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Global Analysis Report

Intellectual Property and Copyright Issues

What is Copyright?

Copyright is a protection given to created works. It applies to many types of works, such as literature, music, dance, art, and other types of intellectual property. Copyright ensures that the creator has ownership of his work and prevents the work from being reproduced or used in any way without his direct permission. The owner of the work (who is, in most cases, the creator) has the exclusive right to perform certain actions and authorize others to do the same. These include:

- To reproduce the work.
- To create imitative works of the copyrighted work.
- To distribute copies of the work.
- To perform the work publicly.
- To display the work publicly (Copyright).

Copyright applies to both published and unpublished works. It is established as soon as a work is “in fixed form” (Copyright), which means that it applies as soon as a work is written down, saved, or recorded in some way. (For example, this report is now the intellectual property of the author, Elizabeth Conklin, and cannot be reproduced or utilized without her permission). Copyright is immediately secured without any necessary notification or registration. In the past, a work needed to be registered and a notice of copyright, such as the symbol “©,” needed to be included with it so that people would know that it was protected. However, this is no longer the case (Copyright).

When a work is created by an employee as part of his duties for his job, it is not considered his property, but rather, the property of the employer or company for which he works. This is called a “work made for hire” (Copyright).

When a work has multiple collaborative creators, they are considered to be co-owners of the work, unless they agree otherwise (Copyright).

How Long Does Copyright Last in the United States?

Copyright laws have changed multiple times throughout United States history, and this can lead to some confusion regarding several topics. In particular, the amount of time that copyright protection endures depends on several factors.

Works created on or after January 1, 1978 are protected for the entirety of the author's life, plus 70 years. Works made for hire and anonymous works are under copyright protection for 95 years from publication or 120 years from creation, whichever is shorter (Copyright).

Works created before 1978 have a total protection of 95 years (Copyright).

Once a work's copyright protection expires, it becomes part of the public domain. Works in the public domain are not owned by anyone and are available for use by the public in any way.

What Exceptions Exist?

There are several cases in which there are exceptions to these rules and regulations. They include fair use, compulsory licenses, and creative commons licenses.

Fair Use

The doctrine of fair use allows people other than the owner of the copyrighted material to make copies of the work for certain situations, such as "criticism, comment, news reporting, teaching, scholarship, and research" (Copyright). There are four factors that are used to determine whether use of the material is fair. They are:

- The purpose and character of the use.
 - The nature of the copyrighted work.
 - The amount and sustainability of the portion used in comparison to the work as a whole.
 - The effect of the use on the potential market value of the work.
- (Copyright)

Fair use was not set down in the original copyright laws, but has been developed through court decisions throughout the years. Whether any particular usage of a work falls into the category of fair use is often unclear and open for debate (Copyright).

Compulsory License

A compulsory license is created by the government. It allows people to use copyrighted material without having to gain the permission of the owner. However, a fee must be paid for the use of the material. The most common type of compulsory license is for musical works. It allows a person to re-create a musical work that has been distributed to the public, and allows that person to change aspects of the work, if he desires (Copyright).

Creative Commons

Creative Commons is a non-profit organization that gives out licenses that allow a work to be only partially restricted by copyright laws. Its aim is to create a range of creative works that can be built upon for further creative success.

Creative Commons gives a variety of licenses that allow for different levels of accessibility to a work. They include:

- Attribution: others can use the work in any way, but they must give credit to the owner.
- Noncommercial: works can be utilized in non-commercial ways only
- No Derivative Works: only verbatim copies can be made. Others are not allowed to change the material.
- Share Alike: Others can use derivative work, but that work falls under the same licensing as the original.

These factors can be used individually or in a combination for a creative commons license (Creative Commons).

What are International Copyright Laws?

There are no blanket copyright laws that can protect a work throughout the entire world. However, the Berne Convention, begun in 1886, established equivalent copyright protection to all countries included. The United States joined the convention in 1988. Under the regulations in the convention, works are subject to the individual laws of each country. Before the Berne Convention, a work could be protected in its country of origin, but not at all in a foreign country. Now, foreign works are given the same protection as works that originated in a certain country (WIPO).

In general, the main difference between various countries' laws is the length of time that copyright endures. Thus, a work may be under copyright protection in one country, but part of the public domain in another for a period of time. The Berne Convention set up a bureau that eventually became the World Intellectual Property Organization, or WIPO, which is an organization of the United Nations. There are 184 countries that are members of the Berne Convention (WIPO).

Under the Berne Convention, most works must be given copyright protection until at least 50 years after the death of the author. Exceptions include photography (25 years from creation) and cinematography (50 years after the first showing). Countries can, if they prefer, extend this, such as the United States' 70 years after death restriction on all works (WIPO).

