



EVERYTHING MATTERS

Copyright Law

an introduction



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What is copyright?



- Copyright is a legal concept
 - Most countries have copyright legislation
 - Organised between countries by international treaties and supranational laws
 - Temporary monopoly
 - Copyright gives the creator of an original work exclusive rights to it, usually for a limited time.
 - Typical rights:
 - the right to copy
 - the right to be credited
 - the right to determine who may adapt the work to other forms
 - the right to determine who may perform the work
 - the right to determine who may financially benefit from it, etc
- > moral rights/economic rights

What is copyright?



- **Duration**
 - typically between fifty to a hundred years from the creator's death
- **Formalities**
 - some jurisdictions have required formalities to establishing copyright
 - most recognize copyright in any completed work, without formal registration.
- **Enforcement**
 - as a civil matter
 - sometimes, also criminal sanctions
- **Exceptions**
 - most jurisdictions allow "fair" exceptions to the creator's exclusivity of copyright



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PART I

General Principles of Copyright

International legal framework



- Berne Convention for the Protection of Literary and Artistic Works
- WIPO Convention setting up World Intellectual Property Office in Geneva
- TRIPS Agreement Agreement on Trade-Related Aspects of Intellectual Property Rights (WTO)

European legal framework



- Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society
- Directive 2006/115/EC on rental right and lending right and on certain rights related to copyright in the field of intellectual property
- Directive 2006/116 on the term of protection of copyright and certain related rights

National Legal Framework



- **Example: Belgium**
- Copyright Act
- Software protection Act
- Database protection Act
- Copyright enforcement Act
- Benelux Treaty on Trademarks
- Domain name protection act
- Patent Act
- Biopatents Act

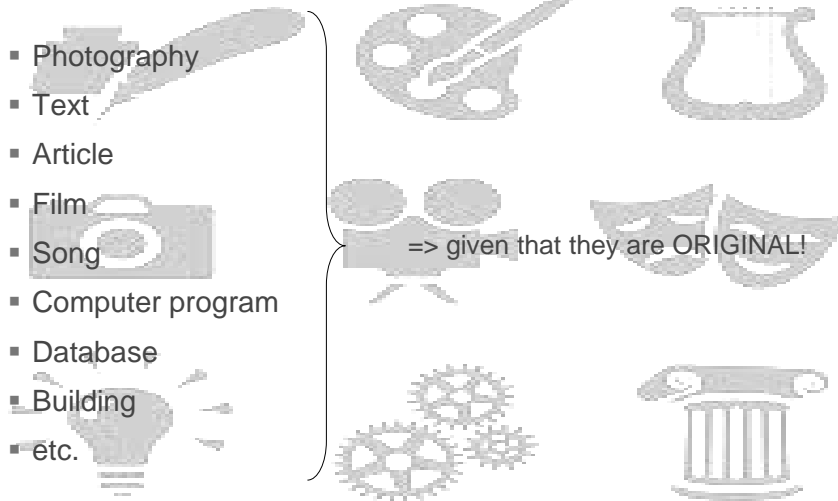
When is a work protected by Copyright



- Protection of an "Original Work"
 - "Work"
 - concrete, material expression
 - ≠ ideas, procedures, methods of operation or mathematical concepts as such
 - "Originality"
 - ≠ artistic value is of no importance
 - ≠ novelty (cfr patent protection)
- No formalities



Scope of Protected Works

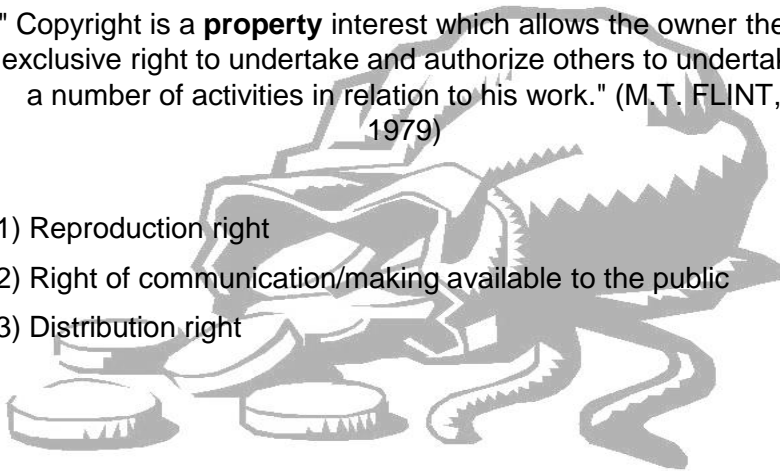


Scope of Protection



" Copyright is a **property** interest which allows the owner the exclusive right to undertake and authorize others to undertake a number of activities in relation to his work." (M.T. FLINT, 1979)

- 1) Reproduction right
- 2) Right of communication/making available to the public
- 3) Distribution right



Copyright protection



- Member States shall provide for the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part.

