

## 1. Can copyright be used to protect my ideas

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Copyright applies to a recorded work, it cannot apply to something as intangible as an idea. Within certain fields, (such as inventions) it may be possible to apply for a patent.

Because copyright applies to the actual recorded work - documents, music, artwork, etc., if a competitor used your copyright work, (i.e. copied or adapted your promotional literature or stole content from your website to promote their own product), this would be an infringement and you could certainly take action, but there is little you can do to prevent someone else creating their own work based on a similar idea as long as they are not copying your work to do so.

## 2. Can I copyright a name or title?

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Copyright laws are actually very restrictive, and do not apply to items such as names and titles that may be duplicated coincidentally, or that may be legitimately used in unrelated instances.

From a copyright perspective, there is no reason why two works cannot have the same title. As long as the content of works themselves are not copied or adapted, no infringement has occurred.

This does NOT mean that there is no protection on the name, as it may be covered by other legislation: If the name was a trademark, or if it could be proved that that use of the title misleads or confuses the public, (this is known as 'passing off'), then there can be issues.

While copyright will apply from the point a work is created, 'passing off' is based on the public perception of what the name implies, (i.e. you have a very clear idea of what you expect to be given if you ask for a 'Coca-Cola').

## 3. Can I simply post a copy to myself as proof of copyright

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This method (sometimes called 'poor man's copyright'), may help in some cases, but it is extremely poor evidence as it is very easy to fake - for example by replacing the actual materials inside at a later date.

The main problem if you send your work to yourself via courier or the postal service (including recorded/tracked and signed for services) or use any other system which requires you to store the work yourself, is that there is no verifiable evidence to say that the contents have not been swapped.

## 4. Is everything on the Internet ‘public domain’ and free to use?

This highlights a common misunderstanding about what is meant by ‘public domain’ when referring to copyright work.

A work will fall into the public domain once copyright expires, this will typically be many years after the author’s death.

While work published on the Internet may be publicly accessible, it is certainly not in the public domain.

## 5. If something does not have a copyright notice surely I can use it as it is not protected?

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Copyright will apply whether there is a copyright notice or not.

In the US, a notice was required to retain copyright on works published before January 1st 1978, but this was the exception not the norm, and is certainly no longer the case. Also, once the US signed up to the Berne convention, US law was amended, and the use of copyright notices became optional on work published from March 1st 1989.

Having said this, it is still certainly worth placing a copyright notice on your work. A copyright notice reminds others that copyright exists, and may therefore help to deter infringement.

## 6. If I change someone else’s work I can claim it as my own?

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The act of copying or adapting someone else’s work is a breach of copyright. Also any adaptation will be legally regarded as a *derived work*, so if you simply adapt the work of others, it will still be their work, and they have every right to object, (and are also entitled to any money you make from their work).

The only safe option is to create something that is not copied or adapted from the work of others.

*There is nothing to stop you being inspired by the work of others, but when it comes to your own work, start with a blank sheet and do not try to copy what others have done.*

## **7. Can I legally copy 10% without it being an infringement of copyright?**

Not unless it is explicitly allowed under fair use or fair dealing rules, any unauthorised use of copyright work can potentially lead to legal action.

When using quotes or extracts, there is no magic figure or percentage that can be applied as each case must be viewed on its own merit. In cases that have come to trial what is clear is that it is the perceived importance of the copied content rather than simply the quantity that counts.

Our advice would always be to seek permission before you use the work of others.

## **8. Is it OK to use, copy, or publish other peoples work if I don't make any money out of it?**

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No, except in specific circumstances permitted under fair dealing/fair use rules, any copying or publication without the consent of the copyright owner is an infringement, and you could face legal action.

If the use has a financial impact on the copyright owner, (i.e. lost sales), then you could also face a claim for damages to reclaim lost revenue and royalties.

## **9. Is it hard to prove copyright infringement?**

No - copyright law is principally civil not criminal law. Civil law requires a lower burden of proof, actually making it easier to prove infringement.

In a criminal case, the defendant is innocent until proven guilty beyond any reasonable doubt. However, in a civil case, the plaintiff must simply convince the court or tribunal that their claim is valid, and that on balance of probability it is likely that the defendant is guilty.

