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**Note:** Copyright information can be found on the [U.S. Copyright Office](#) website.<sup>1</sup>

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## Copyright

Copyright protection subsists, in accordance with United States Code Title 17 (Title 17), in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

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.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

*17 U.S.C. 102*

## Ownership

Copyright in a work protected under copyright law vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work. *17 U.S.C. 201(a)*

## *Work for Hire*

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of copyright law, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright. *17 U.S.C. 201(b)*

A “work made for hire” is:

1. A work prepared by an employee within the scope of his or her employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or

other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

An “instructional text” is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

*17 U.S.C. 101*

*Transfer*

The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession. Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by 17 U.S.C. 106, may be transferred and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner. *17 U.S.C. 201(d)*

Copyright  
Registration

At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by 17 U.S.C. 408, together with the application and fee specified by 17 U.S.C. 409 and 708. Such registration is not a condition of copyright protection. *17 U.S.C. 408(a)*

Exclusive Rights

Subject to 17 U.S.C. 107–122 (limitations on and scope of exclusive rights), the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

*17 U.S.C. 106*

*Fair Use*

Notwithstanding the provisions of 17 U.S.C. 106 above and 106a (rights of authors of visual art works), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work.

*17 U.S.C. 107*

*Performances  
and Displays*

Notwithstanding the provisions of 17 U.S.C. 106, certain performances and displays set out in 17 U.S.C. 110 are not infringements of copyright, including performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under Title 17, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110(1)*

Copyright  
Infringement

Anyone who violates any of the exclusive rights of the copyright owner as provided by 17 U.S.C. 106 through 122 or of the author as provided in 17 U.S.C. 106A(a), or who imports copies or phonorecords into the United States in violation of 17 U.S.C. 602, is an infringer of the copyright or right of the author. The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of 17 U.S.C. 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it.

*17 U.S.C. 501(a)–(b)*

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**Note:** For information on copyright issues and online distance learning, see the TEACH Act, 17 U.S.C. 110(2) and 112(f).

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Digital Millennium  
Copyright Act  
*Service Provider*

“Service provider” means:

1. As used in 17 U.S.C. 512(a) (item 1 at Limitation of Liability below), an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.
2. As used in 17 U.S.C. 512, other than subsection (a), a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in item 1 above.

*17 U.S.C. 512(k)*

*Limitation of  
Liability*

A service provider shall not be liable for monetary relief or, except as provided in 17 U.S.C. 512(j), for injunctive or other equitable relief, for infringement of copyright by reason of:

1. The provider's transmitting, routing, or providing connections for material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if 17 U.S.C. 512(a)(1)–(5) are satisfied.
2. The intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which:
  - a. The material is made available online by a person other than the service provider;

- b. The material is transmitted from the person described above through the system or network to a person other than the person described above at the direction of that other person; and
    - c. The storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in item b, request access to the material from the person described in item a, if the conditions set forth in 17 U.S.C. 512(b)(2) are met.
  3. The storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider:
    - a. Does not have actual knowledge that the material or an activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;
    - b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and
    - c. Upon notification of claimed infringement as described at Notification below responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.
  4. The provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider:
    - a. Does not have actual knowledge that the material or activity is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;
    - b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

- c. Upon notification of claimed infringement as described at Notification, below, responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this provision, the information described in item 3 at Notification, below, shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

*17 U.S.C. 512(a)–(d)*

*Designated  
Agent*

The limitations on liability established in item 3 at Limitation of Liability, above, apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described at Notification, below, by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office (the Office), substantially the following information:

1. The name, address, phone number, and electronic mail address of the agent.
2. Other contact information which the Register of Copyrights may deem appropriate.

*17 U.S.C. 512(c)(2); 37 C.F.R. 201.38*

The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the internet, and may require payment of a fee by service providers to cover the costs of maintaining the directory. *17 U.S.C. 512(c)(2)*

Amendment

All service providers must ensure the currency and accuracy of the information contained in designations submitted to the Office by timely updating information when it has changed. A service provider may amend a designation previously registered with the Office at any time to correct or update information.

