



What You Should Know About Copyrights

Grand Rapids, Michigan

Bridgewater Place
333 Bridge Street, N.W.
P.O. Box 352
Grand Rapids, MI 49501
Phone: 616/336-6000
Fax: 616/336-7000

Lansing, Michigan

The Victor Center
201 N. Washington Square
Suite 810
Lansing, MI 48933
Phone: 517/482-6237
Fax: 517/482-6937

Kalamazoo, Michigan

251 North Rose Street
4th Floor
Kalamazoo, MI 49007
Phone: 269/382-2300
Fax: 269/382-2382

Grand Haven, Michigan

The Chemical Bank Building
1600 South Beacon
Suite 240
Grand Haven, MI 49417
Phone: 616/846-7100
Fax: 616/846-7101

Novi, Michigan

39500 High Pointe Boulevard
Suite 350
Novi, MI 48375
Phone: 248/567-7400
Fax: 248/567-7440

Important Notice: This advisory has been prepared by Varnum LLP for informational purposes only and does not constitute legal advice. Copyright © 2008, Varnum LLP. All rights reserved.

Your copyrights are vital components of your intellectual property portfolio. We at Varnum believe that the more you understand copyrights, the better we will be able to assist you in protecting your interests and rights. We are pleased, therefore, to provide you with an outline of some basic information and fundamental considerations about copyrights and the process of protecting them. We look forward to answering any questions you may have and to discussing your intellectual property protection needs with you.

1. Any original writing, composition of music, dramatic work, compilation, work of art or the like which you create is subject to copyright protection under the Copyright Laws of the United States of America from the moment of creation. Advertising literature is protected. Even product labels may be protected, if their preparation requires sufficient creativity.
2. If the work is created by an employee within the scope of his or her employment, it is a "work made for hire" and the copyright owner is the employer.
3. A work created by an individual and authored under his or her own name is protected for the creator's life plus seventy (70) years. A work made for hire or a work authored under a fictitious name is protected for ninety-five (95) years from publication or one hundred twenty (120) years from creation, whichever expires first.
4. It is very advantageous, but not absolutely essential, to make sure that when a work is published, it is published with a notice of copyright which includes the following elements:
 - ©, year of first publication, and name of copyright owner, e.g., ©1990 XYZ Corp.
 - All rights reserved.
5. It is not necessary to register a copyright with the Copyright Office until immediately prior to initiating litigation against a copyright infringer. However, there are important advantages to registering a copyright promptly, before any infringement occurs, including the right to collect attorneys' fees, statutory damages and compulsory recording royalties. A certificate of registration made before or within five years of publication constitutes prima facie evidence of the validity of the copyright and of the facts stated in the certificate.
6. Your copyright protection under the United States Copyright Laws extends by international treaties to almost every other country in the world.
7. If a work is created for you by an independent contractor, you do not own the copyright in that work absent an agreement by the contractor to the contrary. For example, you do not own the copyright in work prepared for you by an advertising agent unless the agent has otherwise agreed. **THIS IS TRUE EVEN THOUGH YOU ARE PAYING FOR THE WORK.** You do have an implied license to use the copyrighted work for the purposes which the parties intended in creating the work.
8. Your purchase of a work, such as a painting, does not give you ownership of the copyright in that work or entitle you to make reprints of it or perform it publicly absent specific agreement to the contrary.

What You Should Know About Copyrights

9. Fair use" of a copyrighted work, e.g., for purposes such as criticism, comment, news reporting, teaching, scholarship or research, is not an infringement (17 USC §107). Factors considered in determining whether use is "fair" include (1) the purpose and character of the use, (2) the nature of the work, (3) the amount and substantiality of the portion used, and (4) the effect of the use on the potential market.
10. Building a building using another's plans or a substantial copy of another's plans constitutes copyright infringement.
11. Works which are in the public domain can be copied by anyone. However, it is difficult to know whether a work is in the public domain or is still subject to copyright. Special rules apply to works originally published before 1978. A copyright in a work which was first published prior to 1978 will expire at the end of 28 years, unless a renewal registration application is filed between the 27th and 28th year of the life of the copyright. If a renewal registration is filed, copyright protection will continue for 95 years from the date the copyright was originally secured. Works created after 1978 are, as noted above, protected by copyright for the author's life plus 70 years, or in the case of works made for hire or fictitious name works, 95 years from publication or 120 years from creation, whichever expires first. It is often difficult to ascertain facts necessary to determine whether a work is still protected by copyright or is in the public domain.
12. Even with respect to works that are in the public domain due to expiration of copyrights on early editions of the work, one has to be careful not to copy new material appearing in more recent editions of the work. Such new material is subject to copyright protection, even though the original material, which appeared in earlier editions, is in the public domain.