



Copyrights in Canada

Public Legal Information Association of NL

February 2017

A copyright is a piece of intellectual property and gives the **lone right to produce or reproduce a work or any significant part of it**. It applies to any original work and protects the creator/artist from having other people recreate their work.

Copyright law is set out in the **Copyright Act**, originally produced in 1921. Its purpose is “to protect copyright owners while promoting creativity and the orderly exchange of ideas”.

Depending on the type of work, each copyright comes with its own set of rights and protections. Common rights include the right to **publish**, the right to **perform**, the right to **produce a translation**, and the right to **rent or distribute**. There are also **moral rights**, which is the author’s right to be associated (or not) with the work.



Inside

- Protected Works
- Unprotected Works
- How to Obtain a Copyright
- Copyright Conditions
- FAQs
- Regulatory Bodies
- Resources

Protected Works

There are several categories of works that are protected with copyright, each with their own associated rights. They are:

Literary: includes books, pamphlets, essays, dictionaries, lectures, speeches, computer programs, and other works of text.

Dramatic: includes movies, plays, screenplays, scripts, characters, scenes, dialogue, and any other dramatic work.

Musical: any composition with or without words.

Artistic: includes paintings, drawings, maps, photographs, sculptures, engravings, and other forms of visual art.

Performance: includes performances, recitations, readings, and improvisations.

Sound Recordings

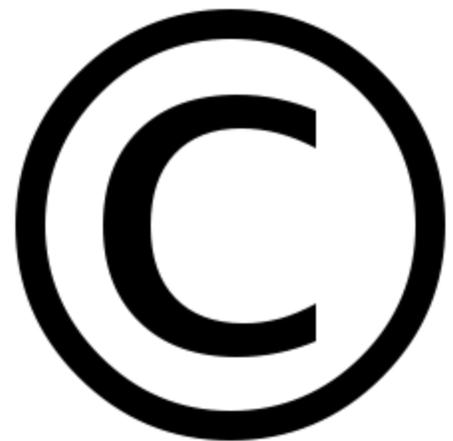
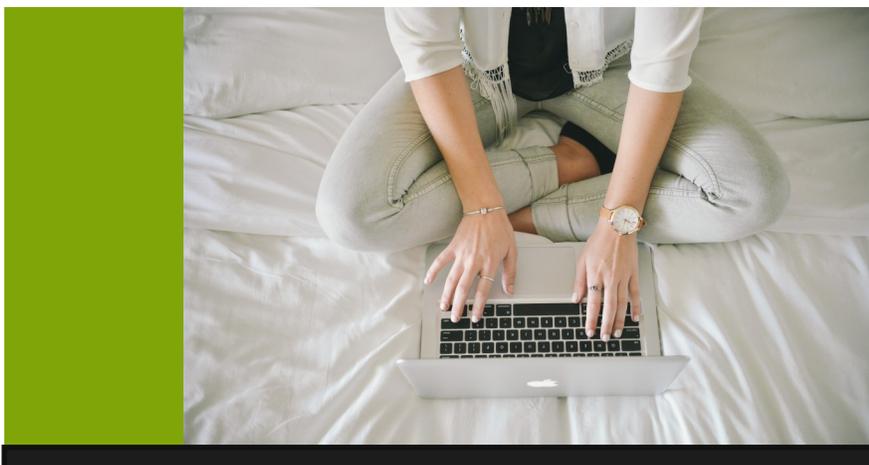
Communication Signals: radio waves.

Note that this is not an exhaustive list; any original piece of work created with knowledge or skill has a copyright.

Unprotected Works

The Copyright Laws of Canada do not apply to:

- soundtracks of films that already accompany the film;
- unexpressed ideas;
- facts;
- impermanent items, such as brief live broadcasts, short spoken sentences, or spontaneous speeches.



How to Obtain a Copyright

Copyright **automatically comes into existence** as soon as the work is created. While not mandatory, owners are encouraged to apply for copyright registration. **The certificate proves the copyright and the identity of the owner.**

To apply, owners must **go online or send a form to the Canadian Intellectual Property Office** (for more information, see 'Regulatory Bodies' section on back page).

