

## Copyright

Copyright is a personal right that subsists in literary, dramatic, musical and artistic works as well as sound recordings, films, sound and television broadcasts and published editions. Literary works extend beyond works of literature and include computer programs, compilations and databases. Similarly, artistic works include a wide range of works from paintings to house plans. Copyright attaches to the actual expression of an idea not the idea itself.

To qualify for copyright protection, the material must be original, that is, it must be independently created and not copied.

The owner of copyright is usually the author of the material, however there are a number of exceptions. For example, copyright material created in the course of employment is owned by the employer.

Copyright protection generally lasts for the life of the author plus 70 years.

Present or future copyright may be assigned to third parties. Copyright owners may also license third parties to use some or all of their rights in the copyright.

There is no registration scheme for copyright in Australia. Copyright protection is automatic when it is placed in a form from which it can be reproduced. A copyright notice is not required in Australia however it is sensible to put others on notice of the claim to copyright. The notice can take the form of the © symbol followed by the owner's name and the year of first publication or creation.

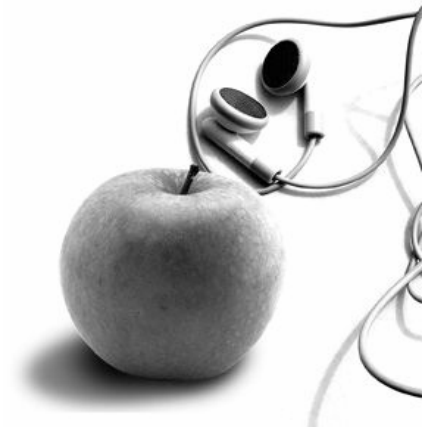
As a result of Australia's membership of a number of international conventions, Australian copyright owners' rights extend to other member countries and Australia provides reciprocal protection to copyright owners from those countries.

Some of the exclusive rights of a copyright owner include the right to reproduce, to publish, to perform, to communicate to the public (i.e. make available on-line or electronically transmit), and to make an adaptation. Copyright infringement occurs when a third party does or authorises an act that is an exclusive right of the copyright owner without that owner's permission, or imports or commercially deals with infringing copies. In relation to literary, artistic, dramatic and musical works an infringement involves the use of a substantial portion of the copyright material by a third party without the permission of the copyright owner. A qualitative test is used to determine what is a substantial portion of the copyright material. Defences are available to excuse certain uses of copyright material including fair dealing of the material for the purpose of research or study, criticism or review or reporting news.

If infringement is found, a copyright owner may obtain an injunction restraining the infringing conduct, damages (or an account of profits) and delivery up of infringing copies. Criminal penalties may also apply.

Moral rights came into effect of 21 December, 2000 and are included in the Australian Copyright Act. Moral rights distinct from the proprietary economic rights of copyright, as they are individual rights and cannot be assigned. The copyright in a work may be owned by a different person to the moral rights holder.

Authors of literary, dramatic, musical and artistic works and of films have three moral rights namely, the right of attribution of authorship, the right not to have the authorship of a work falsely attributed and the right of integrity of authorship (ie. to object to derogatory treatment of a work).



The right of attribution, false attribution and the right of integrity (except in film which continues until the author dies) continues until the expiry of copyright.

Moral rights infringements occur when a person does or authorises an attributable act, or an act of false attribution or subjects a work to derogatory treatment, in Australia. Defence of reasonableness and consent are available.

Moral rights are not infringed if the creator consents in writing to the action/emission or if the infringement is reasonable in the circumstances or a special exception is applicable.

**For more information please visit our website  
[www.griffithhack.com.au](http://www.griffithhack.com.au)**

