



# InterContinental IP

An Intellectual Property Law Firm

## Copyright Prosecution

The copyright is probably the most frequently misunderstood type of intellectual property, both in terms of the protection it can afford and the types of creations that by can protected by a copyright. As a basic definition, a copyright gives several exclusive rights to the creator of the proverbial “original work”. These rights include the right to copy, distribute, exploit and/or adapt the creation. Many people read “copy right” to be the right to copy a created work, where the copyright holder has the exclusive right to copy. The right to control the copying of his/her work is perhaps more accurate. In any case, a copyright provides the legal means to obtain limited protection over a created work. So, what can a copyright do, how do you get one, how does it apply to the average inventor?

### **What is a Registered Copyright and why do I want one?**

A registered copyright is one obtained from the Library of Congress through the copyright application process. A registered copyright is superior to a non-registered, or common law copyright in a number of ways.

### **What kinds of things can be copyrighted?**

In a traditional sense, books, movies, musical recordings, maps, photographs, paintings and other “artistic creations” can be protected.

### **I’m an inventor, not an artist, what should I consider protecting by copyright?**

For most inventors, their website is one of their most valuable tools, and can be protected by copyright. Inventors should also consider copyrighting their packaging, advertising/promotional materials, and any written documents, such as owner’s manuals, that come in the package with their product.

### **Do I need to get a copyright in each country in which I want copyright protection?**

Not necessarily. Unlike patents and trademarks, which are good only in the country in which they were granted, a US copyright is valid in a large number of other countries through one of the many copyright agreements, the most well known of which is the Berne Convention. For more information on which countries recognize a US copyright, please consult the WIPO (World Intellectual Property Organization) website ([www.wipo.int](http://www.wipo.int)).

### **How long does a copyright last?**

Life of the author plus 70 years, in most cases. After that, it becomes public domain and anyone can copy or reproduce it.

## **What copyrights cannot do.**

Copyrights cannot protect the idea behind an invention. There is a common misconception, particularly in countries that produce knock-offs and counterfeit products, that their “worldwide copyright” protects them from patent infringement lawsuits just because they paid \$10 to their local copyright office for a copyright on someone else’s invention. False. Copyrights can only protect the “artistic” side of a creation.

## **Are there limits to copyright protection?**

Yes, in addition to the natural expiration of a copyright, factors such as the Fair Use Doctrine limit a copyright holder’s right to enforce the copyright under certain conditions.

## **Can I sell a copyright?**

Yes, copyrights are a form of “property”, and therefore can be licensed, sold, assigned, transferred, donated, willed to a beneficiary, put into a trust, etc.

## **I just put my idea in an envelope and mailed it to myself. Isn’t that enough of a copyright?**

We get this question/statement a lot. The answer to this question is that you obtained a common law copyright just by creating the work you sent to yourself in the mail, but it is not a registered copyright, and registered copyrights are much more enforceable and carry much greater weight against someone who is taking your creation and using it for their own gain. The second issue is how much weight a self-addressed envelope would carry in court if you ever had to sue to try to enforce your rights. Considering the ease with which envelopes can be steamed open and have their contents replaced, then allowed to seal again, I would personally not want my entire case to hinge upon the authenticity of the date I claim the envelope was last sealed.

## **Are there both civil and criminal actions available against copyright infringers?**

Yes, but don’t threaten the infringer with a criminal action!

*If you are interesting in find out more about Copyrights, InterContinental IP can assist you in registering and enforcing a copyright over your creation.*