

LEARN FROM THE PAST, CREATE THE FUTURE

# THE ARTS AND COPYRIGHT



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LEARN FROM THE PAST, CREATE THE FUTURE

# THE ARTS AND COPYRIGHT



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# PREFACE

"Copyright and the Arts" is the second publication in WIPO's *Learn from the past, create the future* series aimed at young students. This series was launched in recognition of the importance of children and young adults as the creators of our future.

The publication begins by briefly explaining the importance of the arts and the potential young people have to be outstanding authors. This part seeks to encourage young people to use their imagination, flexibility and self-expression to create original works of art. Furthermore, the Young Author segments appearing throughout the publication encourage readers by showing them how other young people are creating works and using copyright to protect them.

The main part of the publication provides basic information about copyright and related rights. This is followed by a section dedicated to showing students how they can find and use works in the public domain.

The final part of the publication explains three common types of copyright infringement and how they can be avoided. This part deals in particular with the challenges that digital technology present to the protection of copyrighted works.

Additional information at the end of this publication includes a copyright glossary and a model letter that can be used to request permission to use copyrighted works.

# THE ARTS

## What are the arts and why are they important?

All of the arts are creative expressions. People can express their creativity:



visually



through motion



through sound



in three dimensions



through writing



through multimedia

Creative expressions in the arts are called **works**. Examples of works are: paintings, photos, songs, novels, poems, plays, choreography, sculptures, buildings, movies, and computer games.

### Young Author: Alexandra Nechita

Romanian-born Alexandra began drawing and painting when she was just two years old. Since then she has spent countless hours painting abstract shapes in bright colors to create stunning canvases that have been praised around the world. Her works are priced at thousands of dollars and can even be found in museums. Alexandra doesn't expect people to understand the meaning of her paintings. Instead, what is important to her is that those who see her work can feel the emotions expressed in the paintings. Painting makes Alexandra happy and this feeling comes through in her work. She has expressed her positive feelings in paintings, sculptures, and even commemorative coins promoting peace.

"It's the emotion, it's the mood that a thing or incident brings upon you, that you're going to paint. It's not the thing itself. If I'm painting a lamp, I'm painting what it means to me." (Alexandra in an interview with the Orange County Register in June 2003)



Courtesy: Alexandra Nechita

**The arts help us understand and communicate with different cultures.** By sharing ideas and emotions, the arts open our minds and make us think. They allow us to see the world differently, through the mind of the creator. Though we may not understand the language of an artist, we can still understand his feelings and ideas when we hear his music or see her paintings. Art goes beyond words in helping us connect with people from different cultures, despite language and other barriers.

### Young Author: Kishan Shrikanth

When he was six years old, Kishan became concerned with the underprivileged children whom he often saw selling newspapers in the city streets of his native India. He wanted to help these children and decided to do so by writing a story which would let more people know about these orphan children who did not have the opportunity to attend school. With the help and encouragement of family and friends, he began directing a film based on this story when he was only ten years old (this earned him a place in the Guinness Book of World Records). He used his creativity and experience in filmmaking (he has been acting since the age of four) to inform the world about the difficult situation of street children. His film, *c/o Footpath*, tells the story of a street boy who fights for the chance to go to school. He hopes that this movie will highlight the importance of education and give more opportunities and inspiration for slum children to attend school.

Kishan used film to increase understanding about the importance of education for all children.



Courtesy: chitranga.com



### The arts entertain us.

Imagine a world without music to listen to, books to read, movies to watch or video games to play. There is no doubt that without artistic works, life would be a lot less entertaining.

### The arts heal.

Whether through songs, paintings or stories, the arts help people express and deal with their emotions during difficult times.

## Young Author: Corneille

At the age of 16, Corneille's talent as a singer and musician was recognized in the televised *Discovery Awards* of his native Rwanda. The following year, however, tragedy struck. Corneille witnessed the murder of his family and barely escaped death himself. Difficult times followed as Corneille became a refugee, eventually finding new homes in Germany and Canada. Almost ten years after his first television appearance in Rwanda, Corneille released his first album *Parce qu'on vient de loin* (Because we come from far away). Corneille wrote, composed and performed all of the songs in this album as a way to break away from the nightmares that had followed him since he lost his family. His soul and R&B rhythms with French lyrics speak about his past experiences but also celebrate his new life. Corneille's music not only helped heal his wounds, but also touched the hearts of hundreds of thousands of fans that have made him one of the biggest French-speaking singer-songwriters in recent times. Corneille now helps the Canadian Red Cross and the United Nations Children's Fund (UNICEF), by participating in concerts and writing songs that help heal the wounds of suffering children in many areas of the world.

