

***Intellectual Property Rights
(IPR):
Copyright***

Rogério de Lemos

- ◆ *Dr Marcus Goodall (KIE)*
- ◆ *A lot of lecturers before me...*

Copyright

The exclusive and assignable legal right, given to the originator for a fixed number of years, to print, publish, perform, film, or record literary, artistic, or musical material.



Animals, ghosts and gods are all banned from owning copyright

Copyright



- Copyright does not protect ideas but the way they are expressed.
- For copyright to subsist in a work it must be 'original' and be recorded or 'fixed'.
- Copyright protection is automatic as soon as the work is 'fixed'.
- Copyright works don't need a "©" in the UK to be protected, but it helps indicate that the works is protected.
- There can be a layering of copyright in translations!!

Chris Morrison and Jane Secker (@UKCopyrightLit) 2017 and are available for reuse under a

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Rights of the Copyright holder

S. 16(1) – Copyright, Designs and Patents Act 1988

- (a) Exclusive right to copy the work
- (b) Exclusive right to issue copies of the work to the public
- (c) Exclusive right to rent or lend the work to the public
- (d) Exclusive right to perform, show or play the work in public
- (e) Exclusive right to communicate the work to the public
- (f) Exclusive right to make an adaptation of the work

Copyright

Classic/Authorial Works.....

S.1(1)(a) Copyright, Designs and Patents Act (CDPA) (1988):

Literary work

Dramatic work

Musical work

Artistic work

S. 3(2) provides that Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise.

Literary Works

S3(1) CDPA.....

‘Literary Work means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes –

- (a) A table or compilation
- (b) A computer program
- (c) Preparatory design material for a computer program, and
- (d) A database

Literary Works

No literary merit required.

University of London Press v University Tutorial Press (1916) – An exam paper can be a literary work.

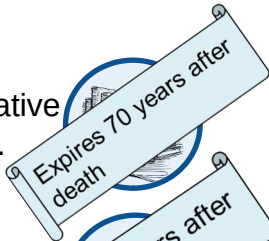
- Railway Timetable
- Pricelists
- Trade catalogues
- Football fixture list

A single word – Exxon, did not attract copyright (Exxon Corporation v Exxon Insurance (1982))

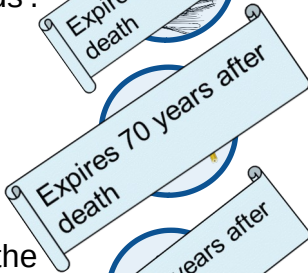
- ◆ One of the landmark judgments in the field of intellectual property right passed in 1916 by a judge in London, England not long after the official copyright act of 1911.
- ◆ This case becomes important because of following reasons
 - ◆ It broadens up the definition of phrase “literary work” as given in Sec. 35 of copyright act 1911.
 - ◆ It defined the concept of “originality of thought”.
 - ◆ This case further strengthened the idea of the title and ownership of the copyright.
 - ◆ It further gave a quintessential phrase used in the I.P.R. sector – “What is worth copying is prima facie worth protecting”.

Copyright:

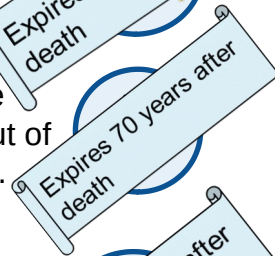
Literary: the creative 'ordering of words'.



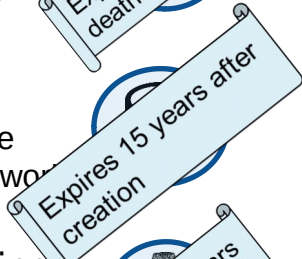
Artistic: creative 'visual' works



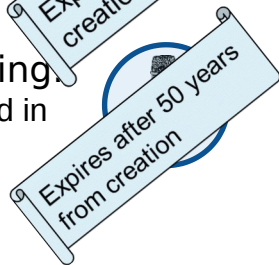
Typography: the typographical layout of a published edition.



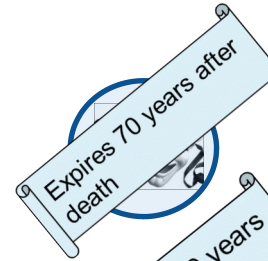
Database: Databases can be copyright literary works



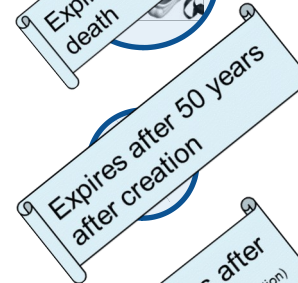
Sound Recording: recording of sound in any 'fixed form'.



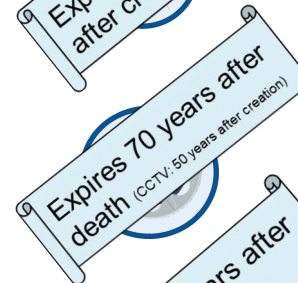
Dramatic: dialogue and stage directions in a performed work, or an act of dance or mime.



