

# Opposing Copyright Extension

Statutes and Treaties

Harmonization Chart Between U.S. and E.U.  
After Adoption of the Sonny Bono Copyright Term Extension Act

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## CHART SHOWING CHANGES MADE AND THE DEGREE OF HARMONIZATION ACHIEVED AND DISHARMONIZATION EXACERBATED BY THE SONNY BONO COPYRIGHT TERM EXTENSION ACT (CTEA)

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Created May 15, 2002

The United States Copyright Act has undergone numerous amendments over the years, in addition to the major overhaul that it received in 1976 (effective Jan. 1, 1978). As a result, no simple statement can be made to the effect that "The term of protection for Y types of works is X years." Rather, works of the same type but produced at different times will often have different terms of protection, as of course will works of different types. In general, the most important break point for works of the same type is Jan. 1, 1978, the effective date of the 1976 Act. Until that time, the U.S. had a system providing an initial term of 28 years from publication and a renewal term, first of 28 years, then of 47 years, and now, under the CTEA, of 67 years. That formula applied to most works, whether created by individuals, groups, or in the course of employment. Since Jan. 1, 1978, the term has depended largely on whether the work in question is a "work made for hire" (essentially a work created by employees in the course of their employment, in which case the employer is deemed to be the author of the work). Works made for hire had a term under the 1976 Act of 75 years from publication, which was extended to 95 years by the CTEA. Works other than works made for hire are generally deemed to have been authored by individuals, and the term of protection under the 1976 Act was initially 50 years past the death of the individual author. The CTEA extended this term, for all works created after Jan. 1, 1978, and not just those created after the effective date of the CTEA, to 70 years past the death of the individual author. Some minor qualifications of these statements must be made in the case of sound recordings, which did not enjoy federal copyright protection until 1972, and as a result of the automatic renewal

legislation in 1992, which eliminated the obligation to make a formal filing to obtain copyright protection for the long renewal term.

This Chart seeks to summarize the pre- and post-CTEA U.S. copyright terms for various classes of works and to compare those terms to the terms provided under the European Union Directive. It shows how little was accomplished in the way of "harmonization" of terms and, indeed, how much disharmonization was actually effected by the CTEA.

I believe this Chart is correct, based on my personal study of the relevant provisions of the U.S. Copyright Act before and after adoption of the CTEA and of the EU Directive. If anyone finds any errors, I would appreciate hearing about them at [dennis.karjala@asu.edu](mailto:dennis.karjala@asu.edu).

Note: The "<" and ">" signs in the Chart mean "before" and "after," respectively. Thus, for example, ">1977" means "after 1977" (or "1978 and beyond"). Also "PMA" is short for "post mortem auctoris," or past the death of the author. Thus, 70 PMA means the term lasts for 70 years after the death of the author.

#	Nature of Work and Author	Pre-CTEA Term	Post-CTEA Term	Directive Term in EU	Harmonized?	More or Less?
1	Natural persons >1977	50 PMA	70 PMA	70 PMA	Yes	More
2	Natural persons <1978, works published 1950-1963	28;47	28;67	70 PMA	No	No change
3	Natural persons <1978, works published 1964-1977	75	95	70 PMA	No	No change
4	Natural persons <1978, works published <1950	75 (if still in renewal term on 1/1/78, the effective date of the 1976 Act)	95 (if still in renewal term on 10/27/98, effective date of the CTEA)	70 PMA	No	No change

5	Joint Authors >1977	50 PMA (last surviving author)	70 PMA (last surviving author)	70 PMA (last surviving author)	Yes	More
6	Joint Authors <1978, works published 1950-1963	28;47	28;67	70 PMA (last surviving author)	No	No change
7	Joint Authors <1978, works published 1964-1977	75	95	70 PMA (last surviving author)	No	No change
8	Joint Authors <1978, works published <1950	75	95 (if still in renewal term on 10/27/98, effective date of the CTEA)	70 PMA (last surviving author)	No	No change
9	Anonymous or Pseudonymous Authors >1977	Lesser of 75 from publication or 100 from creation	Lesser of 95 from publication or 120 from creation	70 from time made available to public (or 70 PMA if author's name becomes known within 70)	No	Less (or no change if author's name becomes known within 70)
10	Works made for hire >1977	Lesser of 75 from publication or 100 from creation	Lesser of 95 from publication or 120 from creation	70 PMA (70 if individual author not identified in released version)	No	Less if individual author not identified, otherwise no change
11	Works made for hire <1978 (same as 2, 3, & 4)	28;47 (1950-1963) 75 (1964-1977)	28;67 (1950-1963) 95 (1964-1977)	70 PMA (70 if individual author not identified in	No	Less if individual author not

	above)	75 (<1950)	95 (<1950)	released version)		identified, otherwise no change
12	Audiovisual works >1977, created as works made for hire	Lesser of 75 from publication or 100 from creation	Lesser of 95 from publication or 120 from creation	70 PMA of principal director, screenplay author, dialogue author, or composer	No	No change
13	Audiovisual works <1978, created as works made for hire	28;47 (1950-1963) 75 (1964-1977) 75 (<1950)(if in renewal term on 1/1/78)	28;67 (1950-1963) 95 (1964-1977) 95 (<1950)(if in renewal term on 10/27/98)	70 PMA of principal director, screenplay author, dialogue author, or composer	No	No change
14	Film Producers	No rights under copyright unless authors or assignees of authors	No rights under copyright unless authors or assignees of authors	"Related rights" expire at sooner of 50 years from first publication or first communication to public	No	No change
15	Broadcasting Organizations	No rights under copyright unless authors or assignees of authors	No rights under copyright unless authors or assignees of authors	"Related rights" expire 50 years after transmission	No	No change
16	Sound Recordings >1977	75 or 50 PMA, depending on nature of author	95 or 70 PMA, depending on nature of author	"Related rights" expire 50 years from sooner of first publication	No	Less

				or first communication to public			
17	Sound Recordings 1972-1977	75	95	"Related rights" expire 50 years from sooner of first publication or first communication to public	No	Less	
18	Sound Recordings <1972	State law until 2047	State law until 2067	"Related rights" expire 50 years from sooner of first publication or first communication to public	No	Less	
19	Unpublished works on which copyright has expired	0	0	25 from publication	No	No change	
20	Unpublished works <1978 not previously copyrighted or in the public domain	Greater of 50 PMA or until 2003; if published before 2003, greater of 50 PMA or until 2028	Greater of 70 PMA or until 2003; if published before 2003, greater of 70 PMA or until 2048	70 PMA	Partially (harmonized for relatively recent works, not for older works)	More for recent works, less for older works	

Sources: The columns for Pre- and Post-CTEA Terms are taken from sections 302-304 of the Copyright Act: [17 U.S.C. §§ 302-304 prior to the CTEA](#), and [§§ 302-304 as amended by the CTEA](#). The column Directive Term in the EU is based on the [Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights](#), 19 OJL 290.