*D'ailleurs je chante souvent pour ne pas crier* ( I often sing not to shout) - Lyrics from Corneille's song *Seul au monde* (Alone in the world).



Courtesy: corneille.ca

### **The arts help us understand history.**

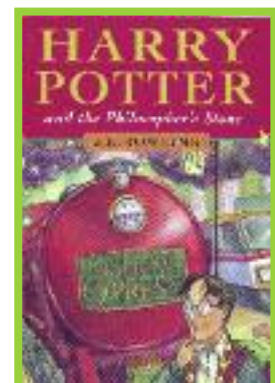
Through the arts we can better understand our world and learn about history and culture. Past civilizations are often remembered and understood thanks to their arts - their architecture, literature, paintings, sculptures, music and dance. Art as old as cave paintings, ancient myths and traditional folk songs help us understand how humans lived before us.

### **The arts are an important economic activity.**

The arts are part of the culture industry, which creates jobs and contributes to the wealth in countries where original works are produced. The Harry Potter series, which has entertained millions of fans worldwide, is an excellent example of how the arts contribute to the employment and wealth of a country. Think for a moment of all the jobs that have been created in order to bring the story of this young wizard to fans worldwide. People who have earned income from the success of this series include:

- ◆ The author, J.K. Rowling.
- ◆ Publishers, editors, translators, printers and marketers who have produced the different language versions of the books.
- ◆ Producers, actors, directors, music composers, technicians, and all the other support staff responsible for making the movies based on the books.
- ◆ Designers, software developers, manufacturers, retailers, distributors, and workers in factories and stores who produce and distribute the wide range of toys and other merchandise based on the series.
- ◆ Tour guides, and workers in hotels and restaurants located in areas visited by tourists wanting to see the places where the movies were filmed.

The Harry Potter series has created thousands of jobs and income for workers around the world.



Courtesy: Bloomsbury Publishing

### Think about it:

- Look around and identify all the arts surrounding you.
- What do these arts tell you about the culture of the authors who created them?
- What type of art do you enjoy the most? Why?
- What have you learned from art?
  - Can you identify one or more people who earn income from the arts?

### Who creates the arts?

*Every child is an artist. The problem is how to remain an artist once he grows up.* - Pablo Picasso

**Authors** are people who create works. Architects, painters, composers, photographers and other artists are all authors of their works. Each time we write, draw or take a photograph we also create our own, unique work of art. In this sense, we are all authors.

Everybody has a creative talent that can be expressed through the arts. Young people in particular have qualities that can make them more creative authors than many adults. These include:

**Imagination:** Young people have a vivid imagination. Since they have less expectations of how things should be, their minds can wander in unexpected directions leading to new, original creations.

**Flexibility:** Young people are generally more spontaneous and less judgmental than adults. They are therefore more open to new ideas and to experimenting with different techniques.

**Self-expression:** Young people can be better than adults at expressing and sharing their thoughts and emotions. This ease with self-expression releases the creativity in their art.

### Young Author: *George Pocheptsov*

George has been expressing his creativity on paper since he drew his first sketches as a 17 month-old baby. His unrestrained creativity results in colorful canvases covered with imaginary animals, angels and characters that express George's view of the world. George taught himself to paint and enjoys experimenting with the shapes of the imaginary animals he draws, and with different painting techniques. His imaginary "paper world" is inspired by nature, music and stories. His work, often compared to that of Picasso, sells for thousands of dollars.

George Pocheptsov's paintings are colorful expressions of his imagination.



© George Pocheptsov

### Think about it:

- What type of art do you enjoy creating?
- What inspires you when you create?
- What do you want to express in your artistic creations?
- Are your artistic creations a hobby or would you like to make a living from them?

