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Copyrights As Collateral: Addressing the Reversion Risk

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Intellectual property is frequently used as collateral in lending transactions. For certain borrowers, especially those in the entertainment industry, their copyrights are among their primary assets. However, many lenders are unaware of the termination and reversion rights that exist under the U.S. Copyright Act. Without taking these rights into account, lenders may structure loans with durations that go past reversion dates and with collateral that may cease to be owned by the borrower. This means that lenders may realize far too late that a significant piece of collateral may have suddenly disappeared, leaving them undercollateralized and causing borrowers to possibly be in default of loan covenants. This article outlines the primary termination rights that exist under the Copyright Act, including who may exercise these termination rights, when they may be exercised and the effects of termination.

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