



United States Copyright Law and the Copyright System

The Constitution and U.S. Copyright Law

The Constitution

When America’s founders wrote into the Constitution a provision empowering the Congress 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,” they implied that society is dependent on the creativity of its citizens. They understood that the American people’s creative genius would flourish when the fruits of that genius are protected for a sufficient time to ensure to each creator and publisher a reasonable recompense for the effort invested. This protection supports an intellectual property system in which creative works are protected and available for the benefit of our citizens. Today, copyright is a significant driving force in the U.S. economy.

U.S. Copyright Law

The Congress of the United States established a strong copyright system through the laws in title 17 of the *United States Code*.

It is a U.S. constitutional principle that an author of a work has certain rights to his or her intellectual creativity for a limited period of time. Copyright is a form of protection for “original works of authorship,” including literary, dramatic, musical, architectural, choreographic, pantomimic, pictorial, graphic, sculptural, sound recording, and audiovisual creations. Copyright protection does not extend to any idea, procedure, process, slogan, principle, or discovery.

Over time, “copyright” has come to mean the exclusive rights granted by statute to authors for protection of their work. The owner of a copyright has the exclusive right to reproduce, distribute, and, in the case of certain works, publicly perform or display his or her work; to prepare derivative works; and to authorize others to engage in these same acts under specific terms and conditions. These exclusive rights are balanced by a limitation on their duration, which is generally the life of the last surviving author of a work plus 70 years. Compulsory licenses, fair use, and other exceptions allow for certain uses without

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permission. The law thus considers both the rights of copyright owners and the benefits to the public in the use of copyrighted works.

One of the first laws enacted by the newly formed Congress was the 1790 copyright law, which granted American authors the right to print, reprint, or publish their works (maps, charts, and books) for a period of 14 years and to renew for another 14. The law provided authors with exclusive rights as an incentive to create original works. At the same time, these rights were limited in order to stimulate creativity and the advancement of “science” (knowledge) by placing these works in the public domain after a limited time for everyone to use. In an 1831 revision, Congress extended the initial term of protection of copyrighted works to 28 years with the possibility of a 14-year extension. Over the years, Congress added other categories of works and expanded rights.

In 1870, Congress moved the copyright registration and deposit function from district courts to the Library of Congress, creating a centralized national copyright system to provide copyright services to the public and copyrighted works to the nation’s library. In 1891, Congress passed the first U.S. copyright law authorizing establishment of copyright relations with foreign countries.

The 1909 Copyright Act continued the long historical trend of expanding the scope and availability of copyright protection under federal law. It liberalized copyright provisions in many areas. For the first time, it authorized copyright registration for a number of categories of unpublished material. The act provided a compulsory license governing the mechanical reproduction of musical compositions, and a “for profit” limitation on the performance right. The stringency of formalities was limited to a degree by basing the securing of copyright on publishing with notice of copyright. Additionally, some minor changes reduced the harshness of the manufacturing provision and notice requirement. The duration of copyright was expanded by changing the renewal term from 14 to 28 years. Shortly after passage of the 1909 act, the law was amended to clarify that motion pictures were proper subject matter for copyright.

Congress undertook the major 1976 revision of the copyright law for two primary reasons: to address technological developments and their impact on what might be copyrighted, how works might be copied, and what constituted an infringement; and to bring the United States into accord with international copyright law, practices, and policies. The 1976 Copyright Act superseded previous copyright laws and extended the term of protection to life of the author plus 50 years or, in the case of “works made for hire,” for 75 years for published works and 100 years for unpublished works. For the first time, the fair use and first sale doctrines were codified, and copyright was extended to all unpublished works. Other legislation has since modified the copyright law to extend the term of copyright an additional 20 years and to address new technological issues.

Our Mission

The Copyright Office’s mission is to promote creativity by administering and sustaining an effective national copyright system. The registration and deposit of works under copyright protection have served three important purposes:

Collect, preserve, and provide access to knowledge · The U.S. Copyright Office ensures the Library's role as keeper of the mint record of American creativity and helps sustain the comprehensiveness of the Library's collections.

- The Copyright Office receives more than 1 million works for registration each year, ensuring that the Library remains a treasure house of the nation's literature, music, photography, motion pictures, sound recordings, computer programs, and other creative works.
- The close collaboration between the Library of Congress curators and the U.S. Copyright Office ensures that the Library's collections are kept up to date and are of maximum use to Congress and the nation. Under the mandatory deposit provisions of the copyright law, copyrightable works published in the United States are to be sent to the U.S. Copyright Office within three months of publication.
- In addition to contributing to the Library's collections, the U.S. Copyright Office is also the keeper of unpublished works submitted for copyright registration — works that without copyright registration would be lost to the nation.

Spark imagination and creativity · The purpose of the copyright law, administered by the U.S. Copyright Office, is to foster the creation of new intellectual works and their dissemination for the benefit of the American people and the world.

