

Copyright for Teachers

Desseri Clowater

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COPYRIGHT LAW

Scope of Copyright

- Expression of an idea as a:
 - Literary work
 - Artistic work
 - Dramatic work
 - Musical work
 - Compilations of one or more of the above

Neighbouring Rights

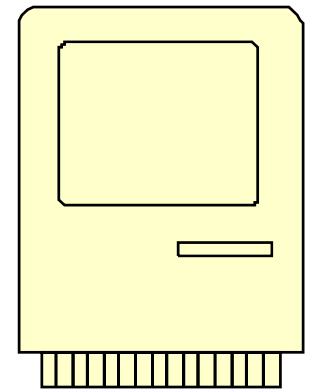
- Performer's performances
- Sound recordings
- Broadcasts / communication signals

Excluded

- Ideas
- Titles
- Facts, data, laws of nature, common Knowledge
- Works that fall under protection of other intellectual property laws

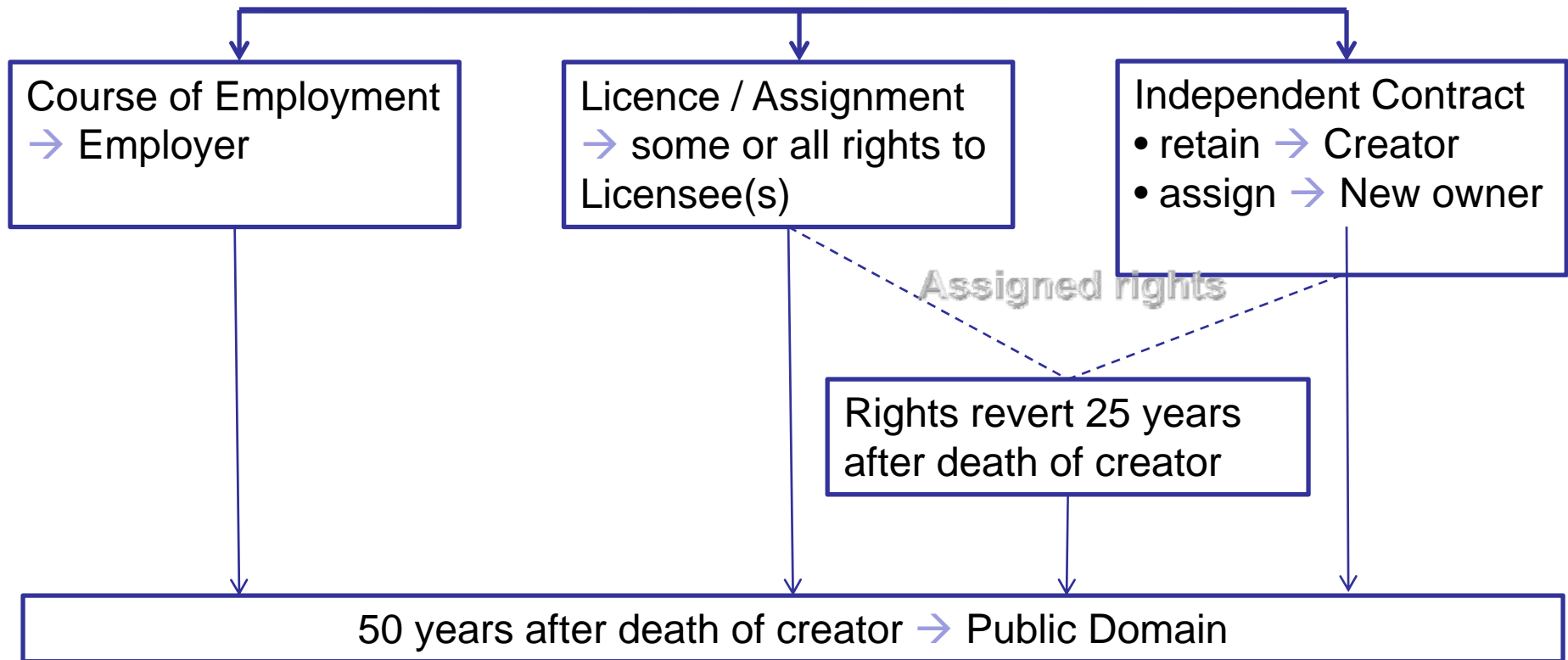


Apple



Ownership

Creator / Author



Exploiting Copy“rights”

Economic Rights

- Produce/Reproduce
- Perform/Deliver
- Publish
- Adapt/Convert
- Translate
- Telecommunicate
- Authorize

Moral Rights

- Right of Paternity
 - Name
 - Pseudonym
 - Anonymity
- Right of Integrity
- Right of Association

- Employer / author own rights
- Statutory allowance, defence or exception
- Assign / license
- Public domain
- Remain with author
- Waived
- Public domain

Statutory Exceptions – Education

- Exams
- Manual reproduction
- Copy on overhead or “similar device”
- Student performance in class
- Play a sound recording
- Play a real time radio or TV broadcast (but you can't tape it or play a tape of it)
- Tape radio or TV news and news commentary and replay in class

Statutory Defences

- Insubstantial amount
- Public domain
- Fair dealing

**Fair Dealing is
NOT
Fair Use**

Fair Dealing

- Personal use
 - Private study
 - Personal research
- Publication

Must indicate the source and author, performer, maker or broadcaster

 - Criticism or review
 - News reporting

What is "Fair"?