- Authors have the exclusive right to authorise or prohibit any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

- Authors have, in respect of the original of their works or of copies thereof, the exclusive right to authorise or prohibit any form of distribution to the public by sale or otherwise.

Duration of Protection



- "The rights of an author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for 70 years after his death, irrespective of the date when the work is lawfully made available to the public."

- "In the case of a work of joint authorship the term referred to in paragraph 1 shall be calculated from the death of the last surviving author."



Quiz



- Copyright status is only granted to well-known authors and filmmakers?

True

False

- Maité forgot to register her screenplay before she sent it to her agent for review, she is no longer eligible to copyright it.

True

False

Quiz



- Copyright status is only granted to well-known authors and filmmakers?

True

False



- Maité forgot to register her screenplay before she sent it to her agent for review, she is no longer eligible to copyright it.

True

False



=> To each person who has created an original work; no formalities



Any exceptions applicable?

Exceptions?



- Most jurisdictions allow "fair" exceptions to the creator's exclusivity of copyright
- Typically relating to research, education, public awareness, etc
- Always check if and how implemented in your jurisdiction !

Exceptions to author's copyright?



- (a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved;
 - E.g. Belgium: + if done "following fair professional practices"

- (b) uses, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability;

Exceptions to author's copyright?



- (c) reproduction by the press, communication to the public or making available of published articles on current economic, political or religious topics or of broadcast works or other subject-matter of the same character, in cases where such use is not expressly reserved, and as long as the source, including the author's name, is indicated [...];
- (d) quotations for purposes such as criticism or review, provided that they relate to a work or other subject-matter which has already been lawfully made available to the public, that, unless this turns out to be impossible, the source, including the author's name, is indicated, and that their use is in accordance with fair practice, and to the extent required by the specific purpose;
- (e) use for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings;

Exceptions to author's copyright?



- (f) use of political speeches as well as extracts of public lectures or similar works or subject-matter to the extent justified by the informatory purpose and provided that the source, including the author's name, is indicated, except where this turns out to be impossible;
- (g) use during religious celebrations or official celebrations organised by a public authority;
- (h) use of works, such as works of architecture or sculpture, made to be located permanently in public places;
- (i) incidental inclusion of a work or other subject-matter in other material;

Exceptions to author's copyright?



- (j) use for the purpose of advertising the public exhibition or sale of artistic works, to the extent necessary to promote the event, excluding any other commercial use;
- (k) use for the purpose of caricature, parody or pastiche;
 - eg in Belgium + "taking into account fair practices"
- (l) use in connection with the demonstration or repair of equipment;
- (m) use of an artistic work in the form of a building or a drawing or plan of a building for the purposes of reconstructing the building;

Exceptions to author's copyright?



- (n) use by communication or making available, for the purpose of research or private study, to individual members of the public by dedicated terminals on the premises of establishments referred to in paragraph 2(c) of works and other subject-matter not subject to purchase or licensing terms which are contained in their collections;
- (o) use in certain other cases of minor importance where exceptions or limitations already exist under national law, provided that they only concern analogue uses and do not affect the free circulation of goods and services within the Community, without prejudice to the other exceptions and limitations contained in this Article.



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PART II

Copyright in a School Environment: a balancing act

Quiz



- Claire, a teacher from the eTwinning network, downloads some photos she found on the web for use on her eTwinning project website. These images are stated to be owned by Getty images. As this is for education purposes, Claire thinks that this is okay.

True

False

Quiz



- Claire, a teacher from the eTwinning network, downloads some photos she found on the web for use on her eTwinning project website. These images are stated to be owned by Getty images. As this is for education purposes, Claire thinks that this is okay.

True



False



=> sole purpose of illustration for teaching?

=> Claire mentions that Getty images is the source?

Quiz



- Annick, a contestant in the U4 Energy competition, wants to jazz up her entry by using a Michael Jackson song as a backing for her video entry. As this is for educational use, she thinks that this is okay. True or False?

