

FAQ: HOW DO I COPYRIGHT MY WORK?

BY STEVEN D. STRAUSS -
ATTORNEY- AT - LAW

Q. What is a copyright?

A. A copyright protects the rights of authors, musicians, artists, etc. to reproduce their work as they see fit. Surprisingly, a copyright is created by law the moment the work (a book, picture, song, etc.) takes tangible form. There is no actual requirement that it be registered with the U.S. Copyright Office (although it certainly doesn't hurt.)

You can easily apply for a copyright online at:
<http://www.loc.gov/copyright>

You might also want to check with an intellectual property lawyer, or pick up a copy of the book Patent, Copyright, & Trademark by Stephen Elias.

Q. How do I create a copyright?

A. A copyright is created automatically by operation of law whenever something is created. While you need not do anything to create a copyright, there are some things authors (as all creators of any copyrighted materials are called in the business) can do to protect their copyright:

- Add the copyright symbol to anything you create.
In your case, it might look like "(c) 1999, Your business."

- Register the piece with the U.S. Copyright Office. The fee is nominal, and if you register within three months of publication, or at least before the infringement occurs, suing and winning is much easier -- you can recover up to \$100,000 without even proving monetary harm.

Q. If an employee creates something while under the employ of someone else, who owns the copyright?

A. The question often arises when someone creates something at work as to who owns the copyright--the employer or the employee? The law presumes that an employer owns the copyright and all related rights to any work created in the scope of employment. The key here is whether the work was created as a result of the employer-employee relationship. The legal term for this is work made for hire.

Courts will look at the following factors when deciding whether an item was a work made for hire, and therefore owned, by the employer:

- Who initiated the creation of the work--the employer or the employee?

- Who controls the process? Does the employer have the right to direct and supervise how the item is created and the work performed?

- Who paid for the materials? - Who owned the facilities where the work was created?

The more these answers come out in favor of the employer, the stronger its case is.

Published by:

SURVIVAL MANUALS

<http://www.survivalmanuals.com>

A division of
Ironheart Enterprises
64-432 Waiahu Street
Kamuela, HI 96743