

MODULE 1.3 COPYRIGHT – LEARN THE BASICS



UNIVERSITY OF
TORONTO

This presentation is adapted from the IP foundation series on the Canadian Intellectual Property Office (CIPO) website.



What is the difference between patents and copyright?

How do you get copyright protection?

In this section, we will introduce copyright, what it protects, and the conditions for copyright protection.

LEARNING OBJECTIVES - COPYRIGHT - LEARN THE BASICS

By the end of this section, you will be able to:

- Describe what an original work is
- List different types of original works
- Explain what copyright and related rights are
- Describe the protection that copyright provides
- Outline the conditions for copyright protection

UNDERSTANDING COPYRIGHT

WHAT IS AN ORIGINAL WORK?

It is the original expression of an idea in an artistic, literary, musical or dramatic form.

In Canada, an original work is automatically protected by copyright **upon its creation** in a **fixed** form, such as:

- on paper
- in musical notation
- in a file saved on a computer drive

Copyright protection can be registered in Canada but voluntary

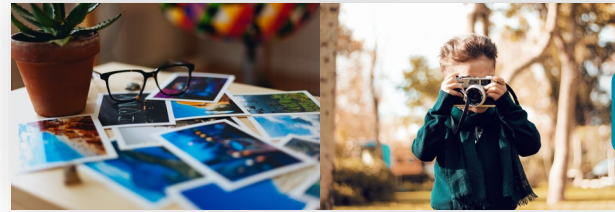
UNDERSTANDING COPYRIGHT

TYPES OF WORKS

Artistic works

Examples include

- works of art
- architectural works
- works of artistic craftsmanship



Photographs



Maps, blueprints, and buildings



Paintings and sculptures



UNDERSTANDING COPYRIGHT

TYPES OF WORKS

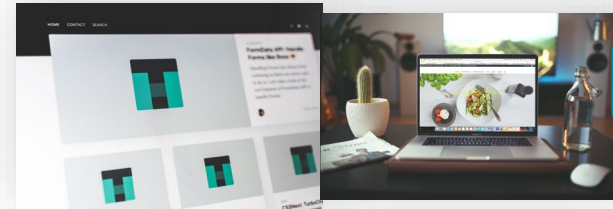
Literary works are expressed in print or writing, such as in the following forms:



Books and pamphlets



Computer programs and software



Website content

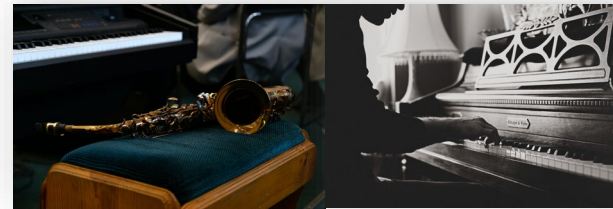
UNDERSTANDING COPYRIGHT

TYPES OF WORKS

Musical works include any work of music or musical composition, with or without words, such as:



Musical notations



Musical compositions with lyrics

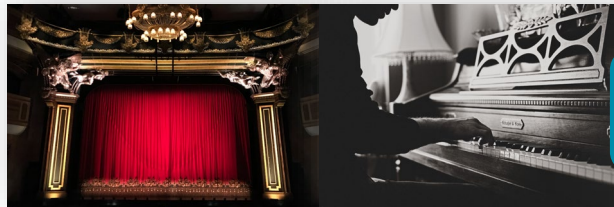
UNDERSTANDING COPYRIGHT

TYPES OF WORKS

Dramatic works include cinematographic and choreographic works, as well as other dramatic creations, such as:



Motion picture films



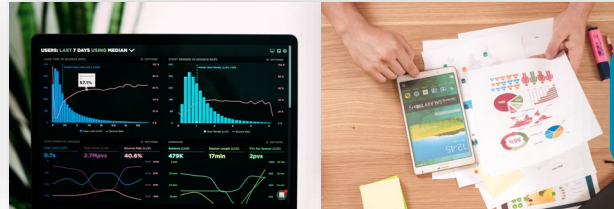
Plays, screenplays and scripts

UNDERSTANDING COPYRIGHT

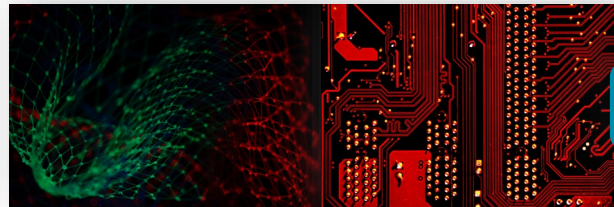
TYPES OF WORKS

Compilations are selections or arrangements of artistic, literary, musical and dramatic works (or parts of them) or of **data**, such as datasets and databases.

