

## **DISPLAY OF THE WORD COPYRIGHT AND SYMBOL Versus DISPLAY OF AN INFORMATIVE COPYRIGHT NOTICE AND MORE**

The 1976 Copyright Act overturned the strict consequences of failure to include copyright notice under prior law. It contained provisions that set out specific corrective steps to cure omissions or certain errors in copyright notice. Under these provisions, an applicant had 5 years after publication to cure omission of notice or certain errors. Although these provisions are technically still in the law, their impact has been limited by the amendment making notice optional for all works published on and after March 1, 1989.

A copyright notice specifies the terms upon which the copyright material on a website is licensed to users.

Countries, which have signed up to the Berne Convention, should ensure that there are no formalistic pre-requisites to copyright protection under their laws. For this reason, copyright will subsist in a website even where there are no copyright notices. However, you should still include a copyright notice because it clarifies permitted uses of the material on the website, and under some legal systems will give benefit if you need to enforce the copyright.

Copyright notices sometimes form part of another legal documents such as a "terms of service (TOS)", "terms of use (TOU)" or "terms and conditions (TAC)" documents.

### **DISPLAY OF THE WORD COPYRIGHT AND SYMBOL ONLY**

A copyright notice is principally intended to assist with assertions of copyright infringement but if we merely use this - Copyright © - no full information is supplied to the viewer so he/she remains with no knowledge on just what the Copyright owners requirements really are.

Another simple copyright notice could look like this: Copyright © [YEAR(S) OF FIRST PUBLICATION - E.G. "2005-2008"] [NAME - E.G. "COMPANY INC"] but again no full information is supplied to the viewer so he/she remains with no knowledge on just what the Copyright owners requirements really are.

Historically, a copyright notice could be a pre-requisite of copyright protection. This is no longer the case (at least in the most significant jurisdictions.) Nonetheless a notice will help in educating potential infringers and may make it much harder to rely upon an innocent infringement defence.

### **SHOULD INDICATONS OF COPYRIGHT BE DISPLAYED IN AT LEAST ALL MAIN WEB SITE PAGES?**

Briefly - yes. Sample follows: Copyright © [YEAR(S) OF FIRST PUBLICATION - E.G. "2005-2008"] [NAME - E.G. "COMPANY INC"] as this indicates the content displayed in that individual page is covered by copyright.

### **DISPLAY OF AN INFORMATIVE COPYRIGHT NOTICE**

A copyright notice covers the following:

- Ownership of copyright.
- Data mining.
- Permissions.
- Enforcement of copyright.

### **OWNERSHIP OF COPYRIGHT**

The copyright in this website and the material on this website (including without limitation the text, computer code, artwork, photographs, images, music, audio material, video material and audio-visual material on this website) is owned by [NAME] [and its licensors].

## **COPYRIGHT LICENSE** (if applicable)

[NAME] grants to you a worldwide non-exclusive royalty-free revocable license to:

- View this website and the material on this website on a computer or mobile device via a web browser.
- Copy and store this website and the material on this website in your web browser cache memory.
- Print pages from this website for your own [personal and non-commercial] use.

[NAME] does not grant you any other rights in relation to this website or the material on this website. In other words - all other rights are reserved.

For the avoidance of doubt, you must not adapt, edit, change, transform, publish, republish, distribute, redistribute, broadcast, rebroadcast or show or play in public this website or the material on this website (in any form or media) without [NAME'S] prior written permission.

## **DATA MINING**

The automated and/or systematic collection of data from this website is prohibited.

## **PERMISSIONS**

You may request permission to use the copyright materials on this website by writing to [EMAIL ADDRESS] or [ADDRESS].

## **ENFORCEMENT OF COPYRIGHT**

[NAME] takes the protection of its copyright very seriously.

If [NAME] discovers that you have used its copyright materials in contravention of the License above, [NAME] may bring legal proceedings against you seeking monetary damages and an injunction to stop you using those materials. You could also be ordered to pay legal costs.

If you become aware of any use of [NAME'S] copyright materials that contravenes or may contravene the License above, please report this by email to [EMAIL ADDRESS] or by post to [ADDRESS]

The copyright symbol, designated by © (a circled "C"), is the symbol used to provide notice of copyright in works other than sound recordings (which are indicated with the ℗ symbol). The use of the symbol is described in United States copyright law and internationally by the Universal Copyright Convention. The C stands for copyright.

In the United States, the copyright notice consists of three elements::

- The © symbol, or the word "Copyright" or abbreviation "Copr."
- The year of first publication of the copyrighted work.
- An identification of the owner of the copyright, either by name, abbreviation or other designation by which it is generally known.

The notice was once required in order to receive copyright protection in the United States, but in countries respecting the Berne convention this is no longer the case. See Copyright notices.

Because the © symbol has long been unavailable on typewriters and ASCII based computer systems, it has been common to approximate this symbol with the characters (c), however this approximation has no standing in law.

## RELATED SYMBOLS

The sound recording copyright symbol is the capital letter P enclosed by a circle and is used to designate copyright in a sound recording.

The copyleft symbol - a backwards C in a circle, is a logo associated with the copyleft form of licensing and it has no legal meaning.

The registered trademark symbol is the symbol ® (the capital letter R enclosed by a circle) and is used in some jurisdictions to designate a trademark that has been registered in an official office of record (such as the U.S. Patent and Trademark Office in the United States.)

## COLLECTIVE WORKS

**Contributors clarification sample . . .** Our hypothetical copyright statement includes the following:

All content on this web site is copyright as a collective work under (insert country) copyright laws and (insert website title) owns the copyright to all selection, arrangement, co-ordination and enhancement of web site content. In addition, all artworks and illustrations displayed from the (insert website title) are protected by copyright and may not be copied or otherwise reproduced without written permission.

**Comment to the above:** As is the case with all published works, a contribution, such as any pictorial or graphic work, to a collective work may appear with its own notice of copyright. However, the law does provide that a single notice covering the collective work as a whole can defeat the defense of "innocent infringement."

The "collective work" categorization is simply another way of saying in effect . . . if you find a copyright infringement, we (the website owner/s) will remove the infringement.

## IN CONCLUSION

By placing the copyright notice on your work, you eliminate the "innocent infringer" defence commonly used by those committing copyright infringement. With the copyright notice on the work, the "innocent infringer" can't argue that he/she had no idea that the work was copyrighted. This alone is a great reason to have the copyright notice on your work.

Before you slap a copyright notice on your website, you should have a clear understanding of what exactly it is that you consider to be protected by copyright. There are many elements to a website, including:

- Text
- Graphics
- Script
- Data
- Code

If you created everything on the site, you can be reasonably comfortable in your ownership. However, if you had someone else create text copy, downloaded some clip art, used scanned photographs from your archives or hired a web design firm to load all of your content into an attractive package, then you need to think a little harder.

For every item on your website, you need to have created it on your behalf, or have some mechanism to transfer the ownership to you. This may sound like a pain, but book publishers and movie producers have done this for years.

Check the text; did you write it, or did someone? If you did, and you did not otherwise assign the rights to someone else, you're golden. But to be safe, it is good to have an employee agreement that explicitly assigns their work to you. If a third party did it, then you need to have an explicit contract that states that work was done as a work for hire.

Otherwise, you merely get a license.



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