



Protecting Your Copyright

In this information sheet, we discuss how people can protect the copyright material they create.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, archives and libraries.

We have a range of information sheets on a number of topics and publish books that analyse specific areas of the law. We can provide this information sheet in an accessible format on request. Check our website for information about our publications [here](#) and details of our seminar program [here](#).

Key points

- Certain material is automatically protected by copyright under Australian law. There is no registration of copyright in Australia, no fees to pay and no formal procedures to go through.
- Copyright gives its owner the legal right to take action if someone else uses their material without permission. Sometimes, criminal proceedings may also be brought.
- There are many myths about how you can prove copyright ownership, which are unhelpful. Although there are some things you can do that might help you to have relevant evidence for court.
- In some circumstances, copyright owners can rely on presumptions that they own copyright, rather than having to prove ownership.
- In addition to copyright, both technological protection measures and contractual terms can be used to limit other people's ability to have access to or use copyright material.

How do you get copyright protection?

Material is automatically protected by copyright in Australia under the *Copyright Act 1968* if:

- it is in one of the categories of things that are protected by copyright;
- except for broadcasts, it is in material form (e.g. on paper, as a digital file, a film or an audio recording); and
- there is a sufficient connection with Australia (as a result of international treaties, this applies to material from almost all countries).

For information on the categories of material protected by copyright, and the rights of the copyright owner see our information sheet [An Introduction to Copyright in Australia](#).

Creators and owners of copyright should regard their copyright as valuable property and deal with it in a business-like way. It is a good idea to keep dated copies of material such as manuscripts, negatives, footage and recordings, as well as copies of all letters or other communications with people who have access to the work.

It is best practice that any agreements about copyright be in writing, not just verbal. It is also a good idea to get legal advice before signing any document dealing with copyright or before finalising any other arrangement relating to copyright.

No registration of copyright

There is **no registration system** for copyright in Australia or in most other countries. You do not register copyright or go through any formal process before your material is protected by copyright under Australian law.

In some countries (such as the United States) it is possible to register copyright. However, even in those countries registration is not required for copyright to subsist; rather the registration gives your copyright additional benefits relating to procedures and damages you can claim if court action is taken over infringement of copyright in that country.

For information on registering copyright in the United States see copyright.gov.

How do I prove I am the copyright owner if there is no registration?

It is rare to be in a position where you need to prove that you are the creator of something.

If there is a dispute about who created certain materials, it may need to be resolved by a court. A court would look at all the relevant evidence. The most important evidence would usually be oral evidence from the creator and from people who were present when the material was being created. Other evidence may include drafts of the work.

If you are concerned that you might at some stage need to prove you own copyright in something you have created, any of the following procedures might help you ensure that you have some relevant evidence:

- keep dated drafts, plans, and outlines of the work;
- keep dated records of research done in creating the work;
- keep recordings of different stages of development (e.g. with songs, music or choreography);
- discuss the work with others, and/or show drafts or finished versions to others; and
- keep written records of any agreements you make concerning creation of material or ownership of copyright in material.

Someone who takes legal action falsely claiming to own copyright runs the risk of serious legal consequences if they are found to have misled the court.

Presumptions

Having the copyright notice on material will create a legal presumption that you own copyright in that material. There is no set formula or wording for the copyright notice, it can be “© Australian Copyright Council 2019” or “Copyright Australian Copyright Council 2019” or “Australian Copyright Council © 2019” or “This work is copyright to Australian Copyright Council (2019)”, so long as the information is conveyed. If you wish to use the “©” copyright symbol, it can be automatically generated in most word processing software (e.g. Microsoft Word) by typing “(c)” or by selecting the “©” in the “Insert Symbol” menu.

A similar legal presumption may be raised if you can produce evidence of overseas copyright registration. However, if your claim is disputed, you will still have to provide other evidence such as the things listed in the previous paragraphs.

There are also presumptions about the authorship of a work. These may apply in relation to names of individuals appearing on published works and names of individuals appearing on artistic works when they are made. There are special presumption provisions relating to photographs.

Things that do not make you a copyright owner

There are many myths about how you can prove you own copyright. Some of the common ones are set out below.

- **Sending a copy of the work to yourself by registered mail**

This is a widely-held belief among musicians. Sending copies to yourself, whether by ordinary or registered post, has **no legal effect**. At most, doing this may prove that the material existed at a particular date: it does not create copyright and it does not make you the copyright owner.

- **Putting the copyright notice on material**

The copyright notice is a written statement in a form such as “© Australian Copyright Council 2019”. As discussed above, there is benefit in using the notice as it will often raise the presumption that the person or company named in the notice is the copyright owner, unless proven otherwise. It is also beneficial in reminding people that copyright applies to the material, and who owns it. However, putting the copyright notice on material is **not a requirement** to get copyright in the first place.

- **Registering music with APRA**

Many composers and songwriters are members of APRA AMCOS and are required to register their compositions with APRA AMCOS. Such registration does not create copyright or change the copyright status of the material. Rather, registration of the material allows APRA AMCOS to collect licence fees for the public performance of the material and to identify who is entitled to receive the payments. Normally, the copyright owner(s) will receive the fees, but this is not always the case. For example, it is common for bands to come to an arrangement about sharing APRA AMCOS payments, even if not all members were involved in creating all the songs.

- **“Registering” copyright with private organisations**

A number of organisations, often operating on the internet, purport to register copyright in return for a fee. “Registering” your work in this way does not give you any greater copyright protection than you get from simply writing down or otherwise recording your work. The legal status, and copyright protection of the material will not be affected.

