

## **COPYRIGHT - Your right to protect your own work**

By Leslie Malek

Martin, the owner of a brake pad production plant, saw a cartoon in a magazine and sent a copy to his brother. No problem. The cartoon was so in tune with what Martin's customers needed that he used the cartoon when he developed and printed 10,000 copies of a new product brochure. Big problem. The cartoon was protected by copyright.

### **WHAT IS COPYRIGHT?**

Today, the U.S. Copyright Act expands copyright protection beyond "writings" because of new technologies. Copyright now can protect diverse works such as architectural designs, graphic arts, audio and visual recordings.

Through copyright registration, an owner gains the exclusive right, including derivative right to reproduce, distribute, perform, display, or license the work and that he has created or acquired. Derivative rights, for example, could be the translation and publication on the web of a book.

### **HOW COPYRIGHT WORKS**

Michele S. Katz, Esq., and Richard J. Gurak, Esq. handle copyrights, trademarks, patents and related matters daily. They offer the following explanations.

Your tangible drawing, song or puzzle is copyrightable but the *ideas*, concepts, discoveries or principles that it's based on are not copyrightable. Another category of noncopyrightable material includes words, familiar symbols or designs such as short phrases, names, titles and slogans. "You may be able to protect these types of materials via patent or trademark," advises Gurak.

A work is automatically protected by copyright when it is *created*. Katz says, "Neither registration in the Copyright Office, nor publication is required for copyright protection. However, if you want to protect your work from an infringer, you still have to prove that you are entitled to this right." You are powerless to enforce your copyrights for unregistered work: infringers may steal what does not rightfully belong to them.

So, filing a federal registration with the Copyright Office provides far better protection. This registration allows you to enforce your rights in court. It may also help you gain more kinds of legal remedies in an infringement suit, including statutory damages, costs and attorneys fees.

### **ESTABLISH A PUBLIC RECORD OF YOUR COPYRIGHT**

Most attorneys, including Katz, advise against the "do-it-yourself" method. Still, it is a good idea to inform your self about the process before visiting an attorney. Start by phoning the U.S. Copyright Office (202) 707-9100 or visiting [www.loc.gov/copyright](http://www.loc.gov/copyright) or your public library.

The basic steps are minimal. The copyright registration form is submitted to the U.S. Copyright Office with samples of the work. Registration currently costs \$30 per work. The original work is marked with the international © symbol, date of first publication and author's name, ie company name.

"Another benefit of registration is protection through the U.S. Customs Service," says Katz. "You may be able to bar infringing works from even entering the United States by recording a federal copyright registration with United States Customs Service."

As in all legal matters, consult a qualified attorney prior to taking action.

#### STEPS TO SUCCESS BizAméricas

1. Evaluate your company processes, materials or products to identify any that need copyright protection.
2. If you are infringing on someone else's copyright in the way your company adopts processes or uses materials, read last week's BizAméricas column on ethics in business.
2. Learn more about protecting your copyrights.
4. Consult with an attorney about copyright registration or concerns about infringement.

For more information, contact Michele S. Katz and Richard J. Gurak, Advitam IP LLC, at 312.332.7700 or by mail at 160 North Wacker Drive, Chicago, IL 60606.