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## **Publishing on the WWW. Part 2 - Copyright and the WWW**

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### **Abstract**

Copyright on the Internet is becoming an increasingly important issue, as the copying of material in its original digital form is extremely easy, and such copies can be made without any degradation of the copies whatsoever. But what exactly is copyright? In this article, I will discuss copyright and related issues as defined by United States law, since the Internet was an American concept and continues to be dominated by the United States. Other countries have similar laws with relatively minor variations.

**MeSH:** Medical Illustration, Publishing, Copyright, Internet

## What is copyright?

United States federal law allows authors and inventors copyright protection in order 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'. The law specifically states that 'Copyright protection subsists ... in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.' This therefore includes musical, literary, dramatic and choreographic work, along with pictorial, sculptural and architectural works, and audiovisual material. Such copyright lasts for 50 years after the death of an individual author, or for 75 years after first publication if an institution owns copyright.

For the purposes of copyright, the Courts analyse specific features of a work, which are originality, creativity and fixation. The latter implies that the work in question is in a tangible medium i.e. copyright protects the original expression of a work, and not the idea/s behind it. Tangible form may include anything written on paper, saved to disk such as web pages, graphics on such pages, or work saved to any audio or video device. Items that cannot be copyrighted include ideas, facts, procedures, and works not embedded in any tangible form. Such protection gives authors a monopoly over their work, which may potentially result in financial gain, and therefore encourages and fosters the production of original work.

A work becomes automatically protected on the first occasion of its expression, without the need for specific application for copyright protection. Indeed, a work need not have a copyright noticed attached or associated with it in order to be protected. However, nothing is lost by including a copyright notice with the work. Such notice should include the copyright symbol ©, the identity of the copyright owners and the year of first publication in tangible form (see Images Paediatr Cardiol example).

Copyright registration is mandatory, however, prior to suing for copyright infringement, and suit must be brought within five years of first publication, which is alleged to have constituted infringement. Moreover, if work is not registered within three months of publication, authors may only sue for actual damages only, whereas registration within three months allows authors to sue for statutory damages and lawyers' fees, the combination of which invariably exceeds actual damages.

Copyright law allows an author the right to distribute copies of the work to second parties by sale or other forms of transfer of ownership such as for the purposes of collecting royalties. The owner of a work may authorize second parties to:

1. Copy the work and also sell, hire or give away such copies.
2. Prepare work/s directly derived from work.
3. To purchase work outright, along with transfer of copyright.

## Fair use

The proviso of fair use is a specific limitation to copyright holders. Fair use allows copying of work for the purposes of teaching, research, criticism, comment and news reporting. Such use must not be of any commercial nature and must be non-profit making and must not adversely affect the potential market or value of the work in question.

## Copyright and the Internet

Viewing a web page or graphic over the internet implies the downloading of material to a computer's hard disk or memory, therefore even viewing a website could be construed as a direct infringement of copyright. However, provided that the author of the work authorises on-line publication, viewing websites is not viewed as infringement. Moreover, Internet viewing is construed as fair use.

Viewers of on-line material may wish to copy work not only for their own use, but also to pass off such copied work as their own, and possibly gain financially at the original author's expense. It is very easy to copy graphics from the Internet.<sup>1</sup> Several protection schemes have evolved, and these include data encryption, locked files and the distribution of low quality previews. However all of these schemes inconvenience both users and authors.

One way to prevent graphic work from being copied from a website is to include a copyrighted logo or author name somewhere in the graphic where such an inclusion does not obscure any important part of the picture. However, since such an inclusion is entered over a non-essential part of the picture, standard graphic editing software can easily be used to delete the inclusion.

A more sophisticated option is to use an invisible electronic watermark that embeds marks into images in order to identify both the source and recipient of such images. Such images are not visibly degraded by the marks, the marks are recoverable by comparison with the original, the marks are highly resistant to decoding and they can survive image compression.<sup>2</sup> One such watermark is available from Digimark, and consists of a noise pattern, which is generated, in the luminance channel of an image. The information contained identifies the author, the copyright owner and the specific permissions granted with the image. Although this will not prevent copying of images from a website, third parties will be alerted to the fact that such images have been copied and are not original work.

## References

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