
Professional Certificate in Art Law

Copyright and Moral Rights in Art

****Artwork****

An original work of art, such as a painting, sculpture, photograph, or graphic design. Artworks are protected by copyright law, which gives the creator exclusive rights to reproduce, distribute, and display the work.

****Copyright****

A legal right that protects original works of authorship, such as literature, music, and art. Copyright gives the creator of a work the exclusive right to reproduce, distribute, and display the work for a certain period of time. In the United States, copyright protection lasts for the life of the creator plus 70 years.

****Copyright Act****

A federal law in the United States that governs copyright protection for original works of authorship. The Copyright Act of 1976, as amended, provides exclusive rights to copyright owners, including the right to reproduce, distribute, and display the work.

****Copyright Owner****

The person or entity that owns the copyright in a work of authorship. The copyright owner has the exclusive right to reproduce, distribute, and display the work. Copyright owners can license or transfer their rights to others, but they cannot give up their exclusive rights entirely.

****Copyright Registration****

The process of registering a work of authorship with the United States Copyright Office. Copyright registration is not required for copyright protection, but it is necessary to bring a lawsuit for copyright infringement. Registering a work also provides additional benefits, such as the ability to recover statutory damages and attorney's fees in an infringement action.

****Copyright Transfer****

The legal transfer of copyright ownership from one party to another. Copyright transfers must be in writing and signed by the copyright owner. Once a copyright transfer is complete, the new owner has all of the exclusive rights of the copyright, including the right to reproduce, distribute, and display the work.

****Derivative Work****

A work that is based on or derived from an existing work of authorship. Derivative works include

translations, adaptations, and musical arrangements. The creator of a derivative work must obtain permission from the copyright owner of the original work, unless the use falls under a legal exception such as fair use.

****Fair Use****

A legal exception to copyright infringement that allows limited use of copyrighted material without permission from the copyright owner. Fair use is determined on a case-by-case basis, based on four factors: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use on the market for the original work.

****Infringement****

The unauthorized use of copyrighted material, such as reproducing, distributing, or displaying a work without the permission of the copyright owner. Infringement can result in legal action, including injunctions and monetary damages.

****Moral Rights****

The rights of authors to control the integrity and reputation of their works, even after they have sold or transferred the copyright. Moral rights include the right of attribution (to be recognized as the author) and the right of integrity (to prevent distortion, mutilation, or modification of the work that would harm the author's reputation). Moral rights are recognized in some countries, including France and Germany, but not in the United States.

****Public Domain****

Works that are not protected by copyright, either because the copyright has expired or because the work was never eligible for copyright protection. Works in the public domain can be used freely by anyone, without permission from the copyright owner.

****Statute of Limitations****

A legal time limit for bringing a lawsuit. In copyright cases, the statute of limitations is three years from the date of the infringing act. This means that a copyright owner must bring a lawsuit within three years of discovering the infringement, or risk losing the ability to seek legal remedies.

****Termination of Transfer****

The legal right of authors to terminate transfers of copyright ownership after a certain period of time. In the United States, authors can terminate transfers of copyright after 35 years, if the transfer was made on or after January 1, 1978. This allows authors to regain control of their works and potentially renegotiate licensing deals.

****Visual Artists Rights Act (VARA)****

A federal law in the United States that recognizes moral rights for visual artists. VARA gives visual artists the right to claim authorship of their works, to prevent the use of their names in connection with distorted or mutilated works, and to prevent the destruction of certain types of works. VARA applies to works created on or after June 1, 1991.

****Work Made for Hire****

A work that is created by an employee within the scope of their employment, or a work that is commissioned and specified in a written agreement as a work made for hire. In these cases, the employer or commissioning party is considered the author and owner of the copyright, rather than the actual creator of the work.

****Copyright Notice****

A statement that indicates the presence of a copyright, including the copyright symbol, the year of first publication, and the name of the copyright owner. Copyright notices are no longer required for copyright protection in the United States, but they can still be useful to deter infringement and to establish the existence of the copyright.

****Copyright Infringement****

The unauthorized use of copyrighted material, such as reproducing, distributing, or displaying a work without the permission of the copyright owner. Copyright infringement can result in legal action, including injunctions and monetary damages.

****Copyright Ownership****

The legal right to reproduce, distribute, and display a work of authorship. Copyright ownership can be held by the creator of the work, or it can be transferred or licensed to others. Copyright ownership lasts for a certain period of time, determined by the country's copyright law.

****Copyright Registration****

The process of registering a work of authorship with the United States Copyright Office. Copyright registration is not required for copyright protection, but it is necessary to bring a lawsuit for copyright infringement. Registering a work also provides additional benefits, such as the ability to recover statutory damages and attorney's fees in an infringement action.

****Derivative Work****

A work that is based on or derived from an existing work of authorship. Derivative works include translations, adaptations, and musical arrangements. The creator of a derivative work must obtain

permission from the copyright owner of the original work, unless the use falls under a legal exception such as fair use.

****Digital Millennium Copyright Act (DMCA)****

A federal law in the United States that updates copyright law for the digital age. The DMCA includes provisions for addressing online copyright infringement, such as the safe harbor provisions that protect online service providers from liability for infringing activities of their users. The DMCA also includes provisions for addressing digital rights management (DRM) technologies and anti-circumvention measures.

****Fair Use****

A legal exception to copyright infringement that allows limited use of copyrighted material without permission from the copyright owner. Fair use is determined on a case-by-case basis, based on four factors: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use on the market for the original work.

****First Sale Doctrine****

A legal principle that allows the owner of a lawfully made copy of a copyrighted work to sell, rent, or otherwise dispose of that copy, without the permission of the copyright owner. The first sale doctrine limits the exclusive distribution right of the copyright owner, and it allows libraries, museums, and other institutions to lend or display copyrighted works.

****International Copyright****

Copyright protection that extends beyond a single country. International copyright agreements, such as the Berne Convention, establish minimum standards for copyright protection and provide mechanisms for enforcing copyrights across national borders.

****Joint Work****

A work that is created by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a single work. Joint works are owned jointly by the authors, and each author has the right to use or license the work, subject to the agreement of the other authors.

****License****

A legal agreement that grants permission to use a copyrighted work, subject to certain terms and conditions. Licenses can be exclusive or non-exclusive, and they can be granted for a limited time or for a specific purpose. Licenses can also be transferred or assigned to third parties.

****Moral Rights****

The rights of authors to control the integrity and reputation of their works, even after they have sold or transferred the copyright. Moral rights include the right of attribution (to be recognized as the author) and the right of integrity (to prevent distortion, mutilation, or modification of the work that would harm the author's reputation). Moral rights are recognized in some countries, including France and Germany, but not in the United States.