (CAD).

▼ 8. Is there a way to ensure my copyright is protected internationally?

While there is no international copyright registration system, there are international treaties and conventions, such as the Berne Convention and the WIPO Copyright Treaty, that may extend copyright protection in foreign jurisdictions without having to obtain copyright registration. These international agreements require members to recognize the copyright of authors and rights holders from other signatory nations as if the work was created within the member's jurisdiction.

However, in the absence of a singular international registration system, a rights holder would have to file separate applications in each jurisdiction's intellectual property office in order to obtain individual certificates of registration.

▼ 9. Do I need to send the Canadian Intellectual Property Office a copy of my work for registration?

No, the Copyright Office does not require a copy of the work for registration. The Copyright Office does not accept copies of works submitted with copyright application forms at the time of filing, nor after registration.

However, under the *Library and Archives of Canada Act* and the *Legal Deposit of Publications Regulations*, Canadian publishers are obliged to send copies of their publications to Library and Archives Canada within one week of the date they are published. Note that depositing published materials with Library and Archives Canada does not, however, constitute or convey formal copyright registration or protection.

▼ 10. How do I register an assigned copyright?

To register an assignment, a copy of the original transfer agreement or a photocopy signed by both parties must be filed with the Copyright Office along with the prescribed fee of \$65 (CAD) per work. You must also include the names or the registration numbers of the affected works. Requests may be submitted by mail, by fax or online.

▼ 11. Someone infringed my copyright. What can I do?

Copyright infringement occurs where a person wrongfully uses your work without your permission or does anything only an owner is allowed to do, as stated in the *Copyright Act*. Infringement may include acts such as copying, performing, selling/distributing or posting your work on the internet without