- By protecting the intellectual property of our nation's citizens — and granting exclusive rights to each creator for a defined period of time — the copyright law ensures that the incentives for continued creativity are maintained.
- A key role of the U.S. Copyright Office is assisting Congress in balancing the rights of creators with the need to have knowledge accessible in a democratic society. The Office provides nonpartisan, objective analysis that aids Congress in developing and considering legislation to help foster American creativity.
- Among its various responsibilities, the U.S. Copyright Office provides information and assistance to federal agencies and the judiciary on national and international copyright issues.

Recognize achievement · The U.S. Copyright Office provides the means for citizens to register and protect their intellectual achievements, thereby ensuring that the entire breadth of American creativity can be recognized.

- Through the registration of claims and the recordation of documents, the U.S. Copyright Office generates and sustains an ongoing public record of American creativity and achievement.
- The U.S. Copyright Office brings thousands of items not obtainable through conventional sources to the Library. Many valuable unpublished works, which would otherwise be unknown, are obtained through copyright registration.

The Functions and Services of the U.S. Copyright Office

The Congress has ensured that the record of American intellectual creativity is preserved through placement of the Copyright Office in the Library of Congress, enabling the Library to select deposited works for its collections, benefitting the Congress and the American people.

The Copyright Office became a separate department of the Library of Congress in 1897. Since then, the Congress has charged the Copyright Office with progressively increasing responsibilities in administering the provisions of the copyright and related laws in title 17 of the *United States Code*. Thorvald Solberg was appointed the first Register of Copyrights. Eleven individuals have served in this capacity.

Administration of the U.S. Copyright Law

Congress has given the Copyright Office the authority and responsibility for administering the nation's copyright and related laws. This responsibility includes the following:

Registration of claims to copyright · Copyright claimants submit works to the Office for registration. The Office examines the works to determine the presence of copyrightable authorship and to ensure that other legal and formal requirements have been met. When a work is registered, the Office issues a certificate of registration and creates a public record of the registration.

The law provides incentives to registration that make available to the owner certain benefits in U.S. courts. Authors of U.S. works must register before they can bring an infringement case in court. Authors of foreign works may go directly to the courts. Timely registration secures certain remedies in a legal action for copyright infringement, such as statutory damages and attorneys' fees; and registration ensures that there is a public record of ownership. In addition, the registration certificate is prima facie evidence that the factual claims made in the registration certificate are true and that the copyright is valid.

The Library of Congress may select copies of works submitted for registration for its collections or exchange program. Since 1870, copyright deposits have formed the core of the Library's "Americana" collections, and they continue to serve as the primary record of American creativity.

The Office's registration records help the public to find the owners of the rights in individual works and determine the term of protection.

Recordation · Documents relating to a copyright, including assignments and security interests, are submitted to the Copyright Office to create a public record of such actions. The Office verifies that the document is recordable, images the document, issues a certificate of recordation that is returned with the original document, and creates a public record. These records assist the public in tracking changes in ownership of copyrighted works and create a priority between conflicting transfers.

Licensing · The Office handles administrative provisions of the statutory licenses and obligations of the copyright law, among which are those involving secondary transmissions

by cable television systems and satellite carriers. For certain licenses, the Office collects specified royalty fees for distribution to copyright owners and examines the accompanying statements of account. The Office also accepts and reviews documents submitted pursuant to certain statutory licenses to determine that they meet the filing requirements.

Acquisitions · The copyright law includes a mandatory deposit provision that requires publishers to send copyrighted works published in the United States to the Copyright Office within three months of publication for possible inclusion in the Library's collections. While publishers send many works through copyright registration, this provision ensures that the Library can acquire for its collections those works that publishers do not submit for registration. The Office requests works under the mandatory deposit provision in response to requests from the Library's recommending officers, selection officers, and acquisitions librarians.

Regulatory activity · To administer the copyright law, the Congress has granted authority to the Copyright Office to issue such regulations as may be necessary for the effective discharge of its responsibilities included in the law.

Policy and Legal Assistance

The Copyright Office is the primary source in the U.S. government for legal and technical expertise on copyright matters. It assists the Congress, executive branch agencies, and the judiciary on copyright and related issues. Congress affirmed these functions in section 701 of the copyright law, as amended in 1998: to advise Congress on national and international issues relating to copyright and related matters; to provide information and assistance to federal departments and agencies and the judiciary on national and international issues relating to copyright and related matters; to participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright and related matters, including as a member of United States delegations as authorized by the appropriate executive branch authority; to conduct studies and programs regarding copyright and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations; and to perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in title 17.

Congress · As part of the legislative branch, the Office works closely with the Congress in providing objective, nonpartisan analysis and recommendations on national and international copyright issues. As Congress considers the complex copyright issues involved in the growth of digital technology and computer networks, it has tasked the Copyright Office with various responsibilities to address these issues.

