

Creative Industries & Copyright

Plan of the lesson



Introduction (Intellectual property; Copyright).

The essential principles of Copyright.

Works protected by Copyright.
Rights protected by Copyright.

Limits of Copyright protection.

Legal issues & case law.

Transfer of rights under a copyright agreement.
Essential requirements under a copyright
agreements.

Keywords

*Intellectual Property;
Authors rights;
Copyright;
Owner of Copyright;
Exclusive rights of the rights holder;
Economic rights;
Moral rights;*

Work - means any original result of creation activities in the literary, scientific or artistic domain, whether may be its artistic value, the mode or form of its expression.

Legislation and regulation (used in the lesson):

Berne Convention - Berne Convention for the Protection of Literals and Artistic Works (1886).

The Law on Copyright - Republic of Lithuania Law on Copyright and Related Rights (18 May, 1999,

Introduction



The role of Copyright in the Creative Industries.

The concepts of Intellectual property and Copyright.

The activities of the creative industries.

Copyright and its protected objects make up a large part of the creative industries sector.

What is a **“Work”**?

The essential principles of copyright

Legislation and regulation.

Copyright regulations.

Differences in terms of national & international regulations.

The mains sources of Copyright legislation.

National & International level.

Copyright protection is based on principles enshrined in the Berne Convention.

The essential principles of copyright

The owner of the Copyright (Who?).

Authors are people who create works.

General rule - the owner of the Copyright is the Author.

(there are exceptions).

- (e.g.) when a work is created by a person who is employed for this purpose (to create this work); - the employer is the copyright owner, not the author (the creator).

There are two major categories of author's rights:

moral rights & economic rights.

Moral rights **always** belong to the author (whoever or whatever the Owner of economic rights may be).

The essential principles of copyright

When?

The author get Copyright protection automatically.

Copyright protection arises from the moment **the work is created.**

No need for special registration.

No need for any precautionary statement.

This is the moment - the period of duration of Copyright begins.

The author can mark his or her work with the copyright symbol, the name and the year - it do not have any effect for the protection itself.

The essential principles of copyright

Duration of Copyright

Author's economic rights 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.

The protection of the author's moral rights shall be of unlimited duration.

(The Law on Copyright, Article 34)

The Berne Convention states that all works (there are exceptions) shall be copyrighted for **at least 50 years** after the author's death, but member states are free to provide longer terms.

The essential principles of copyright

Core principle of Copyright.

Territoriality of Copyright.

The rules of protection are determined by the law of the State in which protection sought.

The territorial nature of Copyright (national law).

Berne Convention (Article 5).

Legal consequences of this principle.

The essential principles of copyright

Limits to copyright protection.

Some categories of work:

e.g. Copyright does not protect ideas, as well as procedures and etc. (Some country) - does not protect the text of the law, administrative decisions.

Article 9(2) of Berne Convention:

“It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in 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.”

The essential principles of copyright

Legal protection applies only to the results of independent creation.

Works are protected regardless of whether they have any artistic or commercial value.

“Work” means any original result of creation activities in the literary, scientific or artistic domain, whether may be its artistic value, the mode or form of its expression.” - (Lithuania) The Law on Copyright, Article 2, Main definitions of this law.

Works protected by copyright

What kind of works shall be protected by Copyright?

The original results of creative activities that have acquired and objective form.

“Invisible Sculpture”(!?).

An Italian Artist Auctioned Off an ‘Invisible Sculpture’ for \$18,300. It’s Made Literally of Nothing
<https://news.artnet.com/art-world/italian-artist-auctioned-off-invisible-sculpture-18300-literally-made-nothing-1976181>

Works protected by copyright

Original work.

Originality - is a matter.

The artificial intelligence. Who is the author?

The will of the author (child (?), artificial intelligence (?) ...).

“Every child is an artist. The problem is how to remain an artist once he grows up.” - Pablo Picasso.

The protected works (objects) - lists in the law.

Works protected by copyright

The Copyright Law identifies objects that are not subject to copyright protection (Article 5, The Law on Copyright (Lithuania):

Copyright shall not apply to:

- 1) ideas, procedures, processes, systems, methods of operation, concepts, principles, discoveries or mere data;
- 2) legal acts, official documents texts of administrative, legal or regulative nature (decisions, rulings, regulations, norms, territorial planning and other official documents), as well as their official translations;
- 3) official State symbols and insignia (flags, coat-of-arms, anthems, banknote designs, and other State symbols and insignia) the protection of which is regulated by other legal acts;
- 4) officially registered drafts of legal acts
- 5) regular information reports on events;
- 6) folklore works.

