
Copyright Registration Of Websites Worth The Effort

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October 2010

The phenomenal growth of the Internet and electronic networks has made a vast amount of online content accessible worldwide at the click of a mouse. Content in digital form can be downloaded, copied or modified with relative ease, and instantly distributed on a colossal scale to virtually anywhere in the world.

Many believe that internet content is “public domain” and free for personal and commercial use. In reality, most only digital content is subject to protection by copyright law. Digital technologies, desktop publishing and the interactive nature of most websites present new challenges for copyright owners. Registration of the website with the copyright office is a relatively easy process that provides abundant benefits.

Copyright Basics. Copyright gives authors and artists the legal right to protect the expression of their ideas by excluding others from using their creative works. The requirements for works to qualify for protection under the copyright laws are minimal. The works must be “original” works of authorship that are “fixed in any tangible medium of expression, now or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.” A work in digital form, such as a software program or the contents of a website, qualifies for copyright protection as soon as it is fixed on a computer or Internet server.

Protectable Works. The types of works that qualify for copyright protection include: (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works. Copyright law protects virtually all of the text, images, graphics, audio and software encountered in a typical web site on the Internet or on electronic networks.

Copyright Protection. Copyright protection begins the moment a creative and original work becomes fixed in a tangible form. A work receives copyright protection regardless of whether it is registered with the U.S. Copyright Office. However, a registration provides certain rights that are worth pursuing.

Right to Control Works. Title 17 of the U.S. Code gives a copyright owner the right to restrict others from distributing, reproducing, displaying, making derivatives or engaging in a performance of a protected work. Copyright protects works of authorship that are original, fixed in a tangible form, and creative. Protected works include literature, music, dramatic compositions, motion pictures, sound recordings, choreography and architectural designs. Although it is unnecessary to register a work with the U.S. Copyright Office, it does provide additional protection.

Public Record. Registration identifies the copyright owner and puts others on notice of the copyright ownership and rights. The registration of a work creates a public record of the right to restrict others from using the materials without permission.

Right to Sue for Copyright Infringement. Although copyright can exist without copyright registration, a registration (or in certain cases, a properly pending application for registration) is required to sue in federal court for copyright infringement. Legal remedies include the issuance of an injunction or a restraining order, monetary damages and attorneys' fees.

Evidentiary Value. If copyright registration is made before or within five years of the work's publication, registration establishes "prima facie" evidence in court of the validity of the copyright and of the facts stated in the registration certificate. "Prima facie" means that the evidence is sufficient to establish a fact in question in court.

Damages. If the copyright registration occurs prior to infringement or within three months of the work's first publication, the copyright owner can recover up to \$150,000 in statutory damages. If not registered prior to infringement, the copyright owner can only recover compensation for actual damages suffered by the copyright owner, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. Actual damages and profits can be difficult to establish. However, in establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses.

Attorneys' Fees. In a copyright infringement case, the court may allow the recovery of full costs and award reasonable attorneys' fee to the prevailing party as part of the costs.

Protection Against Importation of Infringing Material. Once registered with the U.S. Copyright Office, the owner can notify the U.S. Customs Service of the registration. This creates additional protection against the importation of material that infringes on the registered copyright.

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