Executive branch agencies · The Office regularly works side by side with executive branch agencies on copyright issues, particularly international matters. The Office participates

as a member of U.S. delegations in meetings of international organizations, multilateral negotiations, and bilateral consultations and negotiations.

Judiciary · Although the Office does not enforce the provisions of title 17, it may be involved in litigation in several ways. It can choose to intervene in a copyright infringement suit under section 411(a) in a case where registration has been refused. It may be sued under the Administrative Procedure Act. Or it may be asked to participate in litigation by (a) assisting the Department of Justice in preparing an amicus curiae brief in support of a particular position or in defending a particular action, or (b) by bringing a suit under section 407 to compel the deposit of a work.

Public Information and Education

The Congress has given the Copyright Office the role of an office of public record. The Office creates records of registrations, recordations, and other copyright-related actions, and provides public access to them. The Office responds to public requests for information and provides reports and copies from these records.

With new digital and communications technologies, more people have the opportunity to use, copy, and distribute copyrighted works, and thus engage in activities that implicate copyright law. Consequently, there is a growing need for clear, accurate information about copyright law and Office practices. The Office engages in various outreach programs to inform the public on copyright issues.

Organization of the Copyright Office

The Copyright Office is one of the major service units of the Library of Congress. With public offices located at 101 Independence Avenue SE, Washington, DC, the Office occupies portions of the James Madison Memorial Building and employs more than 500 people. The Copyright Office is composed of the Office of the Register of Copyrights, Office of the General Counsel, Office of the Associate Register for Policy and International Affairs, Registration and Recordation Program, Administrative Services Office, Copyright Acquisitions Division, Copyright Technology Office, Information and Records Division, Licensing Division, and Receipt Analysis and Control Division.

The Office receives approximately 550,000 claims to copyright, mask works, and vessel hull designs each year. As of fiscal year 2007, the Copyright Office had made 33 million registrations. The Office records about 13,000 documents relating to copyright every year, representing hundreds of thousands of titles. The Copyright Office annually acquires more than a million copies of works for the collections of the Library of Congress. Of these copyrighted works transferred to the Library of Congress, more than half are received through the mandatory deposit provisions of the copyright law. Divisions of the Copyright Office respond to more than 300,000 nonfee public information inquiries each year. The Office also collects hundreds of millions of dollars annually in cable television, satellite carrier, and Audio Home Recording Act statutory royalties for later distribution to copyright owners, authors, and performers.

The long-term outcome of the Copyright Office’s work and the strategic directions taken in the period of this plan will support the constitutional goal of encouraging American creativity, thereby fostering the educational opportunity, cultural heritage, and economic prosperity such creativity engenders.

Plan Overview

The Copyright Office’s values, mission, vision, and strategy derive directly from the provisions of the copyright law and the historical role the law articulates for the Office.

VISION

The U.S. Copyright Office — champion of a balanced copyright system, primary copyright advisor to Congress, trusted source of information on copyright for federal agencies and courts, and provider of copyright services in an electronic age.

MISSION

To promote creativity by administering and sustaining an effective national copyright system.

CORE VALUES

Service	Analyze our customers’ needs and make every effort to meet them. Continually strive for process improvement.
Knowledge	Excel in gaining, maintaining, and imparting expertise on the copyright law and its administration.
Integrity	Adhere to the highest ethical standards in a unified and consistent manner.
Respect	Treat customers and staff with respect, fairness, and tolerance on a professional and personal level.

SUMMARY OF THE STRATEGIC GOALS

Service to Government	Provide and enhance timely quality service to the Congress, the executive branch, and the courts to address issues involving copyright policy and law.
Public Services	Promote appropriate protection and use of copyrighted works by providing timely easy-to-use public services.
Acquisition of Copyrighted Works	Support Library of Congress service to Congress and the American people by providing timely acquisition of copyrighted works required by the Library.
Information and Education	Improve public understanding of copyright and related laws, principles, and services.

SUMMARY OF THE HUMAN CAPITAL MANAGEMENT GOALS

Strategic Alignment	Incorporate human capital as a part of the Office's mission, goals, and strategies as articulated in the Strategic Plan, Annual Performance Plan, and budget.
Organizational Alignment and Workforce Planning	Design and implement an effective organizational structure and workforce to carry out our mission and goals.
Talent	Recruit, hire, develop, and retain employees with the necessary skills for mission accomplishment.
Diversity	Foster an environment that is attractive to a diversity of individuals.
Results-Oriented Performance Culture	Develop a performance management system that distinguishes between high and low performers, links individual/team/unit performance to organizational goals, and motivates and rewards high performance.
Leadership and Knowledge Management	Ensure an integrated strategic training and development program that builds needed leadership competencies.