

CASE FILE 13: THE MULTIPLE RIGHTS

LEARNING AIMS

- Understand that there are multiple rights in cinematographic works
- Understand the relationship between authorship and ownership in regard to film

KEY QUESTIONS

The following key questions should be discussed to address the learning aims:

- Who is an author of a film, and who is the owner?
- What types of copyright-protected works comprise a film?
- Should influential, creative contributions in a film be enough to attract copyright protection?

Students will be expected to use Case File information to analyse ideas, to give opinions, and to justify opinions. Other questions posed within the Case File can be used to generate further discussion.

WHO IS AN AUTHOR OF A FILM UNDER THE COPYRIGHT DESIGNS AND PATENTS ACT 1988, AND WHO IS THE OWNER?

- See **TEXT BOX #2**
- The CDPA (the UK Copyright Act) says that the joint authors of a film are the producer and the principal director, and for a television broadcast, the person making the broadcast is the author.
- As the joint authors of a film, the producer and the principal director are the first owners of any copyright in the film. However, as any other authors, they may transfer their copyright to new owners (e.g. a film production company) via an assignment of rights. For more information about the difference between a licence and an assignment, see [Case File #12](#).
- As discussed below, many different creative contributions go into making a film. Under the CDPA, the contributors are seen as working for the principal director and producer because these are in charge of financing the project, making creative decisions, and retain ultimate creative control over the final product.
- Does this allocation of copyright make sense?

WHAT TYPES OF COPYRIGHT-PROTECTED WORKS COMPRISE A FILM?

- See **TEXT BOX # 3**
- The types of works in a film include:
 - Recorded visuals

- The written words in the script
- Musical soundtrack
- Visual framing of cinematography
- Illustrations and sketches (storyboard)
- Graphics (e.g. title sequence)
- And more (e.g. fonts)
- The film itself – which often includes all the works listed above – is also protected as a separate copyright work.

SHOULD INFLUENTIAL, CREATIVE CONTRIBUTIONS IN A FILM BE ENOUGH TO ATTRACT COPYRIGHT PROTECTION?

- See **TEXT BOX #2 and #3**
- Many of the works in a film might be sufficiently original and creative on their own to attract copyright. However, the CDPA limits the authorship (and ownership) of the film to the producer and the principal director.
- Whether other people who make creative, influential decisions during the creation of the film – e.g. screenwriters and composers – should also be considered the authors of the film, it is a matter of opinion. However, under the CDPA, they are not: in the UK, the authors of a film are only the producer and the principal director.
- Different jurisdictions take approaches that do not limit the copyright in a film to the producer and principal director. What do the students think about the CDPA approach? Should authorship and ownership of films be extended to other creative contributors such as screenwriters and composers?

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1. INTRODUCTION

Mary Westmacott is a freelance screenwriter; she writes scripts for films. Scripts are written works that contain the words of a film (or a play, television programme, video game, and so on), describing and narrating the movement, actions, expression, and dialogue of the characters. As the author of the script, Mary is the first owner of any copyright in it. However, the film based on Mary's script constitutes a new copyright work with different owners, usually the producer and the principal director. Films often include various works created by different people and protected by copyright, such as texts, images and music.

This Case File #13 investigates the multiple rights involved in a film, and the relationship between authorship of a work and the ownership of the copyright in that work.

2. AUTHORS OF A FILM

Section 9(1) of the Copyright Designs and Patents Act 1988 (the CDPA) tells us that an 'author' of a work is the person who creates the work. But many people work on a film, such as directors, producers, script writers, composers, camera operators, actors and more. So who creates a film? Is everyone involved in the creation of a film an author of that film?

In certain circumstances, the law provides specific definitions about the authorship of certain types of work. For example, for a television broadcast, the author is defined as 'the person making the broadcast' (CDPA, s.9(2)(b)). In the UK, the legal authors of a film are the producer and the principal director of the film (CDPA, s.9(2)(ab)).

Together, they are the joint authors of the work. The decision to grant authorship in this way reflects the idea that the producer and principal director are responsible for both financing the film and for exercising creative control over the film. Ultimately, everyone else who works on the film is working for the producer and the director.

3. COPYRIGHT WORKS IN A FILM

Many different kinds of copyright works are brought together to make a film. A film includes not only the recorded visual element but also a written script, still images, music and more. Each of these works has an author who is the first owner of the copyright in the work.

Often, these works are created specifically for the film. That is, they are commissioned by the producer and the director as part of the creative development of the film.

Sometimes, however, these works might have been created long before the producer and director ever decided to make their film. In this case, the producer will clear rights to make use of the work; that is, she will negotiate with the copyright owner about making use of the work in the film, either by way of a *licence* or an *assignment*.

For instance, if a director wanted to include a certain piece of music on the film's soundtrack, the producer might agree to pay a fee to the person who owns the copyright in the music (also known as buying a *licence*). Normally, this will be the author of the music (so long as the author hasn't sold or transferred their rights to

someone else). Although the producer pays for a licence to make use of the music in the film, the copyright in the music remains with the copyright owner.

Alternatively, the producer might buy the copyright to the music from the copyright owner outright (*an assignment*). In this case, the producer would become the owner of the copyright in the music and could use it on the film soundtrack or for any other purpose. After the original copyright owner assigns their copyright to the producer they no longer own any rights in the music.

When making a film, the producer and director will need to make these kinds of negotiations for all the elements they want to include in the film. Depending on how and when contracts are negotiated, the authors of the film might own all of the different copyright works that also feature as part of the film, or they might simply have been granted a licence to make use of certain works, like the music, specifically for making the film.

For further information about assignments and licences, see [Case File #12](#).

4. FOR DISCUSSION: REWARDING AUTHORS OR REWARDING INVESTORS?

Copyright is often understood as a way of rewarding authors for their creative expressions. For this reason, the author is generally the first owner of the copyright in their work. However, if an author is creating work as an employee then the copyright in the work is presumed to belong to their employer.

There are many people who make influential, creative decisions during the creation of a film including screenwriters and composers. If their contributions are sufficiently original, should they also be considered authors of the film? If so, is there a practical way for many people to have copyright in a film?

Or is it more appropriate that only the producer and principal director of a film are defined in law as the authors and therefore copyright owners of a film?

5. USEFUL REFERENCES

You can find lots of information about licensing the use of works protected by copyright on various UK collecting society websites, such as [Authors' Licensing and Collecting Society](#), [PRS for Music](#), [DACs](#), and others.

In particular, the [Motion Picture Licensing Company's](#) website provides information about when or whether you need permission or a licence to show or play a film in public.

If you are interested in films that are no longer in copyright (as well as links to those films) you could browse or search on Wikimedia Commons here:

https://commons.wikimedia.org/wiki/Category:Films_in_the_public_domain

Please note that a work that is in the public domain in the US is not necessarily in the public domain in the UK as well (and vice versa). For further information, see [Case File #2](#) and [here](#).