These are particularly important in our data-driven economy, as they are more economically valuable than ever for businesses.



Datasets and
spreadsheets



Databases

UNDERSTANDING COPYRIGHT

WHAT IS COPYRIGHT?

Generally, copyright is the exclusive legal right to **produce, reproduce, publish or perform** an original artistic, literary, musical or dramatic work. It is generally recognized globally.

To register your copyright in Canada, you must file an application with the Canadian Intellectual Property Office (CIPO).



UNDERSTANDING COPYRIGHT

WHAT DOES COPYRIGHT PROTECT?

Copyright protects all **original works**, provided the conditions in the [*Copyright Act*](#) have been met.

Through copyright, authors have the right to **prevent others** from reproducing their work or copying any substantial portion of it.



UNDERSTANDING COPYRIGHT

WHAT DOES COPYRIGHT PROTECT?

Owning the copyright for a work means you have the exclusive right to **commercially benefit from its use**. Those who want to use your work will have to acquire the right or get your permission.

A work protected by copyright in Canada is also automatically protected in all [Berne Convention](#) member countries (the vast majority of the world's countries, including Canada).

You also benefit from moral rights, which will be addressed later in the module.

UNDERSTANDING COPYRIGHT

CONDITIONS FOR PROTECTION BY COPYRIGHT

A work must meet 3 conditions in order to be protected by copyright:

- Originality
- Expression
- Fixation



UNDERSTANDING COPYRIGHT

CONDITIONS FOR PROTECTION BY COPYRIGHT

Originality

The condition of originality means your work must be the result of your own creativity. Copying somebody else's work does not make your work original. You need to have used your skill and judgment to create the work.

However, to clarify, 2 artists painting the same subject on different canvases could produce 2 different original works.

UNDERSTANDING COPYRIGHT

CONDITIONS FOR PROTECTION BY COPYRIGHT

Expression

Copyright only protects the **expression of an idea**, not ideas by themselves.

For example, if you write a book about a boy who lives in the jungle with wild animals, then you have the copyright over that specific story in the way you chose to express it. However, you cannot stop anyone else from writing a book about the idea behind the book: a boy who lives in a jungle with wild animals. Therefore, many expressions of this idea could come to be, such as Tarzan and The Jungle Book.

UNDERSTANDING COPYRIGHT

CONDITIONS FOR PROTECTION BY COPYRIGHT

Fixation

Works must be fixed in a material format, such as:

- Paper
- video recordings
- audio recordings
- hard drives and memory cards

UNDERSTANDING COPYRIGHT

RELATED RIGHTS

Related rights, also commonly called "**neighbouring rights**," protect the legal and economic interests of certain persons and legal entities that contribute to making works available to the public.

There are 3 categories of beneficiaries:



Broadcast organizations



Producers of sound recordings



Performers



UNDERSTANDING COPYRIGHT

DISTINGUISHING AUTHORSHIP AND OWNERSHIP

The creator of an original work will **always** remain its author.

However, the author of the work may **not always be the owner**. Any other individual or legal entity could become the owner through a transfer of ownership of the work.

Distinguishing these 2 concepts is essential in fully understanding copyright protection, since the author is tied to the work, in that their life will always have a bearing on the duration of copyright protection.

UNDERSTANDING COPYRIGHT

MORAL RIGHTS

Copyright includes not only economic rights, but also moral rights.

Moral rights protect the author's right of:

Attribution

to be credited with the work, including anonymity or the use of pseudonyms

Integrity

the work cannot be modified or used in association with a product or service in a way that causes prejudice to the author's honour or reputation

UNDERSTANDING COPYRIGHT

WAIVING MORAL RIGHTS

Unlike other IP rights, moral rights cannot be sold or given away. Even in the case of a sale, an author retains their moral rights in the work, unless they choose to waive these rights.

CREATIVE COMMONS LICENSE

Creative Commons licenses give everyone from individual creators to large institutions a standardized way to grant the public permission to use their creative work under copyright law (from: <https://creativecommons.org/about/cclicenses/>).



CASE STUDY: UNDERSTANDING COPYRIGHTS

SNOW VS EATON CENTRE LTD (MORAL RIGHTS)

In 1979, the Toronto Eaton Centre commissioned sculptor Michael Snow to create “Flight Stop” consisting of sixty Canada geese sculptures displayed in the atrium of the Centre.

The Centre were the owners of the sculptures and in 1981 placed red ribbons around the geese as part of Christmas decorations.

Snow requested an injunction against the Centre to have the ribbons removed arguing the alteration violated his Moral rights and made his work look ridiculous.



