CopyrightX Lecture 6: The Mechanics of Copyright

Selected Illustrations

William Fisher
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The following images appear in the background of the 6th lecture in the CopyrightX lecture series. A recording of the lecture itself is available at http://ipxcourses.org/lectures/. Removed from their original context, the images will not make much sense. The function of this collection of images is to enable persons who have already watched the lecture to review the material it contains.

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# Copyright Formalities (for U.S. works)

<table>
<thead>
<tr>
<th>Published 1909-1977</th>
<th>Published 1978-1989</th>
<th>Published 1989-</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Notice</strong> mandatory upon publication</td>
<td><strong>Notice</strong> mandatory within 5 years of publication</td>
<td><strong>Notice</strong> optional, but may affect statutory damages</td>
</tr>
<tr>
<td><strong>Registration</strong> prerequisite for infringement suit; mandatory for renewal</td>
<td><strong>Registration</strong> application prereq. for infringement suit; necessary for statutory damages &amp; atty fees</td>
<td><strong>Registration</strong> application prereq. for infringement suit involving US works; necessary for statutory damages &amp; atty fees</td>
</tr>
<tr>
<td><strong>Deposit</strong> with LOC; failure punished with forfeiture &amp; fines</td>
<td><strong>Deposit</strong> with LOC; failure punished with fines</td>
<td><strong>Deposit</strong> with LOC; failure punished with fines</td>
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</tbody>
</table>
Copyright Registrations (excluding renewals), 1910-2000

Rate of Copyright Renewals, 1910-2000

Creative Commons

Creation

Federal Copyright Protection

Life + 70 yrs

Public Domain

Publication
1909 Regime

Can be exercised by:
1. Author
2. Surviving spouse or children
3. Author’s executor
4. Author’s next of kin

1-year renewal application window

Break in continuity of title

“new estate”

Creation

Copyright Protection

Publication
Since 1909: Several Extensions of Renewal Right

- **Creation**
- **Common-law Copyright Protection**
- **Publication**

**Renewal**

28 yrs

67 yrs

**Federal Copyright Protection**

**Public Domain**
Duration of Works Published before 1923

- **Publication**
  - Common-law Copyright Protection
  - Federal Copyright Protection

- **Renewal**
  - 28 yrs
  - 47 yrs

- **Publication**
  - "fell" out of copyright before CTEA could rescue them

- **Public Domain**
Duration of Works Published 1923-1963

Can be exercised by:
1. Author
2. Surviving spouse or children
3. Author’s executor
4. Author’s next of kin

1-year renewal application window

Federal Copyright Protection

Publication

Duration:
- 28 years
- 67 years

Can be exercised by:
1. Author
2. Surviving spouse or children
3. Author’s executor
4. Author’s next of kin

Renewal
Duration of Works Published 1964-1977

- Federal Copyright Protection
  - 28 yrs
  - 67 yrs

Beneficiaries of automatic renewal remain:
1. Author
2. Surviving spouse or children
3. Author’s executor
4. Author’s next of kin

Voluntary renewal still encouraged by:
- presumption of validity of renewal copyright;
- assignee of author’s expectancy interest who voluntarily renews prevails if author dies in 28th year

Will begin to fall out of copyright in 2059

Publication
- Common-law
- Copyright Protection

Renewal
Duration of Works
created but not published before 1978

Creation

1978

Federal Copyright Protection

Life + 70 yrs
Or 12/31/2002
(whichever is later)

Public Domain
Duration of Works created but not published before 1978

- **Creation**: 1978
- **Federal Copyright Protection**: 1978
- **Life + 70 yrs or 12/31/2047 (whichever is later)**
- **Publication by 12/31/2002**
- **Public Domain**

Strong incentive for heirs of long dead authors to publish their works.
Duration of Works Created in 1978 or later

Creation

Federal Copyright Protection

2048 at the earliest

Publication

Life + 70 yrs

Public Domain
Duration of Works Created in 1978 or later

For anonymous works, pseudonymous works, and works for hire

- **Creation**
- **Federal Copyright Protection**
- **Public Domain**

- **120 yrs** after publication
- **95 yrs**
- **2073 at the earliest**
1909 Regime

Copyright may be assigned by author

Federal Copyright Protection
28 yrs

Publication

Public Domain

Common-law

Copyright Protection

Creation

Renewal
Fred Fisher Music v. M. Witmark & Sons

Creation
Common-law
Copyright
Protection
Publication

Public Domain

Witmark
Fred Fisher
Graff
Graff

1912
1917
1939
28 yrs
28 yrs

©

© 1912
© 1917
© 1939

Publication

© 1912
© 1917
© 1939

Works Created in 1978 or later

§ 203 Termination Rules

Who can terminate:
1. Author
2. Spouse/children/descendants (per stirpes)
3. Author’s executor

Terminated rights pass to persons entitled to terminate on date of original notice

Creation

Federal Copyright Protection

Publication

Public Domain

inter vivos transfer by author

2-10 yrs

35 yrs

5 yrs

Life + 70 yrs

nonwaivable
Works Published 1964-1977

§ 203 Termination Rules – apply if transfer made after 1978

Creation → Common-law Copyright Protection → Publication → Federal Copyright Protection → Renewal → inter vivos transfer by author* → Federal Copyright Protection → Public Domain

- 28 yrs
- 35 yrs
- 2-10 yrs
- 5 yrs
- 67 yrs

* inter vivos transfer by author
Works Published 1964-1977

§ 304 Termination Rules – apply if transfer made before 1978

Federal Copyright Protection

Renewal

Creation

Inter vivos transfer by author

Copyright Protection

Publication

Federal Copyright Protection

Public Domain

By and for statutory beneficiaries

10/27/1998

§ 304 Termination Rules – apply if transfer made before 1978

Common-law transfer

Inter vivos transfer by author

Renewal

Publication

Copyright Protection

Public Domain

By and for statutory beneficiaries
Works Published 1923-1963

§ 203 Termination Rules – apply if transfer made in 1978 or later

Copyright Protection

Federal Copyright Protection

Renewal

Creation

Common-law Copyright Protection

Publication

Public Domain

28 yrs

35 yrs

5 yrs

2-10 yrs

©

§ 203 Termination Rules – apply if transfer made in 1978 or later
Works Published 1923-1963

§ 304 Termination Rules – apply if transfer made before 1978