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## A Brief History Of Copyright Law

By George Johnson

Authors, patrons, and owners of works throughout the ages have tried to direct and control how

copies of such works could be used once disseminated to others. Mozart's patron, Baroness von Waldstätten, allowed his compositions created for her to be freely performed, while Handel's patron jealously guarded "Water Music."

Two major developments in the fourteenth and fifteenth centuries seem to have provoked the development of modern copyright. First, the expansion of mercantile trade in major European cities and the appearance of the secular university helped produce an educated bourgeois class interested in the information of the day.

This helped spur the emergence of a public sphere, which was increasingly served by entrepreneurial stationers who produced copies of books on demand. Second, Gutenberg's development of movable type and the development and spread of the printing press made mass reproduction of printed works quick and much cheaper than ever before.

The process of copying a work could be nearly as labor intensive and expensive as creating the original, and was largely relegated to monastic scribes before printing. It appears that publishers, rather than authors, were the first to seek restrictions on the copying of printed works.

Given that publishers commonly now obtain the copyright from the authors as a condition of mass reproduction of a work, one of the criticisms of the current system is that it benefits publishers more than it does authors. This is one of the chief arguments in favor of peer-to-peer file sharing systems, making an analogy with the changes wrought by printing.

An interesting attempt at copyright in the early modern period was the notice attached to the ha-Shirim asher li-Shelomo, a setting of the Psalms by the composer Salomone Rossi, which happened to be the first music to be printed with a Hebrew type-face text (1623). It included a rabbinical curse on anyone who copied the contents.

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While governments had previously granted monopoly rights to publishers to sell printed works, the modern concept of limited duration copyright originated in 1710 with the British Statute of Anne. This statute first accorded exclusive rights to authors (ie, creators) rather than publishers, and it included protections for consumers of printed work ensuring that publishers could not control their use after sale.

It also limited the duration of such exclusive rights to 28 years, after which all works would pass into the public domain.

There were territorial loopholes in the 1710 Act. It did not extend to all British territories, but only covered England, Scotland, and Wales.

Many reprints of British copyright works were consequently issued both in Ireland and in North American colonies, without any license from the copyright holder required. These works were frequently issued without payment to British copyright holders, so they were cheaper than London

editions.

There was, between 1710–1774, legal debate about what length of time was meant in the 1710 act.

Publishers in Scotland, in the 1730's, began to reprint titles that they no longer considered to be protected by copyright. Scottish publishers printed what they perceived to be public domain English works whose copyright had expired. They sold these titles in Scotland, and in the English provinces. English publishers objected to this, on the basis of what they saw as common-law rights and property (under the concept of common-law rights in the English system), which predated the Copyright Act. Under common-law rights, rights in published works were held to continue into perpetuity.

The case of *Donaldson vs Beckett*, in 1774, brought disagreements on the length of copyright to an end, and changed common law in this regard. The outcome of the case resulted in the decision that Parliament could, and had, put a limit on copyright length.

This decision reflected a shift in English ideas of copyright. The English lords who made the decision in 1774 decided that it was not in the public's best interest to have London publishers control books in perpetuity, particularly as English publishers not uncommonly kept prices higher than otherwise.

Concepts of the roles of the author and publisher, of copyright law, and of general Enlightenment notions, all interacted in this period of copyright development. Authors had been previously seen to be divinely inspired in some sense. Patronage was a legitimate way to support authors, in part because of this. Authors who were paid, rather than entering into patron-relationships, were often regarded as hacks, and looked down upon. However, the notion of individual genius was becoming more common during the 1770's (the generation after *Donaldson v Beckett*), and being a paid author therefore became more accepted.

The Irish also made a flourishing business of shipping reprints to the North America in the 18th century. Ireland's ability to reprint freely ended in 1801 when Ireland's Parliament merged with Great

Britain, and the Irish became subject to british copyright laws.

The 1886 Berne Convention first established recognition of copyrights among sovereign nations, rather than merely bilaterally. Under the Berne Convention, copyrights for creative works do not have to be asserted or declared, as they are automatically in force at creation: an author need not "register" or "apply for" a copyright in countries adhering to the Berne Convention.

The USA did not initially sign the Berne Convention and would not do so until 1989, however many European countries did. The UK signed on in 1887, on behalf of itself and its colonies, but did not implement large parts of it in British law until 100 years later, with the introduction of the Copyright, Designs and Patents Act of 1988.

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### **How Copyright Protection Works**

**By Paul Thomas**

What does copyright protect? Copyright is a type of intellectual property law, and it protects original works of authorship including dramatic, literary, artistic works and musical, and such as poetry, movies, novels, songs, computer software and architecture. Copyright does not protect ideas, facts, systems or methods of operation, though it may protect the way these things are expressed.

How can I copyright my website? The original authorship that appears on a website may be protected by copyright. This includes artwork, writings, photographs and other forms of authorship protected by copyright. Actions for registering the contents of a website can be found in Copyright Registration for Online Works.

How about copyright and my domain name? Copyright law does not protect domain names. The Internet Corporation for Assigned Names and Numbers that is a nonprofit organization that has understood the responsibility for domain name system management is administrating the assignation of domain names through recognized registers.

How about copyright to a slogan, logo, name or title? Copyright does not protect titles, names, slogans or short phrases. In a few cases these things may be protected as trademarks. Get in touch with U.S. Patent & Trademark Office on phone 800-786-9199 for additional information. Nevertheless copyright protection may be obtainable for logo artwork that contains enough authorship.

Can I protect my ideas? Copyright does not protect systems, concepts, ideas or methods of doing something. You may convey your ideas in writing or drawings and claim copyright in your explanation, but that copyright will not protect the idea itself as revealed in your written or artistic work.

Copyright protection and unpublished work. Publication is not required for copyright protection. It can

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be done with unpublished work as well.

Architecture copyright protection? Architectural work became subject matter to copyright protection on the 1st of December 1990. The copyright law defines architectural work as "the design of a building embodied in any tangible medium of expression, including a building, drawings or architectural plans." Copyright protection extends to any architectural work created on or after Dec. 1, 1990. Any architectural works that were incomplete and embodied in unpublished plans or drawings on that date and were constructed by December 31, 2002, are entitled to protection. Architectural designs embodied in buildings constructed prior to December 1, 1990, are not entitled for copyright protection. See Copyright Claims in Architectural Works

Much more information about Copyright Protection

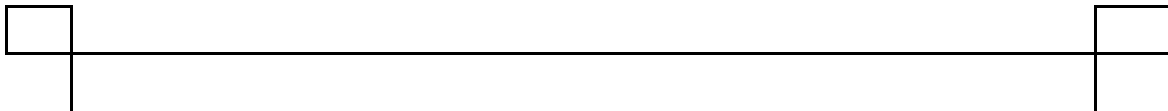
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