

Copyright Protection

Ray K. Harris, JD, and Stacie K. Smith, JD

Ray K. Harris, JD, is a director and Stacie K. Smith, JD, is of counsel at Fennemore Craig in Phoenix, Arizona.

Overview

Copyright law grants the copyright owner certain exclusive rights. When creating multimedia works, the copyright in each element must be considered: Software, music, and images used for a multimedia work may be separately owned. The copyright owner is generally the author or the author's employer. Formal copyright registration is not required for protection, but registration does result in enhanced rights.

Copyright protection does not extend to scientific or historic facts. In light of the limited copyright protection for databases, database owners often seek protection either under trade secret law, by limiting access to specific inquiries (e.g., Lexis and Westlaw), or under contract, by limiting use, or disclosure.¹ Computer software may be protected by copyright, trade secret, or patent law.

The Copyright Owner's Rights

The Statutory Exclusive Rights

The Constitution grants Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors . . . the exclusive right to their respective writings. . . ."² Copyright protection applies to any "original works of authorship fixed in a tangible medium of expression."³

As determined in *Feist Publications Inc. v Rural Telephone Service Co Inc.*, "Original, as the term is used in copyright, means only that the work was independently created by the

author . . . and that it possesses at least some minimal degree of creativity.”