

CASE FILE #0: SOME COPYRIGHT BASICS

There are no specific LEARNING AIMS or KEY QUESTIONS associated with Case File #0.

Instead, with this Case File, we provide both you and the students with a basic overview of the economic rights that copyright owners enjoy. We include it here to supplement the other materials provided.

Before undertaking work with any of the other Case Files, you might think about allowing the students some time to read over Case File #0, so that everyone gets to know the 'copyright basics'. Alternatively, you may simply want to discuss some of those basic concepts with the students as part of your planned activities. Or, you might opt to ignore this Case File altogether, and dive right into the other Case Files.

The choice is yours.

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1. INTRODUCTION

In the various Case Files that accompany the six episodes of *The Game is On!* – 33 in all – we explore a wide range of issues relating to core aspects of copyright law. For example, we consider the justifications for copyright protection, the criteria for copyright protection, what it means to author or own a copyright work, how recent developments in technology have prompted changes in the law, and much more.

In this introductory Case File #0, we provide a basic overview of the economic rights that copyright owners enjoy. It is crucial to understand when permission to make use of someone's work is required. And, when we understand when permission is required, we also begin to appreciate when permission to make use of someone's work is not.

2. COPYRIGHT: A BUNDLE OF RIGHTS

Copyright owners enjoy a bundle of economic rights, defined within the Copyright Designs and Patents Act 1988 (CDPA). This bundle of rights is set out in section 16 of the CDPA; it includes the right to:

- Copy the work: the reproduction right (further defined in s.17 of the CDPA)
- Issue copies of the work to the public: the distribution right (see s.18)
- Rent or lend the work to the public: the rental right (s.18A)
- Perform, show, or play the work in public: the public performance right (s.19)
- Communicate the work to the public, whether online or otherwise: the communication right (s.20)
- Make an adaptation of the work or do any of the above in relation to an adaptation: the adaptation right (s.21)

Doing any of these acts without permission will infringe copyright in the work, and the owner will be entitled to some form of relief or compensation (but see further below).

Moreover, it will generally not make any difference that the infringing copy takes a different form to the original. For example, converting a two-dimensional image into three dimensions, and vice versa, will still constitute infringement; similarly: turning a story into a ballet; copying a photograph by painting; turning a drawing such as a cartoon into a sketch or a piece of theatre, and so on.

3. NOT EVERY OWNER ENJOYS EVERY ECONOMIC RIGHT

It is important to understand that not every economic right is granted to every copyright owner. There are eight different types of work that benefit from copyright protection under UK law, and the bundle of rights an owner enjoys varies depending on the type of work you are dealing with.

For example, while performing or showing a musical work in public without permission is an offence under s.19, performing or showing an artistic work is not. Similarly, the right to make an adaptation of a work only applies to literary, dramatic and musical works, but not to artistic works, sound recordings, films or broadcasts. (Although, if you make an adaptation of an artistic work, for example, or of a film, you will still probably infringe the owner's right to make a copy of their work; see [Case File #17](#) for more details.)

In the table that follows, we set out the economic rights provided under the CDPA (along the top row) indicating which rights apply to each of the eight types of protected copyright work. You'll find more information about each of these types of protected work throughout the Case Files.

	MAKE COPIES	DISTRIBUTE COPIES	RENT OR LEND	PERFORM IN PUBLIC	COMMUNICATE TO THE PUBLIC	MAKE AN ADAPTATION
LITERARY WORK	Y	Y	Y	Y	Y	Y
DRAMATIC WORK	Y	Y	Y	Y	Y	Y
MUSICAL WORK	Y	Y	Y	Y	Y	Y
ARTISTIC WORK	Y	Y	Y	N	Y	N
FILM	Y	Y	Y	Y	Y	N
SOUND RECORDING	Y	Y	Y	Y	Y	N
BROADCAST	Y	Y	N	Y	Y	N
TYPOGRAPHICAL ARRANGEMENT	Y	Y	N	N	N	N

Table 1: Economic rights and types of work

For further details, see the [Copyright Cortex, 'Economic Rights and Infringement'](#).

4. A BUNDLE OF QUALIFIED RIGHTS

Above, we mentioned that doing any of the acts protected under the CDPA without permission will infringe copyright in the work.

However, we need to qualify that statement in three important ways.

First, while s.16 of the CDPA sets out the various acts restricted by copyright, the legislation also states that you only infringe by doing those acts in relation to 'the work as a whole or any substantial part of it'. This means it is permissible to make use of another's copyright work so long as you are not copying any more than an insubstantial part of that work.

Second, although copyright protects works against certain types of unauthorised use, there will always be elements of the work that remain unprotected and so free to use without permission. Consider, for example, the so-called [idea-expression dichotomy](#). Essentially, copyright does not protect ideas, only the way in which an author has expressed her ideas. So, to copy ideas is lawful. But, to copy the way in which an idea has been expressed by another author without permission is not lawful. Moreover, it is not just ideas that remain in the public domain. Copyright does not protect information, facts, theories or commonplace themes ordinarily used when creating cultural works.

Third, and most important, are the [exceptions](#) to copyright. Every copyright regime throughout the world limits the copyright owner's rights in specific ways by allowing certain things to be done with their work without the need for the owner's permission. These permitted acts (referred to as copyright exceptions) represent an attempt to strike a balance between the economic rights of the copyright owner and other uses considered to be socially, culturally, politically or economically beneficial.

In the UK, these exceptions are set out in sections 28-76 of the CDPA. There are general exceptions designed to facilitate the use of work by anyone, for example, for the purposes of [research and private study](#), for [criticism and review](#), or for [reporting current events](#). Other exceptions are intended to enable the use of copyright material within certain institutional contexts, for example, by [educational institutions](#), or by [libraries](#) and [archives](#).

We address each of these issues in greater detail throughout the Case Files.

5. USEFUL REFERENCES

Copyright Designs and Patents Act 1988:

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

COPYRIGHT CORTEX, 'Economic Rights and Infringement', available:

<https://copyrightcortex.org/copyright-101/chapter-5>