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| **Copyright Introduction Module**  Under the Copyright Act of 1976, copyright protection is afforded to the creator of an original work of authorship as soon as it is fixed in a tangible medium. In other words, copyright protects an expression, rather than an idea, when it is expressed in a “fixed” medium.  What will these modules cover?   * History of Copyright * Why do we have Copyright? * Fundamental Terms when discussing Copyright * Elements of Copyrightable Subject Matter * Eligible Subject Matter of Copyright * Limitations of Copyright * Scope of Copyright Protection * Ownership of Copyright * Length of Copyright * Formalities to obtain a Copyright * Transfers of Copyright * Licensing Copyright |

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| **History of Copyright**  According to Article I, Section 8, Clause 8 of the U.S. Constitution:  “The Congress shall have power . . . 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.” -U.S. Constitution Article I, Section 8, Clause 8  This is what is known as the “Intellectual Property Clause.”  The Intellectual Property Clause of the United States Constitution authorizes Congress to enact copyright legislation. Acting on that power, the very first Congress began federal copyright protection in 1790.  The Copyright Act of 1790 (the “1790 Act”) is described as “An Act for the Encouragement of Learning, by Securing the Copies of Maps, Charts, and Books to the Authors and Proprietors of Such Copies.”  The 1790 Act was modeled on the Statute of Anne, known as the Copyright Act and which the Parliament of Great Britain passed in 1710. The Statute of Anne was the first statute to provide for copyright regulated by the government and courts, rather than by a guild of printers who were given the exclusive power to print and censor literary works. |

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| **Why do we have Copyright Module**  Public Goods, Free Riders, and Incentives  Under economic theory, a “public good” is a good that is both non-excludable and non-rivalrous. A “non-rivalrous” good is one that individuals cannot be excluded from using and whose use by one individual does not reduce availability to others. In other words, public goods are non-rivalrous and non-excludable, whereas private goods are rivalrous and excludable.  An example of a private good would be an apple.   * One individual might take the apple and eat it. * There’s no more apple therefore for others to have. * This is an example of a *rivalrous* good because once one individual has consumed it, it is no more.   An example of a public good would be music on the internet.   * A song heard on Youtube is a *non-rivalrous* good because no matter how many people listen to it, it will always be available for others to consume.   As a non-rival good, consuming or sharing Intellectual Property does not “use it up.” Without Intellectual Property law, authors or inventors would not have the power to exclude others from consuming their work.  Public goods often create the “free rider” problem, which is when people not paying for the good continue to have access to it. As people freely access a good, the good may be under-produced, overused or degraded.  Authors may become disincentivised from producing new or better goods, if there is no way for them to be able to profit or invest in their trade. Another way to consider this issue is that an author may not be able to make a living from, say, coding, if they cannot exclude others from copying their work. As soon as their code is out there on the internet, it can be consumed endlessly and freely.  How do we solve the free rider problem?  The legal entitlement of copyright is a virtual fence which allows authors to exclude others from taking or using their good without the author’s permission. |

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| **Fundamental Terms to Talking about Copyright**   1. “Copyright”    1. A “copyright” is a “bundle of rights” that the creator of a work is entitled to control if the work qualifies as “an original work of authorship fixed in a tangible medium of expression.” (The elements of copyright protection will be explained in later modules). 2. “Patent”    1. A “patent” is a type of [Intellectual Property](http://www.csusa.org/?page=Definitions#intellectualproperty) that relates to the protection of inventions. 3. Copyright “Owner” and “Holder”    1. Copyrights can be sold independently of the work itself, which means the different exclusive rights can also be sold separately.    2. Copyright *ownership* is thus separate from the ownership of the work itself.    3. A “copyright owner” or “copyright holder” is a person or a company who owns any one of the Exclusive Rights of copyright in a work. 4. “Fixation”    1. A work is not entitled to copyright protection until it is “fixed in a tangible medium.” There are many ways to “fix” a work depending on what it is.    2. An example is a song. When the song is made up in someone’s head, and maybe that person even sings the song out loud, it has not received copyright protection. When that person writes the song down or even records themselves singing it, the song is then entitled to copyright protection because it is sufficiently “fixed.” 5. “Idea”    1. Section 102 (b) of the United States Copyright Act states:   *In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which is described, explained, illustrated or embodied in such a work. Ideas, methods, concepts, systems and devices are not entitled to copyright protection.*   * 1. This means that no one can monopolize (i.e. own) an idea or subject matter under a claim of copyright because copyright law protects only the Expression of an idea, but not the idea itself.   2. Students often get tripped up on this, so make sure you understand!  1. “Expression”    1. An expression is basically a fixation of an idea. As ideas themselves are not protectable under copyright, the only way they can be protected it by *expressing* the idea.    2. An example is the idea of the city of Gotham from the Batman series. When the creators were talking about the idea of the crime-filled city, this was just an idea which none of them had recorded in any way. From the first time a picture or description of Gotham was recorded, that expression of the city was copyright protected. 2. “Copy” 3. “Public Domain” 4. “Intellectual Property” 5. “Infringement” 6. “License” |

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| **Copyright Scope Module**  What does copyright law cover?   1. Literary works 2. Musical works 3. Dramatic works 4. Pantomimes and choreographic works 5. Pictorial, graphic and sculptural works 6. Motion pictures, video games and other audiovisual works 7. Sound recordings 8. Architectural works   What does copyright law NOT cover?   1. Words and short phrases 2. Familiar symbols or designs 3. Mere listing of ingredients or contents 4. Ideas, plans, methods 5. Blank forms 6. Typeface as typeface |

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**Formalities**

An author receives a copyright in an original work as soon as it is “fixed in a tangible medium.” However, in order to commence an infringement action against another party, registration of the copyright with the United States Patent and Trademark Office is required. Furthermore, registration of a copyrighted work allows the owner of the copyright to seek the assistance of the Customs and Board Protection agents to seize infringing works entering the country.