

COPYRIGHT

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CLASS 8: DURATION AND TERMINATIONS OF TRANSFER

Class Outline

- CTEA
- Duration
- Terminations of Transfer

U.S. Constitution, Article I, section 8, clause 8

“The Congress shall have Power ... To promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

“My copyrights produce to me annually a good deal more money than I have any use for. But those children of mine have use for that. I can take care of myself as long as I live. I know half a dozen trades, and I can invent a half a dozen more. I can get along. But I like the fifty years' extension, because that benefits my two daughters, who are not as competent to earn a living as I am, because I have carefully raised them as young ladies, who don't know anything and can't do anything. So I hope Congress will extend to them that charity which they have failed to get from me.”

Movies – avg. theatrical lifespan of 10 weeks; within 6 months, a typical movie has earned pretty much everything it's going to make at the box office; another 4-6 months for home video; by month 9 following theatrical release most movies make it to premium cable; regular cable around month 24. Sequels, where there will be any, come within 5 years.

TV – most TV series lose 1/3 of their value in the first year, and depreciate at roughly 11.4% per year after that.

Music – Most songs lose 65% of their value in the first year following release, and have exhausted the majority of their earnings potential within 5 years from the date of release, reflecting a depreciation rate of 26.7% per year.

Books – Finally, the most successful books earn most of their revenue in the first 3 years, with an annual depreciation rate of 12%.

17 USC Section 104A:

(a)AUTOMATIC PROTECTION AND TERM.—(1)TERM.—

(A)Copyright subsists, in accordance with this section, in restored works, and vests automatically on the date of restoration.

(B)Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

17 USC § 203

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than onehalf of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest....

17 USC § 203(a)(3)

- (a) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

17 USC § 203(a)(4)

- (a) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.
- (A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.
- (B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

17 USC § 203(a)(5)

Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.