## Game: Young Author Matchmaker\*

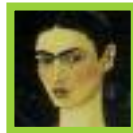
Many famous authors began creating works at a very young age. Can you match the famous authors below with their first works?

Beethoven



- painted first self-portrait at the age of 19.

Frida Kahlo



- sold first drawings at the age of 7.

Mary Shelley



- published first musical works at the age of 12.

Mozart



- began writing first novel at the age of 18.

Picasso



- wrote first musical composition at the age of 5.

Walt Disney



© Disney Enterprises, Inc.

- completed first recognized painting at the age of 8.

\* See page 58 for answers

## How do authors create?

Creating a work of art requires much more than simple inspiration and creativity. Most authors study and practice long hours before they produce a finalized work. Though different authors use different techniques when creating, there are at least four steps that most of them go through:

1. Make a **draft** copy of the work. This could be a rough image of a picture, an outline of a story, or a selection of the main words of a poem or song.
2. **Develop** the draft by giving it more shape and content.
3. **Refine** the draft by adding details and deleting unnecessary elements.
4. Produce a **final** copy of the work.

During this process, authors often find inspiration in other works of art. A painting, for example, may provide an idea for a story, or listening to music may inspire the brush strokes of a painter. Studying other works also improves an author's skills. This is one of the reasons most authors enjoy listening to, reading and seeing the works of other authors.

**Think about it:**

Use the space below to create an original work by expressing something that you experienced yesterday. It could be something you did, said, heard, saw, or even ate. You can express it with a drawing, a story, a song, or any other art form that you prefer. Use the steps on page 12 to guide you in the creation process.

## How do authors make a living from their works?

Not all authors can earn money from their works. Making quality works of art that others are willing to buy requires creativity, talent, money, and time. In order to create, authors need money to buy their supplies and to pay for training to improve their skills. Also, if they dedicate most of their time to creating works, they will usually not have time to work at another job. Therefore, authors need to receive payment for their works in order to pay their bills.

In the past, talented authors usually found the time and money to concentrate on their art with the help of patrons. These sponsors were rich and powerful people, such as kings and religious leaders, who asked



authors to create works of art for them. While the sponsorship of these wealthy people allowed talented authors to continue creating, most people did not have access to their works. In those days, works were often unique, with only one copy available for the enjoyment of the patron who paid for its creation.

Whether they decorated tombs for pharaohs or composed symphonies for emperors, authors needed to find a patron to sponsor the creation of their works.





With time, technology has drastically changed the situation of authors by making it easier for others to make copies of their works. In 1454, the invention of Gutenberg's printing press made it possible to print many copies of written works at low prices. This allowed written works to become available not only to the rich and powerful but also to all people who could read. Since then, new technologies have continued to make works more



accessible to all people. Modern media such as photography, radio, television, CDs, DVDs, computers and the Internet make it easier and cheaper to copy and distribute all kinds of works now, than at any other time in history.

The modern printing press was the first technology to affect the way in which authors control the reproduction and distribution of their works.

Now that works are more easily available to everyone in all corners of the world, authors no longer rely on wealthy sponsors for whom they create unique copies of works. To make a living now, authors need to have some control over how the different copies of their works are used. Without this control they would not be able to earn enough money to live from their art, and would need to find other jobs to pay their bills. This would leave them less time to create new works and all of us would suffer by having fewer works to enjoy.

In order to encourage and enable talented authors to continue creating, most countries today give them special rights to control their works. These rights are known as copyright.

# COPYRIGHT

## What is Copyright?

*A man paints with his brains and not with his hands.* - Michelangelo

**Intellectual Property** refers to all creations of the human mind. Intellectual Property is divided into **Copyright** and **Related Rights**, on the one hand, and **Industrial Property** on the other.



Creations of the human mind are protected by intellectual property laws.

### Intellectual Property

#### Copyright:

- protects original **works**.

#### Related Rights:

- protect the **performances**, **original recordings** and **broadcasts** of works.

#### Industrial Property:

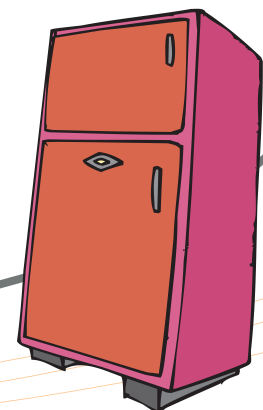
- Patents protect **inventions**.
- Industrial Designs protect the **designs** of products.
- Trademarks protect **distinctive signs**.