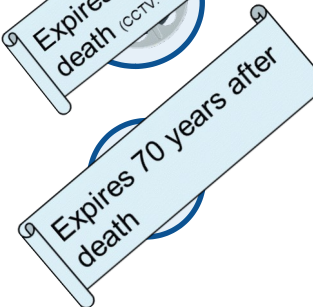
Broadcast: the broadcasting of audio and audio-visual material.



Film: Audio-visual recordings.



Musical: creative ordering of musical notes, or 'combination of sounds for listening to'



Performance: musical or dramatic performances as fixed in a film or sound recording.



Moral Rights: the author's rights in a work as 'spiritual child'. Right to be named as author and not to have the work treated in a derogatory manner.



Copyright Duration

Why is the protection period so long?

- To provide income for the creator and their children.

But the copyright may have been transferred by the creator to a company.

Is the balance right between those who wish to use the Work and those who own the copyright?

Copyright

Within business/industry:

- 0 teaching & examination material
- 0 reports, articles, essays, books
- 0 presentations
- 0 questionnaires
- 0 translations
- 0 architectural design
- 0 computer programmes
- 0 music, films, plays,
- 0 paintings, photographs, graphics
- 0 websites, marketing material
- 0 databases

Most Open



Freeing content globally without restrictions



Attribution alone



Attribution + Share Alike



Attribution + Non-commercial



Attribution + No Derivatives



Attribution + Non-commercial + Share Alike



Attribution + Non-commercial + No Derivatives

Least Open



All Rights Reserved

- Check IP ownership before assigning copyright

Copyright

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Copyright vs. Patent*

Software code viewed or edit in an editor is the subject of copyright

What the software does when executed is the subject of patent

** It may be possible to obtain a patent in the US and the EPO, in circumstances where the UK IPO would reject the application.*



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- 0 databases

- General Public License (GNU GPL or GPL)



Derivative work can only be distributed under the same license terms

- MIT License
- BSD licenses
- Apple Public Source
- Apache license

Permissive software license (minimal requirements associated with redistributed).

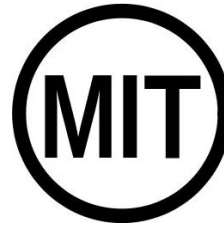


- Check IP ownership before assigning copyright

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MIT

If you don't care about restrictions or what happens downstream



GPL

If you want to guard against your code ending up in proprietary code



Apache

If you want to encourage commercial adoption of your code



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Copyright infringement

S. 17 (CDPA) – Copying

S. 18 – Issuing copies to the public

S. 18A – Rental or lending of work to the public

S. 19 – Infringement by performance, showing or playing of work in public.

S. 20 Infringement by communication to the public.

S. 21 – Infringement by making adaptation or act done in relation to adaptation.

Copyright infringement

Did the defendant's work derive from the copyrighted work - is there a causal connection between the works?

Where a similarity is shown, it will be for the defendant to explain why.

Secondly, has there been copying of the whole or a substantial part of the copyrighted work? S.16(3)(a)

- What constitutes a substantial part?
- Concerns more what is taken qualitatively than quantitatively

NB – European approach. SAS Institute Inc v World Programming Ltd. (2013)

Fair Dealing Defences

Exceptions to copyright that allow limited use of copyright works without the permission of the copyright owner

Fair dealing for the purposes of:

Making temporary copies (s. 28A CDF)

Research or private study (s.29(1))

Text and Data Mining Analysis (s. 29A)

Criticism or review (s.30(1))

Reporting current events (s.30(2))

Parody (S. 30A)

Instruction or examination (s. 32)

Copying by libraries (s. 37-44A)

Computer programs (s. 50A-50D)



Fair Dealing

Motive

How the work was obtained

The amount taken

Consequences of the dealing

Is the work published or not?

Fair Dealing for Research and Private Study

Defence only applies in respect of Classic Works, NOT
Broadcasting, Sound Recordings or Films

Research must be for non-commercial use

In respect of research there must be sufficient
acknowledgement made of work use

Fair Dealing – Computer Programs

Making back-up copies

Decompilation

Observing, studying and testing computer programs

Copying or adapting to correct errors

Fair Dealing for Data Mining and Text Analysis

Section 29A allows for computational analysis of Works.

Strictly non-commercial basis.

Must have lawful access to the work

Must provide sufficient acknowledgment



DanMaycock.com

Don't forget the value in DATA

Machine learning and AI has had a massive impact on the value held in company data

The screenshot displays the 23andMe website interface. On the left, the 'Ancestry Service' is priced at £79 and includes a 'Welcome to you' box. On the right, the 'Health + Ancestry Service' is priced at £149 and also includes a 'Welcome to you' box. A central pink circle with a vertical bar through it contains the text '1000+ Ancestry regions'. Both services have 'add to cart' buttons. The 23andMe logo, featuring a stylized 'X' and the text '23andMe', is positioned to the right of the services.

- In July 2018, GSK **invested \$300 million** in 23andMe
- The deal opens a door for GSK to access a vast DNA database
- 23andMe has more than 5 million customers
- the majority of whom opted in to allow their data being included in research



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- ◆ Literary work includes any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly
 - ◆ a computer program, preparatory design material for a computer program, and a database
- ◆ Fair dealing in computer programs
 - ◆ Making back-up copies; decompilation; observing, studying and testing computer programs; copying or adapting to correct errors