

Copyright Law

– A Conversation

Copyright Law

Copyright law regulates how, by whom, and under what conditions a creative work can be used for what purpose.

First created in the 18th century in Great Britain, it exists today with some variation all around the world. It is, however, not an 'international' law but enacted and enforced through national laws.

Since the 19th century, efforts have been made to standardize copyright law globally and today we have pretty similar copyright law in the vast majority of countries.

In the Berne Convention (an international copyright treaty dating back to 1886) it is stipulated that copyright is granted automatically but that copyright protection is limited to the lifetime of a creator plus 50 years.

What is the purpose of copyright?

For one thing, the purpose of copyright is to give creators an incentive to create new works – instead of only reproducing others' work.

That sounds like a rather Utilitarian rationale. Are there any alternatives?

Yes, what is today most often considered to be the main purpose of copyright is the protection of authors' rights.

Do you mean to ensure that the creator of a work is attributed and no one can edit it or change it around without permission?

Yes, exactly! Some countries even grant moral rights in order to protect the relation between a creator and their work.

Oh, that's very interesting! You know, I had this idea and I told it to a friend and then someone else overheard us and then made it into an art installation. But I have the copyright!

I'm sorry this happened to you! However, ideas are not protected by copyright. You see, it is only the "expression" that is protected by copyright.

I understand. Is there anything else I should know that is usually not protected by copyright?

Yes, there are quite a few things! An important one is "Facts" - they cannot be protected. If you find out that it wasn't Leonardo da Vinci who painted the Mona Lisa and share this knowledge, then everyone can use this information however they like. They don't have to credit you – and you cannot forbid

Ok, but 'facts' are not 'expressions'. Is really every expression protected by

Objects of Copyright Law

Copyright almost always applies to original works, which means they have to be unique (and not a copy of someone else's work) and they have to be "fixed in a tangible medium" – which is a fancy way of saying that they have to be written down, or recorded, or painted on something, or saved on a computer, etc.).

Almost all countries in the world recognize literature and artistic work as copyrightable, but also translations and adaptations, as well as collections of literature and artwork. Some countries also recognize software, industrial design and models, and applied art to be copyrightable.

...copyright?

anyone from using it.

No, you are right. Law texts, for example, are not protected. And in some countries, the work that is created by government employees is also not copyrightable. It is automatically part of the public domain.

"Public Domain" - what is that?

The Public Domain – that is all the creative works mankind has ever created and that have fallen out of copyright – or that were never protected by copyright to begin with. Even though we often still attribute the most renown works to their creators, everyone anywhere in the world can do with these works whatever they want!

That sounds both really cool and a bit sketchy: How can something fall 'out of copyright'? Do I have to do anything to get my works copyrighted? Do I have to pay a fee?

Don't worry! In almost all countries in the world copyright is granted automatically, so you don't have to do anything to get it. But keep in mind what we have been talking about before, that you have to 'fix it in a tangible medium' :)

Phew!
But you still haven't told me how copyright ends...

Right. You see, copyright is 'attached' to a creator, that means, it will eventually expire. Since quite some time ago, it has been such that copyright of a work expires 50 years after the death of its creator. But there are many countries where the copyright term is actually life + 70 years. In Mexico, it is even life + 100 years!

So, the creator must be long dead before a work will enter the public domain. That's quite a long period in which no one can do anything with it. What if it is so important that everyone should have seen it or read it? What about the people who cannot afford buying it?

You are right, it is a long time. And even though the copyright is there to protect the intellectual property of creators and to stimulate the creation of new works, there are also quite a few important exceptions and limitations to copyright.

Other Types of Intellectual Property

Not all forms of human creative expression fall under the copyright. There are other – related – laws that protect different types of intellectual property, like the Trademark Law and the Patent Law. Trademark law helps avoid confusion around brands, company names, and symbols, as well as designs. Patent law grants exclusive rights to make and sell inventions for a defined period of time.

Exceptions and Limitations to Copyright

Some uses of a copyrighted work do not require the permission of its creator or the rights holder. This means that if one is using a work still under copyright, the copyright is not infringed. The law tries to find a balance between the rights of the creator to protect their work and exploit it – and the public and its interest in having access to and making use of the work.

Exceptions to copyright are different from country to country. Some countries list specific activities that are allowed, while others have guidelines about what is allowed that eventually need to be determined in a court of law.

Most countries also have compulsory licensing schemes that are installed to make certain uses of works easier without risking copyright infringement. This is often done by paying a fee.

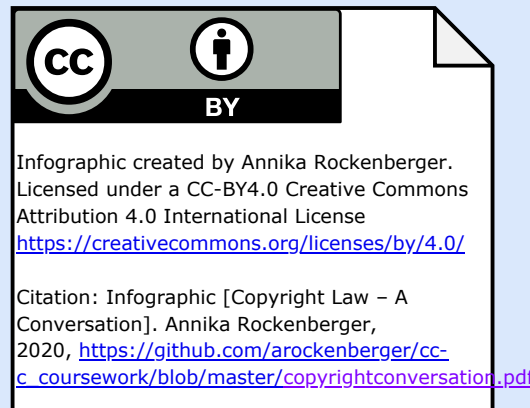
Copyright in Norway

Norwegian copyright differs in certain regards from the minimum standards set by the Berne Convention and from copyright in the English-speaking parts of the world and the former Commonwealth

You mean... like citations? I have done that in the article that I wrote for the community magazine!

I live in Norway. Do you happen to know if Norway also has something like fair use?

Thank you! Do you know where I can find out more about this?



Yes, citations are always allowed. Copyright doesn't extend to that. There is much more though! You probably have heard about 'Fair Use'. Fair Use is a legal principal in the United States that allows certain uses of copyrighted material without asking for permission. Most countries in the world have a version of it, but there can be quite a few differences.

In Norway, copyright is called "opphavsrett" and it is part of something called "Åndsverksloven", the law about intellectual works. It gives creators a lot of protection of their works, but it also is quite clear about what fair use one can make. For example, you can always cite a work and you are always allowed to make a private copy of it for your own use. You are also always allowed to adapt a work to make it accessible for people with disabilities.

I recommend that you read up about copyright law on Wikipedia, the information there is trustworthy and up to date and actually much easier to read than legal texts... For the Norwegian laws, there is a website called lovdata.no where you can search for åndsverksloven. It even has a few examples to help you understand!

The copyright term is the life of the creator plus 70 years. Copyright or "opphavsrett" is part of a set of intellectual work laws, called "åndsverksloven", which has been significantly revised in 2018. Among other things, it also regulates software, code, and data.

The law in its latest version can be accessed online via the link:

<https://lovdata.no/dokument/NL/lov/2018-06-15-40>

Even though Norwegian copyright can be seen as rather restrictive and its term is rather long, there are quite a few exceptions and limitations to it. Apart from the freedom to cite from a work, it is also permitted to parody a work and to critique it. An important exception is the reproduction of works under copyright for private use, as it is explicated in Article 26. Another important exception is the reproduction or broadcasting of art in the public sphere: it is allowed without permission to photograph art pieces found in public places and to spread them via Social Media or use them in articles in the Wikipedia.

Another example is the rule for legal deposit, or "pliktavlevering", where a copy of all publicly available works has to be delivered to the National Library of Norway where it enters the public record. With the digitization program of the National Library, all these records are made digitally available, too. Within the borders of Norway, every person has access to all records in digital form up to the year 2000. All newer content can be accessed in the National Library or in public libraries.