### Think about it:

Sometimes more than one type of intellectual property can apply to a single product.

Think, for example, of a refrigerator. A trademark can protect the name and logo of the refrigerator's manufacturer. The parts and processes of the refrigerator that keep food cold may be patented inventions. The design of the refrigerator (the style and appearance of its drawers, shelves, handles, etc.) can be protected by industrial designs. Even the refrigerator's operating manual, an original written text, is protected by copyright.

Can you think of any other products that can be protected by more than one type of intellectual property?



## What does copyright protect?

Copyright protects a wide range of works, which may include:



**Written works** - books, speeches, magazine and newspaper articles, novels, stories, poems, essays, plays, text books, web pages, advertisements, and dance notations.



**Musical works** - musical compositions, lyrics, songs and ring tones, in all types of formats (sheet music, CDs, MP3 files, etc).



**Artistic works** - drawings, paintings, photographs, comics, sculptures, architectural works, and maps.



**Dramatic and choreographic works** - plays, operas and dance.



**Films and multimedia products** - movies, video games, TV programs, and cartoons.



**Computer programs** - human (source code) and machine (object code) computer programming language.

Copyright does **NOT** protect ideas or mere facts.

Copyright protects the way in which ideas are expressed. This expression is the unique way in which words, musical notes, colors, shapes, etc. are chosen and arranged. It is the expression that makes a work original. This means that there can be many different works about the same idea and all of them will be protected by copyright, as long as they express this idea in an original way.

For example, your teacher may ask you and your classmates to draw a picture of a dog playing with a ball. Even though the idea (dog playing with a ball) is the same, all of you will choose different colors and shapes to express (draw) the dog and the ball. Though the drawings are expressions of the same idea, they will all be original and therefore protected by copyright.



An idea (such as a dog playing with a ball) can be expressed in many different ways. Copyright only protects the expression of the idea, not the idea itself.

**Think about it:**

Can you think of an idea that is expressed in different ways by three original works? Here's one to get you started.

**Idea:**  
A dog's adventure.

**Original works expressing that idea:**  
*The Call of the Wild* novel by Jack London.  
*Beethoven* movie by Universal Studios.  
*Dog's Life* PlayStation 2 game by Frontier Developments.

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## Young Author: Christopher Paolini

Christopher enjoys reading fantasy adventures so much that at the age of 15 he decided to write his own story. Inspired by the idea of a boy who sees a dragon hatch from an egg (from Bruce Coville's book *Jeremy Thatcher, Dragon Hatcher*), the young author plotted a fantastical trilogy about a boy, his dragon friend and their dangerous journey to save the world from evil. Christopher also drew inspiration for his story from other fantasy and science fiction works, including the *Lord of the Rings* series by J.R.R. Tolkien, the *Dragonriders of Pern* series by Anne McCaffrey, and George Lucas' *Star Wars* movies. Though clearly inspired by ideas used in other works, Christopher's expression of these ideas (the story line, descriptions, characters and dialogue) is original and therefore protected by copyright. By the time Christopher was 19, his first book, *Eragon*, had become a success, selling millions of copies worldwide and earning a place in the *New York Times* bestseller list.

Christopher's story, which drew on ideas from previous novels, has now inspired the creation of other original works: book translations into more than 30 languages, a movie, and a video game.



Courtesy: Random House, Inc.

## What are the conditions for copyright?

In most cases, **originality** is the only condition that a work must meet in order to be protected by copyright. This means that a work cannot simply be a copy of another work.

Copyright protects original works, regardless of their quality.



A work does not have to be useful, pretty, or even valuable to be protected by copyright. In fact, works are protected by copyright regardless of their quality. A child's finger-painting has as much copyright protection as a famous painter's masterpiece. The tune in a commercial is as protected by copyright as the latest song of your favorite band. The original writings in your diary also have as much copyright protection as the novels of a Nobel Prize winner.



