



Introduction to Copyrights

Copyright: *Basics*

- A copyright applies to:
 - “Original” works of authorship
 - “Original” merely means “not copied” – contrast with “novelty” for patents
 - that are “fixed in a tangible medium”
 - Copyright exists *automatically*
 - Ink on paper, or data on a magnetic drive
- The following cannot be copyrighted:
 - Raw facts or data
 - Mere names, titles, slogans, or phrases
 - Functional aspects (domain of patents)
 - Works by government employees (if part of duties)

Copyright: *Basics*

- A copyright provides an exclusive right **to copy**, including in particular:
 - To **Duplicate** (including into other media)
 - To Make “**Derivative Works**” (e.g., edited works, translations, updates, remakes)
 - To **Distribute** (even for free)
 - To **Perform or Display** publicly (where applicable, e.g., dramatic, musical, or visual works)

Copyright: *Clarifications*

- Copyright laws and treaties have changed substantially several times in the recent past
 - Which rules apply may depend on when the work was authored
 - Always check with a copyright attorney
- US registration (Library of Congress, not Patent & Trademark Office) is **not** required, except to sue
- Formal notice (“© 2007 Bruce Goldstein”) is **not** required, but it is a good idea
- Term of a copyright equals the life of the author plus 70 years

Copyright: *Enforcement*

- Filing suit requires a registration certificate; registration is simple (but weak)
- Defense: Compulsory licenses
 - Music
 - Software - RAM/backup/archive (one copy only)
- Defense: “Fair Use”
 - criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, research, or parody
 - Not a free pass: use must be bona fide and limited (i.e., *objectively* fair, not just in your perspective)
 - Highly risky to rely on doctrine

Copyright: *and Government*

- Be aware in procurement:
 - Know before you sign what you need to do with the work the contractor will make
 - The author (contractor) owns the ©; USG has a limited license
 - While USG can make a contractor assign a © to the USG, USG cannot keep royalties (unlike patents)
- The Government can be *held liable* for copyright (and patent) infringement, but not *enjoined* (i.e., stopped)