Before handing over any money (or any work that you want to protect) to a “register”, you should check what benefits you will be given. In many cases, the most you could get from such “registration” is possible evidence that the material was in existence at that date (assuming that the organisation is still traceable at the time you want to prove the fact). Whether or not it is worth paying hard-earned cash for this is up to you!

How does copyright protect my work?

Copyright is a bundle of legal rights that give the copyright owner a right to take action if somebody else uses their copyright material (without permission) in one of the ways reserved to the copyright owner, unless an exception to infringement applies.

Although your work is protected by copyright, it may in practice be possible for people to use it without your permission. Unless the person is entitled to use copyright material under one of the exceptions to infringement, you have the right to take legal action against them.

What happens if my copyright is infringed?

Generally, if you are a copyright owner and someone infringes your copyright, it is up to you to take action to stop the infringements and/or claim compensation or other legal remedies. This is a civil legal action.

If you are a member of a copyright collecting society or professional organisation (such as a publishers' or authors' society) in some cases you may be able to get assistance from that organisation, especially if the issue is of substantial concern to members of the organisation generally.

If you have assigned or exclusively licensed any of the copyright (e.g. by entering a publishing agreement) the assignee or exclusive licensee may take legal action, sometimes with you.

In some cases, criminal proceedings may be brought. Criminal proceedings are most likely to be relevant where commercial-scale piracy has taken place.

See further our information sheets [Infringement: What Can I Do?](#) and [Infringement: Actions, Remedies, Offences and Penalties](#).

How can I prevent people from infringing my copyright?

If you want your material out in public, there is no foolproof way of preventing people from infringing your copyright. However, there are some things you can do to limit the ability of other people to use your material without your permission.

Technological protection measures (TPMs)

If you are making your material available in digital form, there are a number of technical things you can do to limit the ways in which it is possible for people to use it. Broadly, there are two main types of TPM: those that restrict access to the material and those that limit or prevent copying of the material. Techniques include: access codes; password-only access; view-only documents; and low-resolution images.

The *Copyright Act* contains provisions that give copyright owners the right to take legal action against people who make, supply, distribute or import devices to circumvent TPMs. In some cases, distribution of devices or services to circumvent TPMs is a criminal offence. In particular, there are sanctions against:

- circumventing an access-control TPM;
- manufacturing or supplying a device to circumvent an access-control TPM; and
- providing a service to circumvent an access-control TPM.

Electronic Rights Management Information (ERMI)

ERMI is information that has been embedded or attached to copyright-protected material and can include details about the material, the copyright owner and related data. For example, details

embedded in the metadata of an audio file or the watermarking and other data embedded into an image or video file.

A copyright owner can take action against someone that alters or removes such data with the aim of enabling, concealing or facilitating infringement of that material.

Contract terms

Whether or not your material is being made available in digital form, you may be able to set contractual (legally binding) conditions on people getting access to it. This is most likely to be feasible if:

- people can only get access to the material by contacting you, or distributors licensed by you;
- the material is made available on a website; or
- the material is made available in digital form.

If you are commissioned to create copyright material, the rights of the person who commissioned the material to use it are governed by the contract, which is often called an agreement. The terms and conditions of the commissioning agreement should set out the uses the other person can make of the material.

Relying on a contract differs from protection under copyright law in a number of important ways, including the following:

- you can only impose obligations on the person you contract with (who has agreed to be bound by those conditions);
- the contract terms can limit or extend what the person can do under the *Copyright Act*; and
- you can use a contract to protect things that are not protected by copyright (such as information).

For assistance with drafting contracts, you should consult a lawyer in private practice. The Law Society or Law Institute in your State or Territory will be able to refer you to lawyers with relevant expertise.

Useful Organisations

Copyright collecting societies

Some creators and other copyright owners are able to join copyright collecting societies, which collect licence fees paid by other people for use of the material and distribute the fees to the copyright owners. For information on the collecting societies, and their contact details, see our information sheet [Copyright Collecting Societies](#).

Professional bodies and unions

If you are professionally involved in creative work, you may find it beneficial to join a relevant professional organisation or union. Often these organisations can help members with information on a range of issues, including, in some cases, business practices that will help you protect your copyright. However, these organisations cannot necessarily advise on individual copyright problems. Some of the better-known organisations of this kind are:

- Media Entertainment Arts Alliance (MEAA)—<https://www.meaa.org> (journalists, media photographers);
- Australian Society of Authors (ASA)—asaauthors.org (writers, illustrators and book designers);

- Australian Writers' Guild (AWG)— awg.com.au (writers for film, television, radio, theatre, video and new media);
- National Association for the Visual Arts (NAVA)— visualarts.net.au (visual artists and craftspeople);
- Australian Publishers Association (APA)— publishers.asn.au (publishers of books, journals, educational materials and electronic works); and
- Australian Institute of Professional Photographers (AIPP)— aipp.com.au (professional photographers).

A full list of the Australian Copyright Council's affiliates is available on its website [here](#).

Further information and advice

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see the Legal Advice section of our website copyright.org.au.

Reproducing this information sheet

Our information sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

About us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

We are advocates for the contribution of creators to Australia's culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice education and forums on Australian copyright law for content creators and consumers.

Australian Copyright Council respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to the elders and to all First Nations elders: past, present and emerging. This always was and always will be Aboriginal land.



Australian Government



The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.

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