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Special thanks to Hong Kong Intellectual Property Department, Mr. LEE Min-chi, and Jade Dynasty Group

Some countries also require that a work be **fixed** in a tangible form before it is protected. A work can be fixed in many different ways, it can be written on paper, painted on canvas, recorded (sound and/or video), etc. For example, in countries that require fixation of a work, a dance choreography is only protected once its movements are written down in dance notation, recorded on video, or fixed in any other form.

### How is copyright obtained?

Copyright protection is automatic. The instant you draw a picture or write a poem your works are protected by copyright.

The © symbol is often used as a reminder that a work is protected by copyright. This symbol is often followed by the name of the owner of the copyright and the year in which the work was created. For example, "© WIPO, 2007" would be used for a publication produced by WIPO in the year 2007.

In websites more than one year may follow the © symbol, for example "© WIPO 1999-2007". This type of citation is used for works that are constantly updated. The first year is the year of the first publication of the work (the year the WIPO website was launched) while the second year is either the current year or the year of the last update.

Since the © symbol is only a reminder, it is not necessary to include it in works for them to be protected. Even if a work does not contain the © symbol, it may still be protected by copyright.

### Think about it:

Go back to the work that you created on page 13.  
Insert a copyright notice with the © symbol, your name and the year in which you completed your work.

### Who owns the copyright?



The copyright of a specific work is owned by the person who created that work. As we saw before, the creator is often called the author of the work. For example, you created your journal, your art project and the photos from your last vacation. You are the author who owns the copyright to all of these works.

Sometimes works are created by more than one person. In these cases, all of the people who contributed to the creation of the work are considered its co-authors and they share the copyright of the **collective work**.





In some cases, authors wish to remain anonymous or use a pseudonym in order to hide their true identity from the public. In these cases, the author still owns the copyright to his works, though his rights are usually managed by the company distributing the works (for example, his publisher) so as to keep his true identity a mystery.

### Think about it:

In 1967, sixteen-year old Susan Eloise Hinton wrote *The Outsiders*, a novel about two rival groups of rebellious teenagers. The story was written from a boy's perspective and Susan's publisher worried that readers would not take the book seriously if they knew that the author was a girl. The book hid part of the author's identity by using her initials, S.E., instead of her full first names.

- ◆ Can you think of other reasons why authors sometimes wish to hide all or part of their identities by remaining anonymous or using pseudonyms?
  - ◆ Can you think of any works by other authors who remained anonymous or used pseudonyms?

In some countries, when a person creates a new work as part of his employment contract, the company or institution that employs him may own the copyright to the work.





**Beware !!**

Owning a physical or electronic copy of a work does not make you the owner of its copyrighted contents. For example, you may own a book but this does not make you the owner of the copyright to the text and images contained in that book. Likewise, buying a CD does not mean that you have also bought the copyright to the music, text, and images contained in that CD.

Since you do not own the copyright of the contents in the books and CDs that you have, there are clear limits as to what you can and cannot do with these products. Read on to find out what rights are limited to the owners of copyright.

### **Is copyright the same worldwide?**

The specific rights given to authors through copyright depend on national laws. Because of this, the rights of authors in one country may not be exactly the same as the rights of authors in another country. This can make the use of works confusing, especially in a world where works can be easily accessed in different countries (for example, via the Internet). In order to reduce this confusion, many governments have signed international agreements that try to reduce the differences in their copyright laws and make the worldwide use of works easier.

The first international agreement to try to reduce differences in the rights granted to authors in different countries was the **Berne**

**Convention**. Victor Hugo, famous French author of *Les Misérables*, was involved in the creation of this Convention. He and other authors wanted to make sure that their rights were respected in other countries as well as in their own.

Author Victor Hugo was involved in the creation of the Berne Convention.



Since the adoption of the Berne Convention in 1886, authors have enjoyed a set of common rights in the more than 160 countries that have signed the Convention (its Member States).

Each Member State of the Berne Convention must offer the same protection to works by authors from other Member States as it offers to works by its national authors. An exception to this is the rule of the shorter term. According to this rule, a Member State is not obliged to provide protection to works by a foreign author for longer than the time of protection given to those works in the author's country of origin.

In addition, according to the Berne Convention, works do not need to be registered in order to be protected by copyright. Copyright protection is automatic from the moment the work is created.

