



What a Technical Writer Should Know about Copyright Law

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What is Copyright?

Copyright is a form of protection provided by U.S. law to authors of “original works of authorship” from the time the works are created in a fixed form.

Circular 1: Copyright Basics, US Copyright office.



Origin of US Copyright Law

The Congress shall have Power...

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

US Constitution: Article I, Section 8

What Can be Copyrighted?

An incomplete list.

- Literary Works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings

<https://copyright.psu.edu/copyright-basics/>

What Can be Copyrighted?

In the tech writing world...

- Literary Works
 - Owners' manuals
 - Operating instructions
 - White papers
- Pictorial, graphic, and sculptural works
 - Technical illustrations
 - Cover art
- Motion pictures and other audiovisual works
 - Training videos
 - Marketing videos
- Sound recordings
 - Voiceovers

What *Cannot* be Copyrighted?

- Ideas
- Facts/information
- Titles
- Individual words
- Works not in a fixed form
- Publications by the US government

These Are Not True

- “If you copy no more than 20 words from someone else’s writing, that falls under fair use and is legal.”
- “If the content is posted on the Internet, it is in the public domain.”
- “You are allowed to use other people’s words if you give them credit.”
- “You are allowed to use other people’s words if you add a disclaimer that you don’t own the rights.”
- “Copyright law only applies if you are charging for the copied material.”

Fair Use

“There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work. Whether a particular use qualifies as fair use depends on all the circumstances.”

www.copyright.gov/help/faq/faq-fairuse.html



Fair Use

“[T]he fair use of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”

United States Code, Title 17, Section 107

Fair Use - Factors

Factors to be considered in court when determining whether reuse of intellectual property was “fair use:”

1. The purpose and character of the use
2. The nature of the copyrighted work
3. The amount and substantiality of the material used
4. The effect of the use upon the potential market for the original

Adapted from United States Code, Title 17, Section 107

Public Domain – What It Means

The public domain is not a place.

- A work of authorship is in the *public domain* if it is no longer under copyright protection or...
- ...if it failed to meet the requirements for copyright protection.
- Works in the public domain may be used freely without the permission of the former copyright owner.

Copyright Expiration

- Generally, for most works created after 1978, protection lasts for the life of the author plus 70 years.
- For anonymous works, pseudonymous works, or **works made for hire**, the copyright term is 95 years from the year of first publication or 120 years from creation, whichever comes first.

www.copyright.gov/history/copyright-exhibit/lifecycle

Most technical writers produce WMFH.

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Your Allies - the Corporate Legal Dept.

The corporate attorneys:

- Know more about the law than you do.
- Have an interest in making sure that the company follows the law.
- Have an interest in protecting the company's intellectual property from theft.
- Have the organizational power to get things changed when necessary.

The rules are changing.



ARTIFICIAL INTELLIGENCE

AI Copyright Timeline

- Nov. 30, 2022: ChatGPT released.
- Mar. 2023: Copyright Office issues registration guidance.
- Summer 2023: Copyright Office discusses AI issues with relevant parties.
- Aug. 2023: Copyright Office issues document describing their work on AI issues and requests public comments.
- Dec. 2023: Deadline for public comments on guidance.
- Throughout 2024: Research into open questions on AI and copyright.

AI Output Cannot be Copyrighted

“In the Office’s view, it is well-established that copyright can protect only material that is the product of human creativity. Most fundamentally, the term ‘author,’ which is used in both the Constitution and the Copyright Act, excludes non-humans.”

Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence

Material produced by a generative AI tool cannot be copyrighted. It is in the public domain from the moment it is created.

Copyright Office: Topics Under Study 2024

1. the use of copyrighted works to train AI models;
2. the copyrightability of material generated using AI systems;
3. potential liability for infringing works generated using AI systems;
4. the treatment of generative AI outputs that imitate the identity or style of human artists.

Artificial Intelligence and Copyright, US Copyright Office

References - I

- United States Copyright Office
www.copyright.gov
- Copyright Basics – Circular 1
<https://copyright.gov/circls/circ01.pdf>
- Copyright and Artificial Intelligence (lots of links)
www.copyright.gov/ai
- Congressional Research Service – Generative AI and Copyright
<https://crsreports.congress.gov/product/pdf/LSB/LSB1092>
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<https://www.copyright.gov/circs/circ33.pdf>
- Fair Use Index
<https://copyright.gov/fair-use/>
- Copyright Registration Guidance – AI Created Content
<https://www.copyright.gov/events/ai-application-process/>
- ChatGPT “hallucinates” in a news report.
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