- Purpose
- Character
- Amount
- Alternatives
- Nature
- Effect on the original



Student Works

- Students own their works
- Can be used ...
 - If the dealing is “fair”; or
 - With the permission of the student
- Student group projects / assignments

Intangible Property

- Traditional and inherited native cultural, tribal and religious works
 - Songs
 - Artwork and symbols
 - Stories
 - Tribal and individual names or titles
 - Artefacts (masks, costumes, totem poles, etc.)

COLLECTIVES & LICENCES

Access Copyright

- Reprography collective
 - 2 parts
 - FTE – incidental & unplanned copying
 - Planned copying (each item reported)
 - Limited amounts
 - Exclusions
 - Transactional licences available for digital use and to exceed limits

SODRAC

- Reproduction rights of authors, composers, publishers of musical works and visual artists
- Works covered:
 - Video
 - Sheet or recorded music & lyrics
 - Crafts and artwork
- Uses:
 - Manufacturers of sound recordings
 - Broadcasting sound/video

SOCAN

- Public performance of music works including communication by telecommunication
- Licence needed if an organization is playing music or hosting a music event
- Uses:
 - N/A for most educational/charitable/religious uses
 - Fitness classes, background music, concert, TV, radio, Internet site

Other Collectives

- Audio Ciné Films
- Criterion Pictures
- Directors Rights Collective of Canada
- Producers Audiovisual Collective of Canada
- Educational Rights Collective of Canada (ERCC)
- More at:
<http://www.cb-cda.gc.ca/societies/index-e.html>

Internet

- *Copyright Act* provisions
- Site Licences
 - Webwrap agreement
 - Commons licence
 - Creative Commons: www.creativecommons.org
 - GNU/Copyleft: www.gnu.org
 - BC Commons: www.bccampus.ca/Page93.aspx
- Request licence
- New amendments to *Copyright Act*

DRM

- Digital Rights Management
- Locks on copies of © works
 - Creates monopolistic holding of © works and information
 - Restricts traditional use and distribution of works

PRACTICAL APPLICATION

General Guidelines

The general point to remember is that copyright law treats material on the Internet the same way as it treats any other material: if the material meets the requirements for copyright, it is automatically copyrighted. Reproduction of substantial portions of works on the Internet in which copyright subsists requires consent from the owner. By making materials available on the Internet, owners are not foregoing their copyright interests, nor are they authorizing anyone to go out and reprint and distribute the work on a commercial scale.

Canadian Copyright: A Citizen's Guide p. 178

General Examples

- Student reports
- Classroom displays
- Clipart in newsletters
- Class handout
 - Margaret Atwood – *For the Birds*
 - Mark Twain – *Prince & the Pauper*
- Music recording
- Movie

Computer & Internet

- Animation
- Moodle / WebCT / Blackboard
- Blogs
- Links
- Online course
- Assignments

Public Domain

- Literature
- Picture from archives book
- Picture taken of actual public domain work
- Picture from 1985 textbook of public domain work of art

Music

- CD with music embedded in it, must consider © for each song:
 - Musical composition
 - Original composer of basic song
 - Arrangements for orchestra
 - Lyricist
 - Performance
 - Singers
 - Musicians
 - Recording
 - Making of the master recording
 - Conversion and clean up from tape to digital format
 - Cover art
 - Liner notes
 - Moral rights (except performers)

Balance

The availability of a licence is not relevant to deciding whether a dealing has been fair. As discussed, fair dealing is an integral part of the scheme of copyright law in Canada. Any act falling within the fair dealing exception will not infringe copyright. If a copyright owner were allowed to license people to use its work and then point to a person's decision not to obtain a licence as proof that his or her dealings were not fair, this would extend the scope of the owner's monopoly over the use of his or her work in a manner that would not be consistent with the Copyright Act's balance between owner's rights and user's interests.

*CCH Canadian Ltd. v. Law Society of Upper Canada,
2004 SCC 13 (CanLII)*

Balance

Many Canadians understand users' rights in terms of the practice of their community or trade, rather than in terms of the law. Sometimes this "common sense" is in tension with the law – many people will tell you, for example, that using the work of another but changing it a lot is not infringement, or that if the work is foisted on you without your choice (as in the case of advertising) you have the right to reproduce it.

Canadian Copyright: A Citizen's Guide p. 80

... the [educational] exemptions do not always fully capture the wide range and diversity of modern educational practice. Their interpretation will therefore need a heavier-than-usual dose of common sense if they are to work effectively.

Essentials of Canadian Law: Copyright Law p. 213

Future Trends

- Amendments to © Act (tabled June 2008)
 - Internet: Implied consent unless otherwise noted or DRM locks
 - WebCT / Moodle classes → classroom rights
 - Some clarified rights
- Liberties implied by Courts

Resources

- Web Resources

- http://cde.athabascau.ca/online_book/ch9.html
- http://strategis.ic.gc.ca/sc_mrksv/cipo/welcome/welcom-e.html
- <http://www.2learn.ca/copyright/gencopyright.html>
- <http://www.2learn.ca/nkh/nkhcrquestions.html>
- <http://www.cmec.ca/copyright/indexe.stm>
- <http://www.michaelgeist.ca/content/blogsection/0/126/>

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