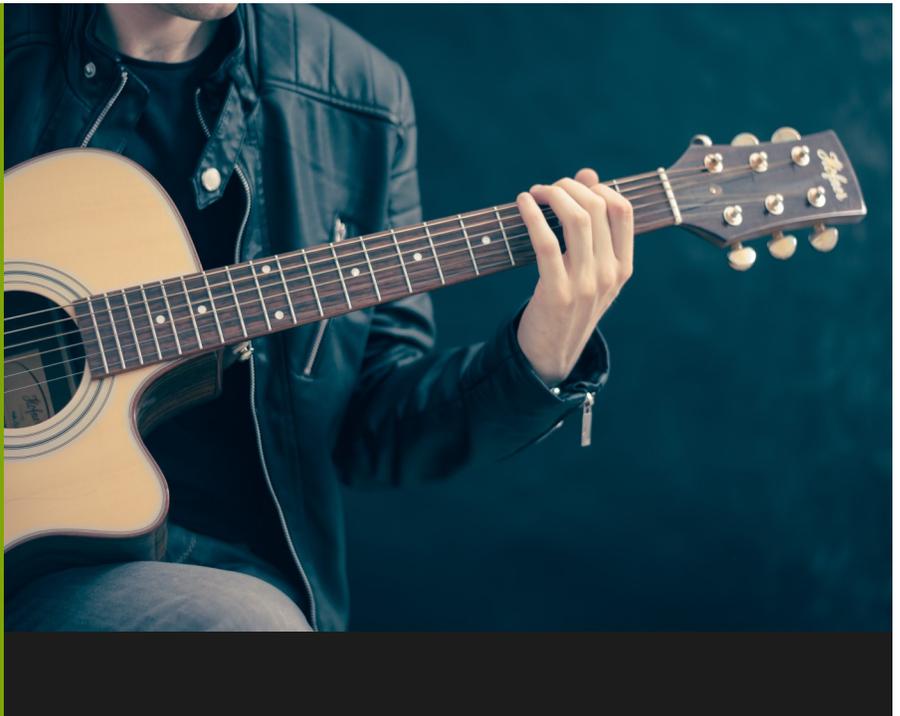
1) Include the title of the work, the associated category, date/place of first publication (if applicable), the name of the owner and a declaration that you are the owner or are submitting the application on behalf of the author. Don't include the work itself.

2) Pay fee of \$50 (online) or \$65 (paper application).

3) You will receive a registration certificate with your copyright number within 5 business days (online) or 7 business days (paper application).

Copyright Conditions

- work must be **original**; and;
- at the time of creation, the author must have been a **permanent resident or citizen of Canada** or another treaty country (a Berne Convention Country, a Universal Copyright Convention Country, or a World Trade Organization member).



Frequently Asked Questions

How long does a copyright last?

For all written works, the copyright lasts for the life of the author, to the end of the calendar year in which they died, and 50 additional years. For an unknown author or for non-written work such as performances and art, the copyright lasts for 50 years past the end of the year of publication or creation.

How do I know if something is copyrighted?

Remember, any original work is automatically copyrighted when it comes into existence. Registered copyrights since 1991 can be found by going to the Canadian Copyrights Database on the Government of Canada website (see back page). Copyrights registered prior to 1991 can be found at the Intellectual Property Office.

A copyrighted work will often be accompanied by the copyright symbol, ©, though this is not mandatory in Canada. Owners are encouraged to use this symbol, along with owner and year, even if the work is not officially registered.

Can a copyright be cancelled?

Yes. The rights to publish and distribute can be waived by the author if they choose to do so. Additionally, the rights can be legally assigned or licensed to others.

What do I do if I want to use a copyrighted work?

Usually, you must locate and contact the owner and ask for permission to use their work. Pay negotiations are made, and be sure to get the agreement in writing.

What if I can't find the owner?

If you want to use a work but the owner is unknown or can't be located, you can apply to the Copyright Board of Canada for permission. If they find you have put appropriate effort into locating the owner and were unsuccessful, they may grant you the ability to use the work.

What if someone infringes on my copyright?

In this situation, it is best to contact a lawyer. You are responsible for seeking legal advice and beginning a lawsuit against the person who infringed your copyright. This would fall under civil law and can be quite costly. Your lawyer will guide you through the process of pressing charges and trial, if necessary. You can contact PLIAN's Lawyer Referral Service for a referral to a lawyer who practices in civil law.

Neither of the regulatory bodies below is responsible for handling punishment for this crime, nor are officials like the police typically involved. Instead, the court decides it. Typically, the infringer is responsible for any monetary gain they obtained by using the work as well as any damages done to the author. Larger fines and jail time can sometimes occur.

Contact PLIAN

Legal Information Line and Lawyer Referral Service

709.722.2643
1.888.660.7788
(9am-12pm, M-F)

Suite 227
31 Peet Street
St. John's NL
A1B 3W8
Fax: 709.722.0054

info@publiclegalinfo.com

www.publiclegalinfo.com

Regulatory Bodies

The **Copyright Board of Canada** establishes royalties to be paid for the use of works and supervises agreements if the owner cannot be found.

The **Canadian Intellectual Property Office (CIPO)** is responsible for administration and processing of intellectual property in Canada, including the **registration of copyrights**. They are not responsible for policing, checking, or providing any legal advice regarding copyrights.

For More Information

The **Copyright Act** in its entirety can be viewed online at:
<http://laws-lois.justice.gc.ca/eng/acts/C-42/>

The **Canadian Copyrights Database** can be accessed online at:
<https://www.ic.gc.ca/app/opic-cipo/cpyrghts/dsplySrch.do?lang=eng>

The **Copyright Board of Canada** can be found online at:
<http://www.cb-cda.gc.ca/home-accueil-e.html> (or by calling 613-952-8621).

The **Canadian Intellectual Property Office** can be found online at:
<http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/Home> (or by calling 1-866-997-1936).