Renewal

A service provider's designation will expire and become invalid three years after it is registered with the Office, unless the service provider renews such designation by either amending it to correct or update information or resubmitting it without amendment. Either amending or resubmitting a designation, as appropriate, begins a new three-year period before such designation must be renewed.

*37 C.F.R. 201.38(c)(3)–(4)*

*Notification*

To be effective, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
4. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

*17 U.S.C. 512(c)(3)*

*Disabling or  
Removing  
Access*

Subject to the exceptions below, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

*Exceptions*

The provision above shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under item 3c at Limitation of Liability, unless the service provider:

1. Takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

2. Upon receipt of a counter notification described in 17 U.S.C. 512(g)(3), promptly provides the person who provided the notification under item 3c with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in ten business days; and
3. Replaces the removed material and ceases disabling access to it not less than ten, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under item 3c that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

*17 U.S.C. 512(g)*

*Eligibility for  
Limitations on  
Liability*

The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider's system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers; and
2. Accommodates and does not interfere with standard technical measures. The term "standard technical measures" means technical measures that are used by copyright owners to identify or protect copyrighted works and:
  - a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;
  - b. Are available to any person on reasonable and nondiscriminatory terms; and
  - c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

*17 U.S.C. 512(i)*

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**Note:** Trademark information can be found on the [U.S. Patent and Trademark Office \(USPTO\)](#) website.<sup>2</sup>

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**Trademark**

The term "trademark" includes any word, name, symbol, or device, or any combination thereof, used by a person or which a person



has a bona fide intention to use in commerce and applies to register on the principal register established by United States Code Title 15, Chapter 22 to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown. *15 U.S.C. 1127*

Trademark  
Registration

The owner of a trademark used in commerce may request registration of its trademark on the principal register by paying the prescribed fee and filing in the USPTO an application and a verified statement, in such form as may be prescribed by the director of the USPTO, and such number of specimens or facsimiles of the mark as used as may be required by the director. *15 U.S.C. 1051(a)*

*Duration*

Each registration shall remain in force for ten years, except that the registration of any mark shall be canceled by the director unless the owner of the registration files in the USPTO affidavits that meet the requirements of 15 U.S.C. 1058(b) within the time periods specified in 15 U.S.C. 1058(a). *15 U.S.C. 1058*

*Renewal*

Subject to 15 U.S.C. 1058 above, each registration may be renewed for periods of ten years at the end of each successive ten-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the director. Such application may be made at any time within one year before the end of each successive ten-year period for which the registration was issued or renewed, or it may be made within a grace period of six months after the end of each successive ten-year period, upon payment of a fee and surcharge prescribed therefor. *15 U.S.C. 1059(a)*

Assignment of Mark

A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. *15 U.S.C. 1060(a)(1)*

Trademark  
Infringement

Any person shall be liable in a civil action by the registrant for the remedies provided in 15 U.S.C. 1114 if the person, without the consent of the registrant:

1. Uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or
2. Reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy or

colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

Under item 2 above, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to cause confusion, or to cause mistake, or to deceive.

*15 U.S.C. 1114(1)*

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**Note:** Patent information can be found on the [U.S. Patent and Trademark Office \(USPTO\)](#) website.<sup>3</sup>

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**Patent**

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement, may obtain a patent, subject to the conditions and requirements of United States Code Title 35 (Title 35). *35 U.S.C. 101*

Assignment of  
Patent

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States. *35 U.S.C. 261*

Patent Infringement

Except as otherwise provided in Title 35, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States, or imports into the United States any patented invention during the term of the patent, infringes the patent.

Whoever actively induces infringement of a patent shall be liable as an infringer.

Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

*35 U.S.C. 271(a)–(c)*

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- <sup>1</sup> U.S. Copyright Office: <https://www.copyright.gov/>
  - <sup>2</sup> USPTO on Trademarks: <https://www.uspto.gov/trademark>
  - <sup>3</sup> USPTO on Patents: <https://www.uspto.gov/patent>