

Copyright Basics: Works, Usages, Licences, Exceptions and Risk

Introduction

This guide complements the Copyright the Card Game workshop as developed by Chris Morrison and Jane Secker. It provides you with a summary of the key aspects of copyright that practitioners in the library, education and cultural heritage sectors need to know. It also provides a framework for dealing with copyright queries that you might encounter.

All the game resources and information about activity in the copyright literacy community are available at copyrightliteracy.org. Please note that this guide and associated resources are not formal legal advice. If you have any additional questions about copyright please visit www.bodleian.ox.ac.uk/copyright or contact copyright@bodleian.ox.ac.uk.

Works



Literary



Artistic



Musical



Dramatic



Broadcast



Sound
Recording



Film



Typography



Public Domain



Database



Moral Rights



Performance



Non-
qualifying



Crown
Copyright

Copyright protects the creative outputs of the human mind and is intended to provide an economic incentive for creativity and innovation. It covers certain types of subject matter which are referred to as copyright works.

In the UK to qualify for copyright protection a work needs to be:

- Sufficiently original (the bar is set very low)
- Fixed or 'recorded' in some way (usually in a tangible format, so ideas do not qualify for protection)

However, in order for a work to qualify for protection in the UK, it also needs to fall into one of the categories of works above which are listed in the Copyright, Designs and Patents Act 1988 (as amended and revised).

The first stage in the game involves identifying if the work qualifies for copyright protection and then which category it falls into. This will help with identifying details such as how long copyright protection lasts and who the rightsholder might be. For example, in the case of films, copyright protection lasts for 50 years and resides with the producer, the director, the author of the screenplay and composer of the film score. However, the copyright in published literary, artistic, musical and dramatic works last for 70 years from the death of the author.

Usages

Usages are the term we use in the card game to describe the 'restricted acts' in the Copyright, Designs and Patents Act. These are things that the copyright owner has the exclusive right to do, or to allow others to do:



Copying



Distributing copies of the work (e.g. publishing it)



Renting or lending the work



Performing, playing or showing the work in public



Communication to the public by electronic means (internet or broadcasting)



Adapting the work

While the distinction between these can get quite involved, the key issue to determine when dealing with copyright questions is whether one of these acts is taking place. If not then there will be no copyright issues. For example, simply reading a paperback book does not involve any 'usage' controlled by copyright. However, making a copy of that paperback book and posting it on the internet does.

In summary, if you are confronted with a copyright query you should check if one of the restricted acts is occurring. If not then there is no problem with continuing with the proposed activity. If it is, then move onto the next stage.

Licences



A key aspect of Copyright the Card Game involves considering when it is necessary to obtain a licence to use a work, or when a copyright exception might apply. Licences are legal agreements that allow people or organisations to use copyright material with the permission of the copyright owners. Licences have a number of advantages over relying on a copyright exception as they give certainty. If you obtain a licence, or if what you want to do is already covered by a licence arranged by the institution which you work in, then you have legal certainty provided you stick to the terms of that licence.

All licences have limits, such as the amount you wish to copy may be specified, so they are not a carte blanche to do as you wish. They may also involve having to pay for permission (although not always – see Creative Commons licences).

We consider licences in the game before looking at copyright exceptions because many institutions typically take out a number of licences routinely. For example, schools and universities in the UK all have Copyright Licensing Agency (CLA) licences which will cover the copying of extracts from most books and journals.

Exceptions



Research &
Private Study



Text & Data
Mining



Quotation



Parody,
Caricature &
Pastiche



Incidental
Inclusion



Disability



Illustration for
Instruction



Educational
Performance



Educational
Recording



Educational
Copying of
Extracts



Dedicated
Terminals



Interlibrary
supply



Library
preservation



Library
copying for
users



Library copying
of unpublished
works



Orphan Works
Exception



Public
Administration

Exceptions are legal defences that allow you to copy a work without the permission of the rights holder for a specific purpose. In the UK there are over 60 copyright exceptions but in the game we consider around 25 of the most commonly used exceptions in education, libraries and cultural heritage organisations.

Relying on a copyright exception always carries an element of risk and will involve you making a judgment. In many instances you will need to make a decision about whether your copying is 'fair'. The concept of 'fair dealing' is very important if you want to use copyright exceptions, but isn't defined in the legislation. It is based on how a fair minded and honest person might use the work, but only as much as is required for the purpose and as long as it doesn't impact on the copyright owner's legitimate interests.

Risk

Many decisions you make as a librarian, a copyright advisor or an educator rely on a risk assessment and concerns about litigation can make people cautious in their advice to others. As mentioned above there is no formal definition of fair dealing in UK copyright law, so the only way you can work out how far it extends is to look at previous legal cases. Even doing this doesn't provide all the answers because there aren't many cases of libraries, cultural heritage organisations or educational institutions being sued for copyright infringement.

However, the fact that libraries don't often get sued is a good thing. It probably reflects the fact that most librarians are very conscientious about how they set up their library services and that the activities they undertake are generally low risk.

The final round of the game allows participants to collectively discuss risk in a number of scenarios. We find that this is essential to dealing with copyright issues. If in doubt about how risky something is, ask someone else that you trust to give their opinion. Join a copyright community of practice specific to your area of activity (e.g. LIS-Copyseek in the higher education sector), or if you don't have one consider setting one up.

We hope you found the game and this guide useful. If you spot any mistakes or have any questions about anything please contact copyright@bodleian.ox.ac.uk

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Co-founders of copyrightliteracy.org

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