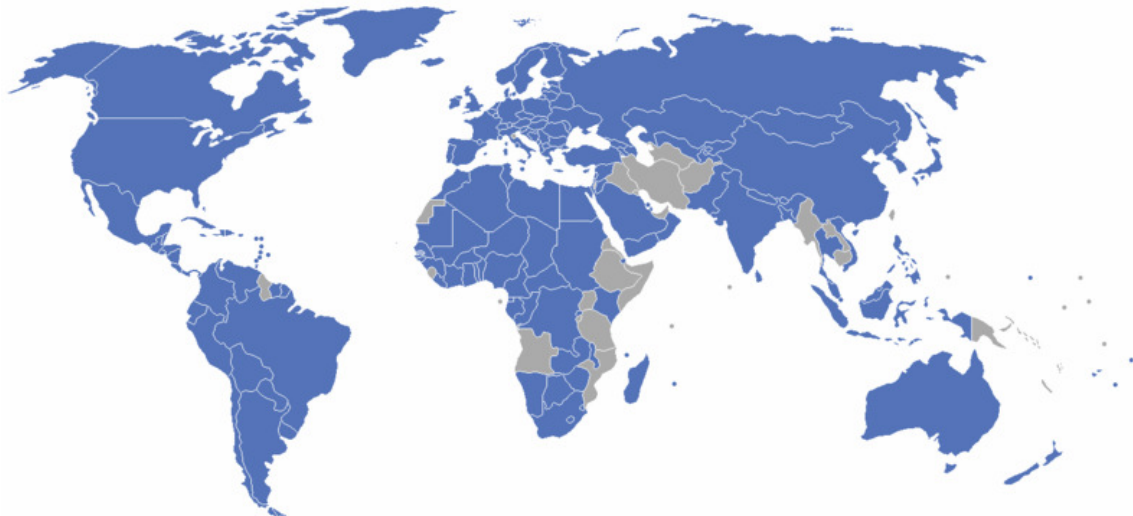
Most countries accept the "rule of the shorter term" (WIPO) in which the copyright term should not be longer in foreign countries than it is in the country of origin, despite the laws of the foreign countries.

Members of the World Intellectual Property Organization (WIPO)

» Afghanistan	» Albania	» Algeria
» Andorra	» Angola	» Antigua and Barbuda
» Argentina	» Armenia	» Australia
» Austria	» Azerbaijan	» Bahamas
» Bahrain	» Bangladesh	» Barbados
» Belarus	» Belgium	» Belize
» Benin	» Bhutan	» Bolivia
» Bosnia and Herzegovina	» Botswana	» Brazil
» Brunei Darussalam	» Bulgaria	» Burkina Faso
» Burundi	» Cambodia	» Cameroon
» Canada	» Cape Verde	» Central African Republic
» Chad	» Chile	» China
» Colombia	» Comoros	» Congo
» Costa Rica	» Côte d'Ivoire	» Croatia
» Cuba	» Cyprus	» Czech Republic
» Democratic People's Republic of Korea	» Democratic Republic of the Congo	» Denmark
» Djibouti	» Dominica	» Dominican Republic
» Ecuador	» Egypt	» El Salvador
» Equatorial Guinea	» Eritrea	» Estonia
» Ethiopia	» Fiji	» Finland
» France	» Gabon	» Gambia
» Georgia	» Germany	» Ghana
» Greece	» Grenada	» Guatemala
» Guinea	» Guinea-Bissau	» Guyana
» Haiti	» Holy See	» Honduras
» Hungary	» Iceland	» India
» Indonesia	» Iran (Islamic Republic of)	» Iraq
» Ireland	» Israel	» Italy
» Jamaica	» Japan	» Jordan
» Kazakhstan	» Kenya	» Kuwait
» Kyrgyzstan	» Lao People's Democratic Republic	» Latvia
» Lebanon	» Lesotho	» Liberia
» Libyan Arab Jamahiriya	» Liechtenstein	» Lithuania
» Luxembourg	» Madagascar	» Malawi
» Malaysia	» Maldives	» Mali
» Malta	» Mauritania	» Mauritius
» Mexico	» Moldova	» Monaco
» Mongolia	» Montenegro	» Morocco
» Mozambique	» Myanmar	» Namibia
» Nepal	» Netherlands	» New Zealand
» Nicaragua	» Niger	» Nigeria
» Norway	» Oman	» Pakistan

» Panama	» Papua New Guinea	» Paraguay
» Peru	» Philippines	» Poland
» Portugal	» Qatar	» Republic of Korea
» Romania	» Russian Federation	» Rwanda
» Saint Kitts and Nevis	» Saint Lucia	» Saint Vincent and the Grenadines
» Samoa	» San Marino	» Sao Tome and Principe
» Saudi Arabia	» Senegal	» Serbia
» Seychelles	» Sierra Leone	» Singapore
» Slovakia	» Slovenia	» Somalia
» South Africa	» Spain	» Sri Lanka
» Sudan	» Suriname	» Swaziland
» Sweden	» Switzerland	» Syrian Arab Republic
» Tajikistan	» Thailand	» The former Yugoslav Republic of Macedonia
» Togo	» Tonga	» Trinidad and Tobago
» Tunisia	» Turkey	» Turkmenistan
» Uganda	» Ukraine	» United Arab Emirates
» United Kingdom	» United Republic of Tanzania	» United States of America
» Uruguay	» Uzbekistan	» Venezuela
» Viet Nam	» Yemen	» Zambia
» Zimbabwe		

The following map indicates WIPO members in blue:



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Works Cited

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