

A Guide to UK Copyright Law

What is Protected?

Copyright law in the United Kingdom is governed by the Copyright, Designs and Patents Act 1988 (CDPA). UK copyright law protects original literary, dramatic, musical, and artistic works, as well as sound recordings, films, and broadcasts. It gives creators of these works the exclusive right to control the use of their works for a certain period of time, such as the right to reproduce, distribute, and display their work, as well as the right to create derivative works.

A “literary work,” in the meaning of the CDPA, includes not just conventional works such as books and written articles, but also a table or compilation, a computer program, preparatory design material for a computer program, and a database.

Artistic works include all kinds of graphical works, including photographs. Given the very long life of copyright as discussed below, it should be assumed that any photograph on the internet has copyright, and requires permission unless there is a specific licence attached to it.

Importantly, copyright subsists in works that are put in tangible form, meaning that ideas held in the mind and that have not been recorded do not benefit from copyright protection under UK law.

While copyright has not traditionally included manufactured articles (which can be protected under the design registration system or via unregistered design rights), at the time the UK left the EU the position in Europe was that many such designs were regarded as having copyright. Therefore there is some uncertainty over how the courts in the UK will treat such designs in the future i.e. whether they will take a similar approach to the courts in Europe or revert to a more traditional approach where industrial designs are not protected by copyright.

Duration of Copyright

Copyright is automatic and applies as soon as a work is created, meaning that creators do not have to register their work or put a copyright notice on it in order to be protected under UK copyright law. (However, in other jurisdictions such as the USA, registering the work with a copyright office can make it easier to enforce the copyright). In this regard, copyright differs from patents, trademarks, and registered designs, in that copyright is an unregistered intellectual property right.

The duration of copyright protection for literary, dramatic, and artistic works is generally the life of the author plus 70 years from the end of the calendar year in which the author dies.

In the case of sound recordings and broadcasts however, copyright protection expires at the end of the period of 50 years from the end of the calendar year in which the recording is made.

Exceptions to Copyright Protection

There are some exceptions to copyright protection, such as for the purpose of criticism, review, news reporting, and teaching. Use of copyrighted works without permission, but for these purposes, is known as “fair dealing.” It is important you consult an attorney with knowledge of copyright law if you are uncertain whether your use of a copyrighted work constitutes “fair dealing,” to avoid

infringement. Fair dealing is much more limited than “fair use” which you may read about in the context of US copyright law.

Ownership

The initial owner of a work is the author or creator of the work. However, there are certain exceptions to this rule, such as works created by employees during the course of their employment, in which case the employer is considered the owner of the copyright. Additionally, if a work is commissioned, the commissioner may be considered the owner of the copyright unless there is an agreement in place stating otherwise.

Copyright ownership can also be transferred or assigned through written agreements.

Infringement of Copyright

The act of infringement of copyright occurs when a person, without permission from the copyright holder, does any of the following:

- i. Copies the work;
- ii. Issues copies of the work to the public;
- iii. Rents or lends the work to the public;
- iv. Performs, shows, or plays the work in public;
- v. Communicates the work to the public;
- vi. Makes an adaptation of the work, or does any of i-v in relation to an adaptation.

In the UK, copyright enforcement is primarily the responsibility of the copyright holder, who can take legal action against an infringer. Criminal copyright infringement can result in imprisonment, fines, and/or an injunction on the infringing works.

It is important to note that intention to copy is not a requirement for copyright infringement in the UK. Copyright infringement occurs when a person uses a copyrighted work without permission or a valid license. This means that even if a person did not intend to copy a copyrighted work but still used it without permission, they may still be liable for copyright infringement.

If you have any questions relating to copyrighted works or UK copyright law, please do get in touch with FRKelly.