

SECTION J: COPYRIGHT, INTELLECTUAL PROPERTY, AND ACCESS

Copyright

In Canada, "copyright" means "the right to copy." In general, only the copyright owner, often the creator of the work, is allowed to produce or reproduce the work or to permit anyone else to do so. Canadian Copyright law protects creative endeavours by ensuring that the creator has the sole right to authorize their publication, performance or reproduction.

Although copyright in a work exists automatically when an original work is created, a certificate of registration is evidence that your creation is protected by copyright and that you, the person registered, are the owner. It can be used in court as evidence of ownership.

Intellectual property

In Canada, Intellectual Property is defined as "the legal rights that result from intellectual activity in the industrial, scientific, literary and artistic fields." Intellectual property establishes a right and identifies ownership of intellectual creativity.

The issue of whether there is adequate protection for indigenous cultural heritage and intellectual property is an important topic amongst First Nations communities. Indigenous intellectual property consists of the intangible ideas and knowledge associated with artistic works and designs and other forms of cultural expression such as music, dance, song and story.

Indigenous people stress the strong connections between intellectual and cultural property and other parts of their cultural heritage, particularly to country and their sense of identity. Indigenous rights in cultural and intellectual property include the right to determine its nature and extent in accordance with their laws and customs, the right to manage and control it, and the right to exclude others from access to and use of this property.

Access to copyrighted material

Access to copyrighted material and intellectual property of First Nations communities can be regulated through a number of methods ranging from highly restrictive (i.e. All rights reserved by Copyright holder) to fairly lenient (i.e. CC BY-SA: Attribution-ShareAlike - This license lets others remix, tweak, and build upon your work even for commercial purposes, as long as they credit you and license their new creations under the identical terms).

Resources

Canadian Intellectual Property Office

URL: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/Home> Last access: January 12, 2018.

You can protect your original creative works with standard Canadian copyright, which applies the moment you record the work. Others will need a license to make more than minimal (or "fair dealing") copies. Copyright also protects against performance and modification.

Creative Commons

URL: <http://creativecommons.org/> Last access: January 12, 2018.

Creative Commons develops, supports, and stewards legal and technical infrastructure that maximizes digital creativity, sharing, and innovation. There is no registration to use the Creative Commons licenses. Licensing a work is as consists of selecting which of the six licenses best meets the community's goals, and then marking the material so that others know that you have chosen to release the work under the terms of that license.

Traditional Knowledge Labels (Local Contexts)

URL: <http://localcontexts.org/tk-labels/> Last access: January 12, 2018.

The TK Labels are a tool for Indigenous communities to add existing local protocols for access and use to recorded cultural heritage that is digitally circulating outside community contexts. The TK Labels offer an educative and informational strategy to help non-community users of this cultural heritage understand its importance and significance to the communities from where it derives and continues to have meaning. TK Labeling is designed to identify and clarify which material has community-specific restrictions regarding access and use. This is especially with respect to sacred and/or ceremonial material, material that has gender restrictions, seasonal conditions of use and/or materials specifically designed for outreach purposes. The TK Labels also can be used to add information that might be considered 'missing', including the name of the community who remains the creator or cultural custodian of the material, and how to contact the relevant family, clan or community to arrange appropriate permissions.