

Intellectual property law

- The rules for securing and enforcing legal rights to inventions, designs, and artistic works.
- Goal: to give incentives to creators and inventors and to foster a climate of creation and invention by allowing free flow of ideas and information.

Categories of IP protections

- Patents
- Trademarks
- Copyright

Patents

- Inventions
- Strongest protection: 20 years of exclusive rights.
- In exchange of protection, the patent is published so that the ideas in the invention go into the public domain and can be used to create other innovations.

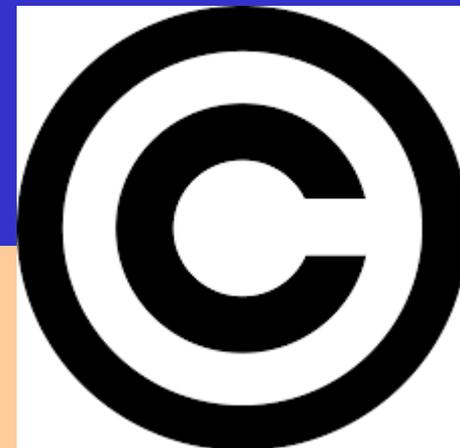


Trademarks

- Protection of the goodwill that merchants invest in their products.
- Trademarks, logos, symbols, names, slogans.
- Exclusive rights in the markings that identify goods.
- No two trademarks can be so similar that members of the public can be confused.
- Standard to determine infringement is consumer confusion.



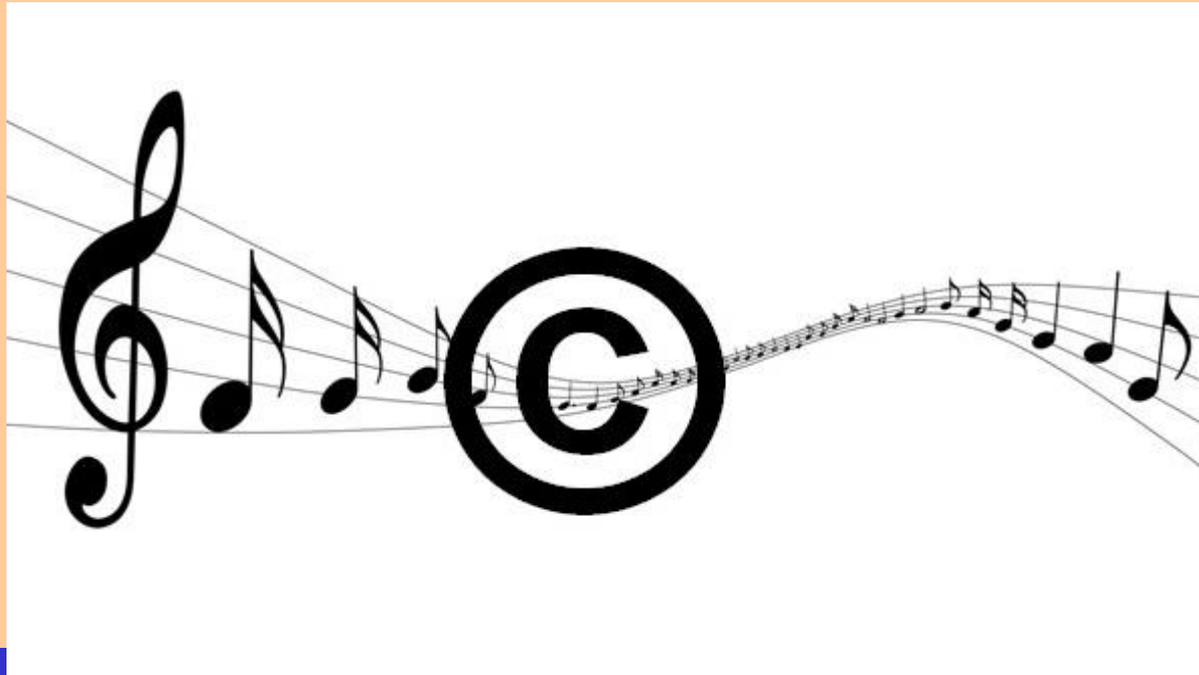
Copyright



- Original
 - Some spark of creativity or individuality.
- Literary, dramatic, musical and artistic works or compilations.
 - Literary: anything that is written, such speeches, essays and books and may be in any form.
 - Dramatic: the characters, scenes, choreography, cinematography, relationship between characters, dialogue and dramatic expression.
 - Artistic: sculptures, paintings, photographs, charts, and engravings.
 - Musical: any musical compositions with or without words.

Criteria for Copyright Protection

- **Originality**
- **Fixation:** The original work must be expressed in some material form, capable of identification, and having a more or less permanent endurance.
- **Nationality:** Canadian citizen, permanent resident or from a foreign country that is a member of an agreement to which Canada is also a member.



Criteria for Copyright Protection

- No protection for an idea or for some fact.
 - Stock literary figures (butler, dumb cheerleader)
 - Standard plotlines (boy loves girl, butler kills homeowner).
 - Stock literary devices (using a calendar to mean passage of time).
 - Ideas, principles, concepts, procedures, and processes not copyrightable.
- Only the expression of an idea is protected.

Criteria for Copyright Protection

- **Beginning of protection**
- Automatic: copyright is granted the moment the work is created.
 - Voluntary registration of copyrights. Helpful for lawsuits.
- **Duration of a Copyright**
- 50 years following the end of the calendar year in which the creator dies. Then public domain.
 - US: Life + 70 years
 - Saudi: Life + 50 years

Rights conferred

- Copyright
 - Publish, reproduce, perform, show in public.
 - Subsidiary rights: abridgment and translation.
- Moral Rights:
 - The author retains their moral rights, unless waived.
- Neighbouring Rights
 - The performance, transmission and reproduction for people who are not technically authors: performing artists, producers of phonogrammes, and those involved in radio and television broadcasting.

Fair dealing

- Private use
 - A back-up is permitted, provided you keep both copies and there is no circumvention of digital lock.
- Research
- Study
- Review or criticism
- News gathering

Copyright infringement

- Copyright infringement occurs when someone does something that falls within the exclusive rights of the copyright holder, e.g., copying a substantial part or all of a copyrighted work without permission.
 - Substantial part: flexible notion”, which is “a matter of fact and degree.
 - A holistic approach.



Substantial similarity

- The defendant had access.
- The defendant produced something “substantially similar,” to the copyrighted work.
 - Substantial similarity “exists where an average lay observer would recognize the alleged copy as having been appropriated from the copyrighted work.”
 - It does not mean identical, somewhere between no similarity and identicalness.
 - These may rely on one or both of expert or lay observation and may subjectively judge the feel of a work or critically analyze its elements.

Right of privacy

- It gives an individual the exclusive right to profit commercially from the use of their name, image, photograph, likeness, or persona.
- It also protects an individual from the publication or dissemination of private facts, facts that are embarrassing, intimate, or those facts that portray them in a false light that is highly offensive.