

Desktop Publishing 5N0785

Learning Outcome 4

Monaghan Institute Level 5 Module

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The learner will be enabled to describe the legal implications associated with use and protection of published material including licensing and copyright1

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4. The learner will be enabled to describe the legal implications associated with use and protection of published material including licensing and copyright

Identify some of the legal implications involved in the publishing process e.g. copyright, licensing etc.

A. What is Copyright?

Copyright is the legal term, which describes the rights given to authors/creators of certain categories of work. Copyright applies to all sorts of written and recorded materials from software and the internet to drawings, photography, films and music.

In Ireland, copyright law is contained in the Copyright & Related Rights Act, 2000.

Copyright protection extends to the following works:

- original literary, dramatic, musical or artistic works
- sound recordings, films
- broadcasts, cable programmes
- the typographical arrangement of published editions
- computer programmes
- original databases

How do I register a copyright in Ireland?

In Ireland, copyright is automatic.

There is no system of registration for copyright protection in Ireland as copyright arises automatically on the creation of an original work. You do not need to publish your work, to put a copyright notice on it or do anything else to be covered by copyright – protection is free and automatic.

A work is protected automatically from the time it is first written down or recorded in some way, provided that it has resulted from the creator's skill and effort and is not simply copied from another work.

There are two ways of doing this:

1. Deposit a copy of the work with an acknowledged representative (who may be a bank or solicitor) in such a way as to allow the date and time of the deposit to be recorded or notarised.

2. Send a copy of the work to oneself by registered post (ensuring a clear date stamp on the envelope), retaining the original receipt of posting and leaving the envelope containing the copyright work unopened thus establishing that the work existed at that date and time.

How long does Copyright last?

The Copyright protection for literary, dramatic, musical and artistic works expires 70 years after the death of the author/creator. If the copyright is still in force it would be necessary to get the permission of the owner of the copyright to reproduce the work no matter what language it is in.

It should be noted that the duration of copyright in Ireland may differ from other countries e.g. the duration for sound recordings in the USA is 95 years from the date it was made available to the public whereas in Ireland, it is only 50 years.

B. Copyright and licensing

Copyright is a property right which – like other property rights – may be the subject of various types of transaction. It may be sold outright (by an “assignment”, which must be in writing), or licensed in whole or in part. Licences are often for a short term and cover only certain uses of the work. For example, you might grant a licence to a hotel chain for the use of a work in a newspaper advertising campaign, for a period of two years. While an assignment must be in writing, a licence can be verbal, although it is unwise to give any permission for the use of a work without some written evidence of the agreement.

If I have paid for someone else to create something, will I own the copyright?

Unless it is specifically stated in the contract commissioning the work that you or your business will own the copyright in the work that you have paid for, ownership will vest in the the first owner of copyright which will be the person or organisation that was asked to create the work.

If the issue of ownership is not mentioned in the commissioning contract, you will need to negotiate the transfer of the copyright to you. The creator of the work will be under no legal obligation to transfer the copyright to you. For it to have legal effect, an agreement about transfer of ownership of copyright has to be in writing, signed by or on behalf of the transferor.

What are moral rights associated with copyright?

The concept of moral rights in copyright works was introduced into Irish law by the Copyright & Related Rights Act 2000. These moral rights are: the paternity right (the right to be identified as the author of the work); the integrity right (the right to prevent mutilation, distortion or other derogatory alteration of the work) and the right of false attribution (the right not to have a work falsely attributed to you).

(Patents Office)

C. Legal Implications - Remedies and Penalties for Infringement

Copyright infringement has both civil and criminal dimensions. On the civil side, breach of copyright is actionable at the suit of the copyright owner and a range of remedies are available, the most common of which are injunctions and damages. On the criminal side, certain acts in relation to the copyright work are characterised in copyright legislation as offences, for which penalties are prescribed. These offences include, not only the making of counterfeit works but also dealing in infringing works – by, for example, importing them, selling or renting them. Criminal penalties extend to fines of up to €127,000 and/or terms of imprisonment of up to 5 years.

(Copyright and the Visual Artist)

D. Educational Uses

The use of author's works for certain educational purposes is permitted. These include the use of the work in examinations, and the inclusion of a short passage from the work in an anthology for schools.

Further information is available from the Patents Office and the Copyright Association of Ireland.

Notes: Copyright restrictions apply on the Internet. Always ask permission when using other people's work or images. It is permissible to reproduce a small part of a work, where it is relative. Remember to be aware of bias, propaganda, ethical issues and plagiarism.

Copyright applies to all digital media, remember to reference and attribute your source material.

If you do decide to include text or images from any source, for example the internet or a book you should contact that site to ask permission to use the material. Otherwise you are infringing on copyright laws.

(Nicholson & Dempsey, 2011)

5. Additional Resources

Websites:

Copyright Association of Ireland www.cai.ie

Patents Office <http://www.patentsoffice.ie/en/copyright-frequently-asked-questions.aspx>

LO 4: Revision Questions

1. Explain what is meant by copyright?
2. How do you register a copyright in Ireland and how long does copyright last in Ireland?
3. Explain how copyright affects Educational Uses?
4. Describe the legal implications associated with use and protection of published material including licensing and copyright