True

False

Quiz



- Annick, a contestant in the U4 Energy competition, wants to jazz up her entry by using a Michael Jackson song as a backing for her video entry. As this is for educational use, she thinks that this is okay. True or False?

True

False



=> This use exceeds a sole educational purpose; the competition aspect (various prizes are awarded) must be taken into account.

Quiz



- Diane reads an interesting article about the making of the film of the Titanic and wants to use a short quote in her school cinema review. That's copyright infringement.

True

False

Quiz



- Diane reads an interesting article about the making of the film of the Titanic and wants to use a short quote in her school cinema review. That's copyright infringement.

True

False



=> Exception: quotation for such purposes of criticism or review to the extent that Diane mentions the name of the author of the article.

Quiz



- Jan (teacher) downloads a lesson plan and worksheets from a website where he is a registered user. Since he was free to download the resource he presumes that it is free of copyright and distributes copies he makes to all the teachers at his school. That's copyright infringement. True or false?

True

False

Quiz



- Jan (teacher) downloads a lesson plan and worksheets from a website where he is a registered user. Since he was free to download the resource he presumes that it is free of copyright and distributes copies he makes to all the teachers at his school. That's copyright infringement. True or false?

True



False

=> Freedom of downloading does not mean there is no copyright

=> There is copyright (to the extent that the criterion of originality is met)


=> This use exceeds a sole purpose of illustration for teaching

Internet Explorer

Présentation de l'UEB - page...

Queenwood School for Girls - Sydney, ...

Page Safety Tools




Introduction

Queenwood is a non-selective day school for girls from Kindergarten to Year 12, setting high academic standards enriched by strong cultural and sporting programs. The school is based on non-denominational Christian ideals, but girls of all faiths are welcome as understanding and acceptance of different beliefs is strongly encouraged.

The School's motto, *Per Aspera Ad Astra* - 'Through Struggles to the Stars' underlies many aspects of Queenwood life, fostering personal effort and persistence, even when faced with challenges.

An outward focus with concern for others is instilled in students with a strong pastoral care program and community service significant features of the educational experience.

With approximately 800 students at Queenwood, the School is a size that is small enough for everyone to be known but big enough to provide the scope and opportunities offered by a dynamic school community.




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Student: Right to Privacy



- A Human Right :
 - Everyone has the right to respect for his private and family life, his home and his correspondence.
- There shall be no interference
 - by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Student: Right to Privacy



- Directive 95/46/EC on Data Protection
 - 'personal data'
 - shall mean any information relating to an identified or identifiable natural person ('data subject');
 - 'processing of personal data' ('processing')
 - shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

Student: Right to Privacy



- Member States shall provide that personal data may be processed only if:
 - (a) the data subject has unambiguously given his consent; or
 - (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or
 - (c) processing is necessary for compliance with a legal obligation to which the controller is subject; or
 - (d) processing is necessary in order to protect the vital interests of the data subject; or
 - (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; or
 - (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1).

Student: Portrait Right



Example: Art. 10 Belgian Copyright Act

- Consent necessary from the portrayed person (or successors during 20 yrs after death) for distribution or making available to the public of the portrait
- Similar laws in other jurisdictions

Sanctions



Sanctions and remedies: a matter of national law.

- Sanctions
 - Member States shall provide appropriate sanctions and remedies in respect of infringements of the rights and obligations set out in this Directive and shall take all the measures necessary to ensure that those sanctions and remedies are applied. The sanctions thus provided for shall be effective, proportionate and dissuasive.
- Remedies
 - Each Member State shall take the measures necessary to ensure that rightholders whose interests are affected by an infringing activity carried out on its territory can bring an action for damages and/or apply for an injunction and, where appropriate, for the seizure of infringing material as well as of devices, products or components referred to in Article 6(2).
 - Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right.

Example



Belgium

- Criminal sanctions
 - Sanctioned as counterfeit, i.e. ca. 100 euro - 10.000 euro
- Civil damages
 - depending of claim
- Injunction
 - towards counterfeiter and/or intermediary

Attention points



1. When using materials that you did not produce yourself, presume these materials are copyright protected
2. Check the licence, if any.
3. Try to find the author (or collecting society, representing the author)
4. Check if exception would apply
5. In case of doubt, do not use the materials



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Thank you for your attention.