Rights protected by Copyright

- **Intellectual Property** is (usually) divided into two branches, namely **Industrial property** and **Copyright**.
- Copyright relates to literary and artistic creations (books, music, paintings and sculptures, films and technology-based works.)
- In certain languages, **copyright** referred to as **author's rights**.
- **Copyright** refers to the act of copying an original work.
- **Authors' rights** refers to the creator of an artistic work.
- Other rights: the right to make copies etc. protected by Copyright.

Rights protected by Copyright

- Copyrights as Economic Rights;
- “Copyrights that are economic rights” & “moral rights”.

Rights protected by Copyright

- What rights does copyright grant to the rights holder?
- The LCRR (Article 15) sets out the rights subsisting in copyright works which are **the exclusive rights** of the rights holder (before any licenses are granted). They include the rights to any of the following acts:
 - - reproduction of a work in any form or by any means;
 - - publication of a work;
 - - translation of a work;
 - - adaptation, arrangement, dramatisation or other transformation of a work;
 - - distribution of the original or copies of a work to the public by: sale or targeted advertising of the original or copies of the work encouraging users to purchase.

Rights protected by Copyright

- Moral rights
- The Berne Convention requires member countries for authors to grant:
 - the right to claim authorship of the work;
 - the right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work which would be prejudicial to the author's honor or reputation.
- These rights - which are generally known as the moral rights of authors, are required to be independent of the usual economic rights and to remain with the author even after he has transfers his economic rights.

Legal issues & case law

Case C-310/17, *Levol Hengelo BV* - Court of Justice of the European Union finds that the taste of the food product is not capable of being protected by copyright.

Transfer rights under a copyright agreement

- The author is free to dispose of his or her work freely.
- He or she is free to enter into a copyright agreement and to decide to what extent he or she may transfer his or her rights.
- In Lithuania, the requirements for copyright agreement are defined by law.
- The main purpose of the law - is to protect copyright and the author. This imposes certain restrictions and main notions on the transfer of copyright.
- There are certain form and contents requirements.

Transfer rights under a copyright agreement

- The essential requirements of the Transfer of Author's Economic Rights are settled in the law.
- [The Law on Copyright \(Lithuania\)](#), Article 38:
 - *“1. The authors’ economic rights may be transferred by an agreement, by testamentary succession or by other procedure prescribed by law.”*
 - “2. Transfer of author’s economic rights may be full or partial, subject or not subject to payment.”
 - “3. It shall not be permitted to transfer the right in all future works of an author of author’s works, which are not clearly identified. Transfer of the

Transfer rights under a copyright agreement

- The requirement relates to the form of copyright agreements.
- Requirement that contracts shall be concluded in writing.
- Non-compliance with the written form?
- The case of a dispute.
- How to prove that a contract has been concluded?

Transfer rights under a copyright agreement

- Moral rights - are not the subject of a copyright agreement.
- The authors' moral rights shall not be subject to transfer to other persons. They exist independently of the author's economic rights and are retained by the author even after the transfer of the economic rights to other persons. (Article 38, 4).

Transfer rights under a copyright agreement

Terms and Conditions of Copyright Agreements

(The Law on Copyright (Lithuania), Article 40):

1. A copyright agreement must stipulate the following terms and conditions:
 - 1) the title of the work (title of the works by foreign authors shall be indicated in the original language), except the licenses issued by associations of collective administration of rights;
 - 2) description of a work (type, title of a work, principal requirements for a work);
 - 3) the author's economic rights which are being transferred or granted (modes of the exploitation of a work), a type of the license (and exclusive or nonexclusive license);
 - 4) the territory in which the transfer of the rights or the license granting the right to exploit a work is valid;
 - 5) the term of validity of the transfer of the rights of the license;
 - 6) the amount of remuneration, the procedure and terms of payment;
 - 7) dispute settlement procedure and liability of the parties;
 - 8) other conditions of the agreement.

Transfer rights under a copyright agreement

The Law on Copyright (Lithuania), **Article 40**, part 2:

"It shall be presumed that under a copyright agreement **only as many rights** are transferred as are necessary for the accomplishment of the purposes of a concrete agreement.

If a copyright agreement does not specify the time limits of transfer or granting of the economic rights, a party to the agreement may terminate the agreement by informing in writing the other party of the termination thereof one year in advance.

If a copyright agreement does not indicate the territory covered, it shall be considered that the economic rights are transferred or granted within the territory of the Republic of Lithuania."

Transfer rights under a copyright agreement

The Law on Copyright (*Lithuania*), **Article 40**, part 3

“If all author’s economic rights are transferred under a copyright agreement, it shall be considered that such rights are transferred only for the modes of use of a work stipulated in the agreement. If the modes of use of a work are not stipulated in a copyright agreement, it shall be considered that the copyright agreement is concluded only for those modes of use of the work necessary for the parties to achieve the purpose for which the agreement has been concluded.”

THANK YOU! / AČIŪ!