### Think about it:

Is your country a Member State (contracting party) of the Berne Convention? Find out at <http://www.wipo.int/treaties/en/ip/berne/>

If so, your works are automatically protected by a minimum set of rights in both your country and all of the other countries that are also Member States of the Berne Convention.



The **World Intellectual Property Organization** (WIPO) works with government officials of different countries to develop and update international agreements on copyright.

From its headquarters in Geneva, Switzerland, WIPO helps protect the rights of authors.

## What rights does copyright provide?

Copyright provides authors with a set of exclusive rights over their works. Exclusive means that there are certain things that only authors can do to their works. In some cases authors receive a right of remuneration instead of an exclusive right. In these cases, the author can receive payment for the use of his work, but cannot prevent the use itself. Both exclusive and remuneration rights are meant to reward authors for their creativity, investment and labor, and to encourage them to keep producing new works.

According to the Berne Convention, there are two types of rights under copyright:

**(1) Economic rights** - Authors have the exclusive right to:

- a) **reproduce the work.** This includes any form of copying such as photocopying, downloading, uploading, printing, recording, photographing, scanning, etc.
- b) **translate** the work into other languages.
- c) **adapt the work.** This alteration or transformation usually changes the type of work. For example, making a novel into a movie, or animating a drawing into a cartoon. Character merchandising (using the name or image of a fictional character to sell products such as toys, t-shirts, etc.) may also involve a form of adaptation.
- d) **exhibit / perform** the work in public. For example, displaying photos in an art gallery, performing a play in front of an audience, or playing a CD in a store or restaurant.

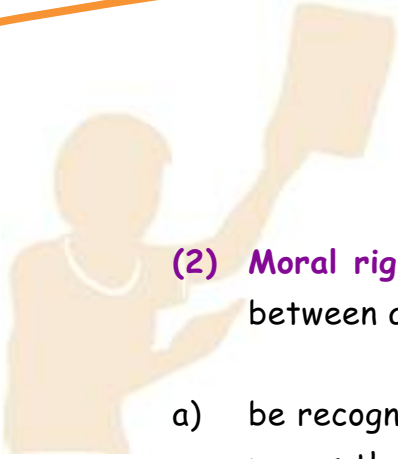
- e) **distribute** the work by selling copies to the public.
- f) **broadcast** the work. For example, by playing a song over the radio or showing a film on TV.
- g) **communicate** the work to the public. For example, by uploading a work onto the Internet.

In summary, no copyrighted work can be reproduced, translated, adapted, exhibited or performed in public, distributed, broadcast or communicated to the public without the permission of its author. This is what is meant by the phrase *all rights reserved* found in many works.

### Beware !!

There is a limit on the author's right of distribution, called the **first-sale doctrine**. The specific details of this rule depend on national laws and may therefore vary from country to country. In general, however, this rule means that the right of distribution for each copy of a work ends with that copy's first sale. This means that the person who buys a copy of the work has the right to redistribute that copy.

For example, if you buy a music CD, you can offer it to a friend as a present, or resell it at a second-hand market. You cannot, however, upload the CD's songs on the Internet since that would require making an electronic copy of the songs. Though you may redistribute a specific copy of the work once you buy it, the right of reproduction is still an exclusive right of the author.



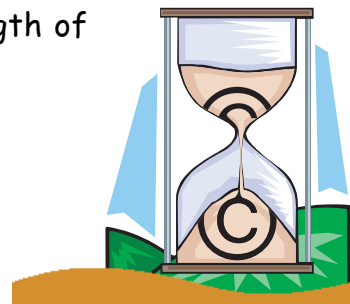
(2) **Moral rights** - These are the rights which maintain a personal link between authors and their works. They include the right to:

- a) be recognized as the author of a work (*right of paternity*). This means that authors can choose to sign their names, to not sign their names (remain anonymous), or to sign a fictional name (use a pseudonym) on their works.
- b) object to any changes to the work, which could damage the author's honor or reputation (*right of integrity*).

### How long does copyright last?

Copyright protection does not last forever. The length of protection varies according to:

- ◆ the national law of each country;
- ◆ who created the work;
- ◆ the type of work.



