Copyrights

Copyright protects original creative expression that is fixed in a tangible form. For creators, startups, and established businesses, copyright can be a practical tool for protecting content you produce, content you license, and content you rely on every day.

Common examples include:

- Website copy, graphics, and layouts
- Marketing materials, brochures, product manuals, and training content
- Photography, artwork, illustrations, and graphic design
- Video, podcasts, sound recordings, and music
- Books, articles, presentations, and other written works
- Software code (including certain user interface elements)

Trenam's Intellectual Property Group helps clients secure, manage, and enforce copyrights, and we work closely with our business transactions and litigation teams when copyright issues intersect with contracts, financing, acquisitions, or disputes.

What Copyright Protects (and What It Does Not)

Copyright protects the expression of an idea, not the idea itself. It generally does not protect facts, procedures, systems, methods of operation, titles, names, short phrases, or concepts. To qualify for copyright protection, a work generally must be:

- Original (independently created and showing at least a minimal amount of creativity)
- A work of authorship (such as literary, musical, audiovisual, pictorial, or architectural works)
- Fixed in a tangible medium of expression (written, saved, recorded, filmed, drawn, etc.)

Why Register a Copyright

Copyright exists automatically when a work is created and fixed, but registration with the U.S. Copyright Office can provide important legal and business advantages. Registration can help you:

- Create a public record of your claim of ownership
- Support licensing, financing, and commercial due diligence
- Meet the registration prerequisite that generally applies before filing a copyright infringement lawsuit in federal court for U.S. works
- Strengthen your position in disputes and, when timing requirements are satisfied, preserve access to statutory damages and attorney's fees

Timing Matters: Register Early

If you plan to enforce your rights, timing is critical. A practical rule of thumb is to register as early as possible, including before publication when feasible. If a work has been published, registering within three months after first publication can preserve the ability to seek statutory damages and attorney's fees for certain infringements. Registration after infringement begins may still allow enforcement, but remedies may be more limited and more expensive to pursue.

Registration Pitfalls to Avoid

Many copyright applications are straightforward, but details matter. A few common issues that can create delays or weaken enforcement include:

- Incorrect authorship or ownership information (especially for employee-created works, contractors, or corporate claimants)
- Not properly excluding preexisting material in a derivative work or compilation
- Confusion about whether a work has been published and, if so, the correct publication date and country
- Inconsistent titles or versions (for example, updating a website or software build without a clear registration strategy)
- Not planning deposits and redactions for software or other works containing confidential information

Copyright Ownership and Work Made for Hire

Many copyright problems start with ownership. The person who creates a work is often the initial owner, but the rules can differ for employees, contractors, agencies, and collaborative projects. Key best practices include:

- Use written agreements with employees and contractors that address confidentiality, ownership, and IP assignment
- Do not assume that paying for work automatically means you own the copyright
- If you need ownership (not just permission to use the work), include an assignment provision that clearly transfers

rights to your company
- For commissioned work, confirm whether work made for hire applies and, when appropriate, include both a work made for hire clause and a backup assignment

Getting ownership right early reduces risk when launching products, raising capital, or preparing for acquisition.

Copyright Notice and Practical Content Controls

A copyright notice is usually optional under modern U.S. law, but it is still a useful business practice. A typical notice includes the © symbol (or the word "Copyright"), the year of first publication, and the owner's name. Examples:

- © 2026 Trenam. All rights reserved.
- © 2026 Your Company Name. All rights reserved.

For websites and digital products, consider pairing a notice with clear terms of use, license terms, and internal content policies that define how employees and vendors create, store, and reuse content.

Online Infringement and DMCA Takedowns

When content is copied online, speed and documentation matter. Depending on the situation, enforcement options may include DMCA takedown notices, cease and desist letters, negotiated resolutions, and litigation.

A practical response plan often includes:

- Preserving evidence (screenshots, URLs, timestamps, source files, and publication history)
- Confirming ownership and registration status
- Identifying the hosting provider, marketplace, social platform, or other intermediary
- Sending a tailored takedown notice or demand letter
- Escalating when needed, including injunction strategy and damages analysis

Copyright Licensing and Commercialization

Copyright is often a business asset that can be licensed, assigned, or used as part of a broader commercial strategy. We help clients structure agreements that align with business goals, reduce disputes, and protect long-term value.

Common copyright-related agreements include:

- Content licenses and sublicenses (marketing content, photography, video, training materials)
- Software and technology agreements involving copyrightable code and documentation
- Publishing, media, and entertainment agreements
- Assignments and recordation support when rights are transferred
- Work made for hire and independent contractor agreements

Practice Areas Include

Our copyright services are tailored to the client and the work involved, and may include:

- Copyright registration strategy (published vs. unpublished, single works vs. eligible groups)
- Preparing and filing copyright applications and managing follow-up with the U.S. Copyright Office
- Software registrations, including source code deposit strategy and trade secret considerations
- Copyright ownership counseling and agreement drafting (assignments, licenses, work made for hire)
- Enforcement strategy, including online takedowns, negotiations, and litigation support
- Copyright support in financing, M&A, and other transactions, including diligence and portfolio cleanup

Frequently Asked Questions

Do I have to register with the U.S. Copyright Office to be protected?

No. In most cases, copyright protection exists automatically when an original work is fixed in a tangible form. Registration is still strongly recommended when the work has commercial value or could be copied, because registration provides significant enforcement and business benefits.

When should I register a copyright?

As early as practical. For many businesses, that means registering important works before release or shortly after publication. If you want to preserve access to certain remedies such as statutory damages and attorney's fees, registration timing can be critical.

Do I need to register a copyright to use the © symbol?

No. You can generally use a copyright notice as soon as the work is created and fixed. Registration is separate from notice.

Can I copyright an idea, concept, or method?

Copyright protects creative expression, not ideas or methods. If you want to protect a functional invention, you may need a patent. Brand names and logos may be protected by trademark law. Confidential know-how may be protected as trade secrets.

Who owns the copyright if I hire a freelancer or agency?

Often, the creator owns the copyright unless the work qualifies as a work made for hire under the statute or there is a written assignment transferring ownership. If ownership is important, use a written agreement before work begins.

Is software protected by copyright?

Yes. Software code and many related materials can be protected by copyright. Registration can be useful for enforcement, and software filings may require careful handling of deposit materials when code contains confidential information.

How long does copyright protection last?

Duration depends on the type of work and when it was created. For many works created in the modern era, protection generally lasts for the author's life plus 70 years. Different rules often apply to works made for hire and certain anonymous or pseudonymous works.

What should I do if someone copied my content online?

Preserve evidence and get legal advice before sending communications. Depending on the circumstances, a DMCA notice, a demand letter, or a negotiated resolution may be the fastest path to removal or compensation.

Can I register multiple works at once?

Sometimes. The Copyright Office offers certain group registration options for specific categories of works. Whether group registration is available depends on the type of work and how it has been published.

Can AI-assisted content be copyrighted?

Copyright generally requires human authorship. Works that involve AI tools may still be protectable to the extent there is sufficient human creative contribution (such as selection, arrangement, editing, or other expressive decisions). Registration strategies should be discussed on a case-by-case basis.

This content is for general informational purposes and is not legal advice.

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