**17.12 Copyright Interests—Assignee**

**(17 U.S.C. § 201(d)(1))**

[In this case, the [plaintiff] [defendant] does not claim to be the [author] [creator] [initial owner] of the copyright at issue. Instead, the [plaintiff] [defendant] claims that it received the copyright by virtue of assignment from the work’s [author] [creator] [initial owner] so that the [plaintiff] [defendant] is now the assignee of the copyright.]

A copyright owner may [transfer] [sell] [convey] to another person all or part of the owner’s property interest in the copyright; that is, the right to exclude others from copying the work. The person to whom the copyright is [transferred] [sold] [conveyed] becomes the owner of the copyright in the work.

To be valid, the [transfer] [sale] [conveyance] must be in a writing signed by the transferor. The person to whom this right is transferred is called an assignee. [The assignee may enforce this right to exclude others in an action for copyright infringement.]

**Comment**

When the owner of the copyright is not the author, the first bracketed paragraph may be appropriate.

“A ‘transfer of copyright ownership’ is an assignment . . . .” 17 U.S.C. § 101. Ownership of a copyright may be transferred in whole or in part by any means of conveyance.  *See* 17 U.S.C. § 201(d)(1).

Transfer of a copyright, other than by operation of law, must be reflected by a written instrument, signed by the owner of the rights conveyed. *See* 17 U.S.C. § 204(a) (“A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner’s duly authorized agent.”); *Konigsberg Int’l Inc. v. Rice*, 16 F.3d 355, 356-57 (9th Cir. 1994) (noting that § 204(a) provides that “a transfer of copyright is simply ‘not valid’ without a writing”). “No magic words must be included in a document to satisfy § 204(a). Rather, the parties’ intent as evidenced by the writing must demonstrate a transfer of the copyright.” *Radio Television Espanola S.A. v. New World Entm’t Ltd.*, 183 F.3d 922, 927 (9th Cir. 1999). “Section 204’s writing requirement is not unduly burdensome; it necessitates neither protracted negotiations nor substantial expense. The rule is really quite simple: If the copyright holder agrees to transfer ownership to another party, that party must get the copyright holder to sign a piece of paper saying so. It doesn’t have to be the Magna Charta; a one‑line pro forma statement will do.” *Effects Associates, Inc. v. Cohen*, 908 F.2d 555, 557 (9th Cir. 1990). Both the 1909 and 1976 Copyright Acts allow for the transfer of a copyright by will. *Aquarian Found., Inc. v. Lowndes*, 127 F.4th 814, 821 (9th Cir. 2025)**(**citing 17 U.S.C. § 42 (repealed) (providing that copyrights “may be bequeathed by will”); 17 U.S.C. § 201(d)(1) (providing that copyrights “may be bequeathed by will or pass as personal property by the applicable laws of intestate succession”)).

Some case law suggests that the writing must be executed “more or less” contemporaneously with the agreement to transfer ownership. *See Koninsberg*, 16 F.3d at 356-57. However, this suggestion has been rejected as dicta, *see Magnuson v. Video Yesteryear*, 85 F.3d 1424, 1429 n.1 (9th Cir. 1996), and the weight of authority holds that “[i]f an oral transfer of a copyright license is later confirmed in writing, the transfer is valid,” *Vallente-Kritzer Video v. Pinckney*, 881 F.2d 772, 775 (9th Cir. 1989); *see also Magnuson*, 85 F.3d at 1428 (“Like the 1976 Copyright Act, the Copyright Act of 1909 provided that assignment of a copyright had to be made in writing. However, case law holds that under some circumstances a prior oral grant that is confirmed by a later writing becomes valid as of the time of the oral grant. . . .” (citations omitted)). This is especially so when there is no dispute between the conveyor and the conveyee regarding whether a transfer took place, for example when the dispute is between the conveyee and an alleged infringer. *See id.* (holding that § 204(a)’s writing requirement was satisfied by memorandum executed after litigation had begun, when there was no dispute regarding conveyor’s intent to transfer).

The 1976 Copyright Act provides that only the “legal or beneficial owner of an exclusive right under a copyright [may]… institute an action for any infringement . . . .” 17 U.S.C. § 501(b). The Ninth Circuit interprets this section as requiring the plaintiff to have a “legal or beneficial interest in at least one of the exclusive rights described in § 106.” *Silvers v. Sony Pictures Entm’t, Inc*., 402 F.3d 881, 885 (9th Cir. 2005) (en banc) (concluding that though § 501(b) does not expressly say that only legal or beneficial owner of exclusive right may sue, Congress’s explicit listing of who *may* sue should be understood as an exclusion of others); *see also Righthaven LLC v. Hoehn*, 716 F.3d 1166, 1168 (9th Cir. 2013). Additionally, in order for a plaintiff to be “‘entitled ... to institute an action’ for infringement, the infringement must be ‘committed while he or she is the owner of’ the particular exclusive right allegedly infringed.”  *Silvers*, 402 F.3d at 885 (quoting 17 U.S.C. § 501(b)). As to exclusive rights, *see* Instruction 17.2 (Copyright**—**Defined).

Regarding an assignment of royalties, *see* *Broad. Music, Inc. v. Hirsch*, 104 F.3d 1163, 1166 (9th Cir. 1997) (holding that copyright owner’s assignment of right to receive royalties is not transfer of ownership under 17 U.S.C. § 205 and does not affect existence, scope, duration or identification of rights under copyright). However, the beneficial owner of the copyright, such as the royalty assignee, may, by means of intervention, protect his or her interests if the legal owner of the copyright fails to do so. *See* 17 U.S.C. § 501(b); *see also Yount v. Acuff Rose-Opryland*, 103 F.3d 830, 833-34 (9th Cir. 1996) (involving assignment of royalties).

Regarding a renewal interest in a copyright, *see Marascalco v. Fantasy, Inc.*, 953 F.3d 469, 476 (9th Cir. 1991) (holding that renewal interest in copyright vests in author’s assignees only if author survives to start of renewal term under 17 U.S.C. § 304(a)). A work created on or after January 1, 1978, is protected from its creation for a term consisting of the life of the author and 70 years after the author’s death. 17 U.S.C. § 302(a). In works created prior to January 1, 1978, and still in their first term of copyright, a copyright shall upon renewal endure for the further term of 67 years. 17 U.S.C. § 304(a)(1)(A). *See Stewart v. Abend*, 495 U.S. 207, 217 (1990). However, if the author dies before that time, the “next of kin obtain the renewal copyright free of any claim founded upon an assignment made by the author in his lifetime. These results follow not because the author’s assignment is invalid but because he had only an expectancy to assign; and his death, prior to the renewal period, terminates his interest in the renewal….” *Id.*

*Revised March 2025*