

Deborah Ginsberg:

Under current U.S. copyright law (caselaw, statutes, regulations, agency information), to what extent are fonts and typefaces protectable as intellectual property? Please focus on the distinction between protection for font software versus typeface designs. What are the key limitations on such protection as established by statute and case law? Specifically, if a font has been created by proprietary software, or if a font has been hand-designed to include artistic elements (e.g, "A" incorporates a detailed drawing of an apple into its design), is the font entitled to copyright protection?



AI Assistant

Under U.S. copyright law, the protection of fonts and typefaces is subject to specific limitations and distinctions. Typeface designs, as such, are not copyrightable. This is explicitly stated in [§ 202.1 Material not subject to copyright](#), which excludes "typeface as typeface" from copyright protection. Courts have consistently upheld this principle, emphasizing that typeface designs are considered utilitarian and do not qualify as "pictorial, graphic, or sculptural works" under [§ 102. Subject matter of copyright: In general](#). For example, in [Eltra Corp. v. Ringer, 1976 U.S. Dist. LEXIS 12611](#), the court noted that typeface designs are industrial designs that cannot exist independently as works of art [§ 202.1 Material not subject to copyright](#), [Eltra Corp. v. Ringer, 1976 U.S. Dist. LEXIS 12611](#), [Beijing Zhongyi Zhongbiao Elec. Info. Tech. v. Microsoft Corp., 2013 U.S. Dist. LEXIS 101947](#).

In contrast, font software, which consists of the computer code or program that generates typefaces, is copyrightable as a literary work under [§ 102. Subject matter of copyright: In general](#). Courts have recognized that font software involves original authorship and creative choices, such as the selection of on-curve and off-curve reference points for glyphs, which are protectable expressions. For instance, in [Adobe Sys. v. Southern Software, Inc., 1998 U.S. Dist. LEXIS 1941](#), the court held that Adobe's font software programs were protectable original works of authorship [Beijing Zhongyi Zhongbiao Elec. Info. Tech. v. Microsoft Corp., 2013 U.S. Dist. LEXIS 101947](#), [Laatz v. Zazzle, Inc., 682 F. Supp. 3d 791](#), [Laatz v. Zazzle, Inc., 2024 U.S. Dist. LEXIS 40600](#).

Regarding fonts created by proprietary software or hand-designed fonts with artistic elements, the analysis depends on the nature of the work. If a font is created using proprietary software, the copyrightability of the resulting font software depends on the extent of human authorship involved. The U.S. Copyright Office has clarified that works created through purely mechanical processes or automated selection without human interaction are not eligible for copyright protection. However, if the designer makes creative choices, such as manually coding aspects of the font or incorporating artistic elements separable from the utilitarian function of the typeface, those elements may be protectable. For example, in [Laatz v. Zazzle, Inc., 682 F. Supp. 3d 791](#), the court considered whether the plaintiff's hand-coded designs for individual glyphs, compiled into font software, constituted sufficient originality for copyright protection [Laatz v. Zazzle, Inc., 682 F. Supp. 3d 791](#), [Laatz v. Zazzle, Inc., 2024 U.S. Dist. LEXIS 40600](#), [906 Uncopyrightable Material](#).

Key limitations on copyright protection for fonts and typefaces include the requirement of originality and human authorship. Additionally, the copyright does not extend to the general layout, format, or utilitarian aspects of typefaces. The U.S. Copyright Office will only register the source code of font software, not the typeface or lettering itself, unless the ornamentation is separable and sufficiently creative [§ 202.1 Material not subject to copyright](#), [906 Uncopyrightable Material](#), [§ 2 Types of Works Protected](#).

In summary, while typeface designs are not copyrightable, font software that involves original authorship and creative input is protectable under U.S. copyright law. Hand-designed fonts with

artistic elements may also qualify for protection if the artistic components are separable and meet the originality threshold. However, purely mechanical or automated processes without human interaction do not qualify for copyright protection [§ 202.1 Material not subject to copyright](#), [Beijing Zhongyi Zhongbiao Elec. Info. Tech. v. Microsoft Corp.](#), 2013 U.S. Dist. LEXIS 101947, [Laatz v. Zazzle, Inc.](#), 682 F. Supp. 3d 791, [Laatz v. Zazzle, Inc.](#), 2024 U.S. Dist. LEXIS 40600.

Content supporting AI-generated response:

 [§ 202.1 Material not subject to copyright](#) | CFR - Code of Federal Regulations | Administrative Codes | U.S. Federal

[§ 102. Subject matter of copyright: In general](#) | USCS - United States Code Service - Titles 1 through 54 | Codes | U.S. Federal

 [Eltra Corp. v. Ringer](#), 1976 U.S. Dist. LEXIS 12611 | 4th Circuit - US District Court Cases | Cases | U.S. Federal | Oct 26, 1976

 [Beijing Zhongyi Zhongbiao Elec. Info. Tech. v. Microsoft Corp.](#), 2013 U.S. Dist. LEXIS 101947 | 8th Circuit - US District Court Cases | Cases | U.S. Federal | Jul 22, 2013

 [Adobe Sys. v. Southern Software, Inc.](#), 1998 U.S. Dist. LEXIS 1941 | 9th Circuit - US District Court Cases | Cases | U.S. Federal | Jan 30, 1998

 [Laatz v. Zazzle, Inc.](#), 682 F. Supp. 3d 791 | 9th Circuit - US District Court Cases | Cases | U.S. Federal | Jul 17, 2023

 [Laatz v. Zazzle, Inc.](#), 2024 U.S. Dist. LEXIS 40600 | 9th Circuit - US District Court Cases | Cases | U.S. Federal | Mar 7, 2024

[906 Uncopyrightable Material](#) | Nimmer on Copyright | Treatises | U.S. Federal

[§ 2 Types of Works Protected](#) | Restatement of the Law, Copyright - Drafts | Restatements | U.S. Federal

 [ELTRA Corp. v. Ringer](#), 579 F.2d 294 | 4th Circuit - US Court of Appeals Cases | Cases | U.S. Federal | Jun 14, 1978