



The design of the typewriter that Mary uses to write her scripts was inspired by Jack Torrance's typewriter in Stanley Kubrick's *The Shining*. Famously, Kubrick's *The Shining* is a film adaptation of Stephen King's novel with the same title. In fact, *The Adventure of the Six Detectives* includes numerous references to and quotations from famous film and theatrical adaptations of literary works, and is itself an homage to those creative works.

This Case File #17 illustrates the conditions under which an adaptation of an existing work can be created, and examines the copyright status of original works and their adaptations.

ADAPTATION AND COPYRIGHT IN THE DERIVATIVE WORK

A lot of creative works are adapted from other works. The film industry provides many examples of this: movies are often adapted from short stories, books and plays. This is made possible through a licence: the filmmaker obtains permission to adapt a story from the copyright owner through the licence. However, both the film and the work upon which it was based are two freestanding copyright works in their own right.

To illustrate, Stephen King published the novel *The Shining* in 1977. Three years later, Stanley Kubrick released his popular film adaptation of the book under the same title. To do so, Kubrick negotiated a licence to adapt King's novel for the big screen. Both the book and the movie are protected by their own independent copyright.

In addition, the copyright in the original work remains separate from the copyright in the adaptation, and vice versa. For example, with regards to *The Shining*, while the copyright in the novel will expire 70 years after Stephen King's death the duration of copyright in the film adaptation has got nothing to do with Stephen King at all.

THE ADAPTATION RIGHT AND ITS LIMITS

Under UK copyright law, authors are granted a bundle of different economic rights in their work. All authors are granted the reproduction right: that is, the right to control how and when copies of their work are made. The other rights that make up the 'copyright bundle' are the distribution right, the rental right, the public performance right, the communication right, and the adaptation right. However, not all of these economic rights are granted to all types of copyright owner. What rights the copyright owner will have will depend on the type of work in question. So, for example, the public performance right does not apply to works of art.

In the UK the adaptation right only applies to literary, dramatic and musical works, not to artistic works, sound recordings, films or broadcasts. Moreover, the CDPA defines the concept of adaptation differently depending on the type of work concerned. For example, for literary works the adaptation right is defined to include turning a novel into a film, translating a work into another language, or converting a computer program into a different language or code. For a musical work, the adaptation right includes making a new arrangement of the work or making a transcription of the work for new instruments or voices.

It may seem unfair that some creators - such as writers, playwrights and musicians - are granted an adaptation right under UK copyright law, whereas other creators such as artists and filmmakers are not. In reality, however, making an adaptation of someone's work will almost always involve copying that work which will, in any event, fall within the scope of the reproduction right (the right to prevent someone copying your work). Indeed, the line between reproduction and adaptation is not always easy to draw.

Imagine, for example, rewriting a popular novel for a new audience of primary school children, shortening it in length and making the language more age appropriate. Technically speaking, under UK copyright law, this is not an adaptation (as it does not fall within the narrowly defined adaptation right). But it will infringe the author's reproduction right (unless, of course, the relevant permissions have been granted).

FOR DISCUSSION: TO ADAPT OR NOT TO ADAPT?

The works of William Shakespeare are in the public domain. Many films have produced or adapted his plays; some have even used Shakespeare himself as a character. Films which reproduce his plays include Franco Zeffirelli's 'Romeo and Juliet' in 1968 and Baz Luhrmann's 'Romeo + Juliet' in 1996. Others films might adapt Shakespeare's plays and take another name, such the 1999 adaptation of 'The Taming of the Shrew' called '10 Things I Hate About You'. Another film, 'Shakespeare in Love', is a fictional story about his romance with noblewoman, and features performances of Shakespeare's plays throughout the film.



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1. Romeo and Juliet (1968), directed by Franco Zeffirelli and produced by BHE Films, Verona Produzione and Dino de Laurentiis Cinematografica.
2. Romeo + Juliet (1996), directed by Baz Luhrmann and produced by Bazmark Films and Twentieth Century Fox Film Corporation.
3. 10 Things I Hate About You (1999), directed by Gil Junger and produced by Touchstone Pictures, Mad Chance and Jaret Entertainment.
4. Shakespeare in Love (1998), directed by John Madden and produced by Universal Pictures, Miramax and The Bedford Falls Company.

Can you think of other adaptations of Shakespeare's works?

Apart from the continuing appeal of Shakespeare's stories, one reason for adapting his work is that all of those stories are in the public domain: that is, anyone can make use of his work without having to ask or pay for permission. It is all out of copyright. Can you think of any other television or screen adaptations you have seen that might also be based on a public domain work? How do you know when a work is out of copyright (see, for example, Case File #2)?

USEFUL REFERENCES:

The definition of adaptation provided by UK copyright law can be found in Section 21(3) of the Copyright Designs and Patents Act 1988:

<http://www.legislation.gov.uk/ukpga/1988/48/section/21>

For further information on copyright duration in the UK, see Copyright Bite #1 - Copyright Duration: <http://copyrightuser.org/copyright-bites/1-copyright-duration/>