



BCC WIPO Training course 2022

General Principles of UK Copyright Law

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Economic and societal importance

Copyright relevance economy – society/ mental health

Music

- Industry worth £3.1 billion GVA 2020 (2019: £.5.8 billion GVA)
- £2.3 billion in export revenue 2020 (2019: £2.9 billion)
- Employs 128.000 2020 (2019: 197,168 people)

Publishing

- Sales 6.7 billion (2021)

Design

- £3.9 billion 2017

Department for Digital, Culture, Media and Sport (DCMS)

- £111 billion 2018

Society/ Mental Health, e.g. Power of Music 2022

History/ Justification

Historical developments - International

Renaissance/ Reformation: Individuum (Kant- personality/ Locke - property)

18th/ 19th Century: National copyright

19th/ 20th Century: International copyright

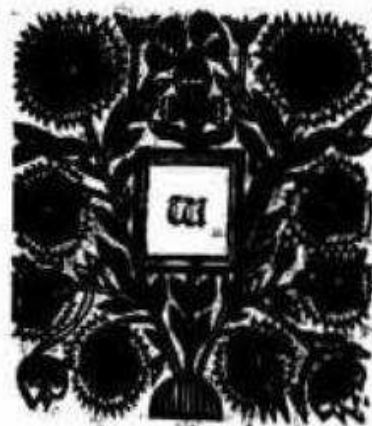
21st Century: Trade Agreements ??? Withdrawal from the European Union

International copyright provides the international framework for the protection of copyright by setting **minimum standards** of copyright for countries and providing rules for the recognition of copyright of authors performers in other countries (**national treatment**).

Anno Octavo

Annæ Reginae.

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.



Whereas Printers, Booksellers, and other Persons have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the Encouragement of Learned Men to Compose and Write useful Books; May it please Your Majesty, that it may be Enacted, and be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the

UK Copyright

Chalice of Creativity ©

Individual consumers

©

*Commercial users/ aggregators
(eg. TV; download; stream; search engines)*

©

*Collective management organisations
(e.g. PRS for Music; CLA; PLS)*

©

*Publishers/ Record companies
(e.g. Hachette; Universal)*

©

Writers/ Performers

What is copyright ?

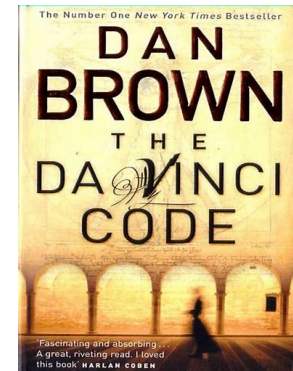
‘Copyright is the sole right of multiplying copies’ (Jeffery v Boosey, [1854])

‘The general policy of copyright is to prevent the unauthorised copying of certain material forms of expression (literary, dramatic, artistic and musical, for example) resulting from intellectual exertions of the human mind.’ (Mummery LJ, in Sawkins v Hyperion Records, 2005)



Copyright Subsistence

- Idea expression dichotomy
- There are no forms to fill out or fees to pay
- E.g. copyright in the UK exists if the work is:
 - ORIGINAL (i.e. not merely copied from someone else's work) and
 - RECORDED in some fixed form



Works

Closed list of original fixed works

Copyright

Musical works
Literary works
Artistic works
Dramatic works

Entrepreneurial (related) rights

Sound Recordings
Performances
Broadcasts
Films

Special case Databases



Originality

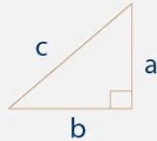
Infopaq v Danske Dagblades Forening
2008



Formula

Pythagoras Theorem:

$$a^2 + b^2 = c^2$$



$$a = \sqrt{c^2 - b^2}$$

$$b = \sqrt{c^2 - a^2}$$

$$c = \sqrt{a^2 + b^2}$$

getcalc.com

University of London Press v University
Tutorial Press 1916

Feist Publications v. Rural Telephone
1991



The "BRONX" Suite
George Hensher v Restawhile 1976

Authorship - Ownership

Section 9 CDPA Authorship of work

“Author, in relation to a work, means the person who creates it. “

- Author, ie the person who creates the work
- Joint ownership
- Sound recording: the producer, i.e. the person who makes the necessary arrangements for the creation of the sound recording
- Performance: the performer