CASE STUDY: UNDERSTANDING COPYRIGHTS

SNOW VS EATON CENTRE LTD (MORAL RIGHTS)

Despite the work being sold to the Centre, the Ontario High Courts agreed that the author held Moral rights to the work. And the courts ruled that the Centre had violated the author's right to "restrain any distortion, mutilation or other modification of his work that would be prejudicial to his honour or reputation".

The ribbons were removed and this was an important Canadian case law decision for upholding Moral rights provided by Canada's Copyright Act.

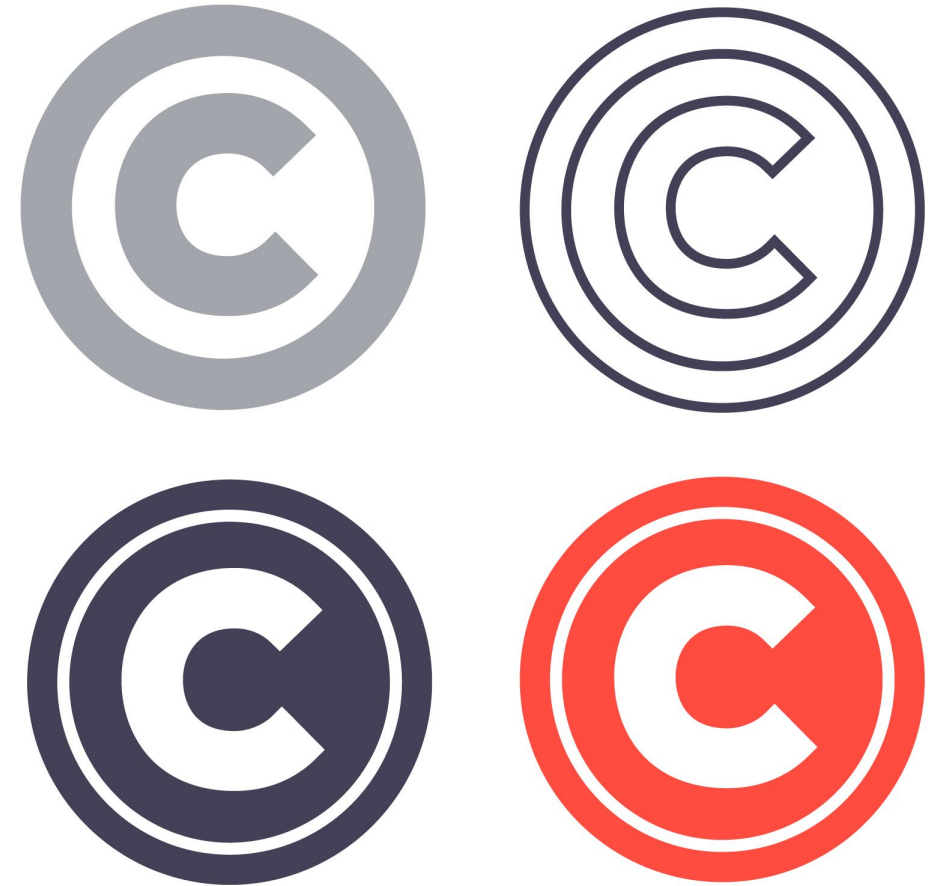
Even if you are no longer the owner of the work, you still have moral rights unless they are waived.

UNDERSTANDING COPYRIGHT

COPYRIGHT SYMBOL

Marking your work with the copyright symbol is not mandatory under Canadian copyright law, but it is a useful reminder that your work is protected by copyright.

The mark consists of the © symbol, followed by the name of the copyright owner and the year of first publication.



UNDERSTANDING COPYRIGHT

DURATION OF COPYRIGHT PROTECTION

Copyright lasts for the life of the author, **plus 50 years** after the end of that calendar year.

When the term of the copyright protection ends or expires, the work falls into the **public domain**.

Any work in the public domain is accessible to the public, and everyone has an equal right to reproduce or republish the work.



CHECK FOR UNDERSTANDING

A composer wrote the music and lyrics for a song that they sold to a producer. It was then performed by one of the producer's clients, a singer, at a live event. Who is now considered the author of this work?

- A. Producer
- B. Singer
- C. Composer

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- B. Singer
- C. Composer

ANSWER: C. While the composer may not be considered the owner anymore, the creator of the original work will always remain its author.

CHECK FOR UNDERSTANDING

A wildlife photographer sold a series of photos to a nature magazine. She signed an agreement which transferred ownership of her work to the magazine but chose to not waive her moral rights. Does the magazine have to credit her work when they publish the photographs in the next issue?

- A. Yes
- B. No

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- A. Yes
- B. No

ANSWER: A. Moral rights, which include attribution, cannot be sold or given away, unless they were waived.

SUMMARY OF LEARNING OBJECTIVES FOR COPYRIGHT - LEARN THE BASICS

You should now be able to:

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- List different types of original works
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