Section 11 CDPA Ownership

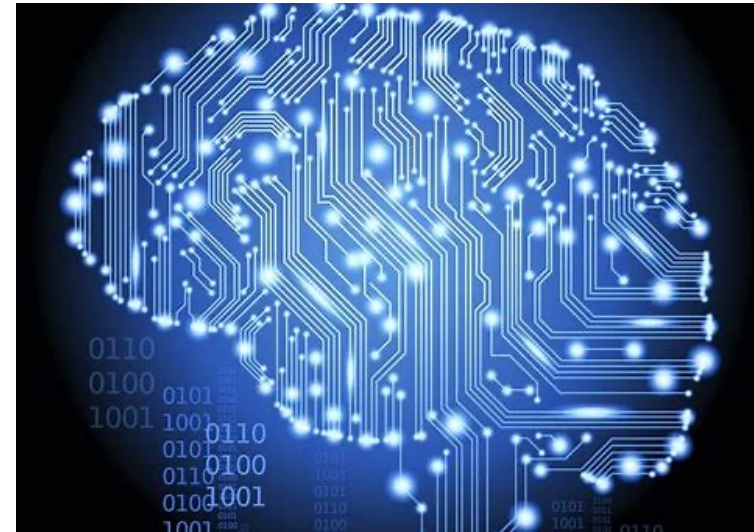
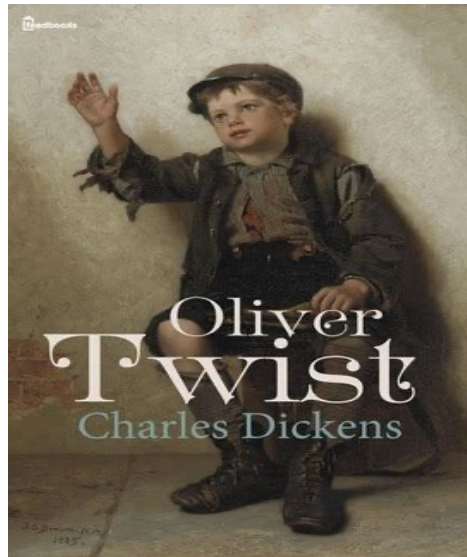
- Transfer of ownership: contract; employment

Authorship

Section 9 CDPA Authorship of work

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Special cases



Term

UK (and EU)

- **Author: 70 years after their death**
- **Producer of a sound recording: generally, 70 years after the release of the sound recording**
- **Performer: generally, 70 years after the performance**

Rights

Economic rights



Moral rights



Economic rights

To do or authorise someone else to do:

- Copying the work
- Communicating the work to the public (radio, internet)
- Making an adaptation of the work
- Performing , showing or playing the work in public
- Issuing copies of the work to the public
- Renting or lending the work to the public

Moral rights

- The right to be identified as the author), **Paternity right**
- The right to preserve the integrity of the work against acts which are prejudicial to the author's honour or reputation, **Integrity right**
- In contracts: waived but approval & credits rights

UK Plus:

- Right not to have a work falsely attributed
- Right to privacy of certain photographs and films

Artist Resale Right

- Authors of original works of art (including paintings, engravings, sculpture and ceramics) to receive royalty each time one of their works is resold through an auction house or art market professional.
- Compulsory collective management

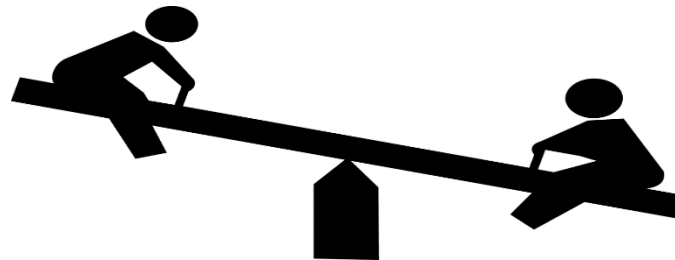
Exceptions

Balance

- Value of culture to creator and rightsholder
- Widespread, affordable access to content for the public

Creator
Performers

Commercial users
Public domain



Exceptions international

Berne Convention three step test (updated in TRIPS)

Exceptions to be limited to

- certain special cases, provided that such reproduction does
- not conflict with a normal exploitation of the work and does
- not unreasonably prejudice the legitimate interests of the author

Exceptions to copyright

- Temporary copies
- Criticism and review
- Quotation
- Parody
- Visually impaired persons
- Educational and library uses

Exceptions UK Fair dealing

- Three elements
 - (i) a Dealing;
 - (ii) that dealing must be “fair”; and
 - (iii) there must be sufficient acknowledgement
- Fairness is assessed in relation to the actual purpose; it is a question of degree and impression whether “a fair-minded and honest person would have dealt with the copyright work in the manner in question.”

Management

- Collective rights management (CLA, PLS, ALCS, PRS, PPL)

Collective management when individual rights management is not economic/practical, e.g. pubs, hairdressers, educational establishments

- Individual contracts
 - “sell”: Transfer legal ownership “assignment”
 - “rent”: grant licence– exclusive or non-exclusive

Remedies Overview

Civil and criminal

- Settlement
- Damages
- Injunction

Industry practice

- Educational campaigns
- Website blocking
- Notice & Takedowns / Content ID

Thank You

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