In countries that are members of the Berne Convention, copyright lasts throughout the author's lifetime plus 50 years after the author's death. However, in many countries copyright protection lasts longer than this minimum term. For example, in the USA and in countries of the European Union, copyright protection usually lasts during the life of the author plus 70 years after the author's death.

Economic rights are passed on to the author's heirs after the author dies. They become the **right holders** of the dead author's works. These right holders continue to receive payment for the reproduction, translation, adaptation, public performance, distribution, broadcast and communication to the public of the work for however long copyright protection lasts after the author's death.



For example, before his death in 1937, Scottish author J.M. Barrie assigned the copyright to his novel *Peter Pan* as a gift to London's Great Ormond Street Hospital. This hospital, therefore, owns the *Peter Pan* copyright and has the right to prohibit/allow and charge payment for any performances, adaptations, and publications of the *Peter Pan* story.

Moral rights usually last at least as long as economic rights, though in some countries they last forever. Depending on national laws, moral rights can also sometimes be transferred to the author's heirs, who ensure that the dead author continues to be recognized as the author of his works, and that his honor and reputation are not damaged by any changes to the works.

In the case of works created by more than one author, the end of the copyright protection is calculated from the time of death of the last surviving co-author. For example, French authors René Goscinny and Albert Uderzo collectively created the *Asterix* comic books. René Goscinny died in 1977 but the copyright on these collective works will only expire 70 years after the death of Albert Uderzo, the last living co-author.

The length of protection for anonymous and pseudonymous works is calculated from the time they are published. However, if the real identity of the author is known despite the pseudonym, the copyright protection has the same duration as for other known authors (until at least 50 years after their death).

When the author of a work is a corporation or an institution rather than an individual, the duration of copyright protection is also calculated from the time the work is published.

Finally, in most countries, movies and photographs have different (usually shorter) terms of protection than other works.

## Think about it:

How long does copyright protection last in your country? Does it vary depending on who created the work and on the type of work?

You can find the answer to these questions by contacting your national copyright office or by reading your national copyright laws. One place where you can find information about your country's copyright laws is WIPO's CLEA (Collection of Laws for Electronic Access) database:

<http://www.wipo.int/clea/en/index.jsp>



## Can copyright be transferred?

Authors may decide to sell the economic rights to their works. By selling their rights, authors can concentrate on creating new works while other people take care of the reproduction, translation, adaptation and distribution of their old works. Those who buy the economic rights of authors are also called right holders.

Moral rights are independent of economic rights and always remain with the author, even when the economic rights are sold.

Authors who sell the economic rights to their works receive payments called **royalties**. There are two ways of selling economic rights: **assignments** and **licenses**.

Assignment is a way of transferring one or more of the author's economic rights so that the person who buys the right(s) becomes the new owner of the copyright. Not all countries allow assignments.

Licensing means that the author remains the owner of his economic rights but allows the buyer (or licensee) of the rights to carry out certain acts covered by these rights for a limited time and purpose. For example, the author of a novel may license his rights of reproduction and distribution

to a publisher. He may also license his rights of adaptation to a film producer who wishes to make a movie based on the novel.

Finally, an author may decide to not use some or all of his rights. For example, he may upload his works on the Internet and specify that anybody can use them free of charge. He may also wish to limit the use on the work he uploaded, for example allowing his work to be used only for non-commercial purposes. In this case, he would allow others to copy, translate, adapt, perform and even broadcast the work as long as they did not make any money from these uses.

Organizations such as Creative Commons provide examples on how authors can label their works so that it is clear which rights apply to them. You can find more information about this at: <http://creativecommons.org/>

### Young Author: Flavia Bujor

At the age of twelve, Flavia began writing a story about three young girls who try to save their fantasy world with the help of magical stones. Two years later, her book, *The Prophecy of the Stones* (*La prophétie des pierres*), was published in France. The book was an instant best seller and more than 20 commercial publishers worldwide rushed to buy the rights to translate, publish and sell Flavia's book in their countries.

Her novel has sold tens of thousands of copies in France, Germany and the United States.

Flavia sold the translation, reproduction and distribution rights to her book.



Courtesy: Hyperion Books for Children



## Game: Copyright Detective\*

Take a good look at the cover and inside page of the fictitious book below and identify:

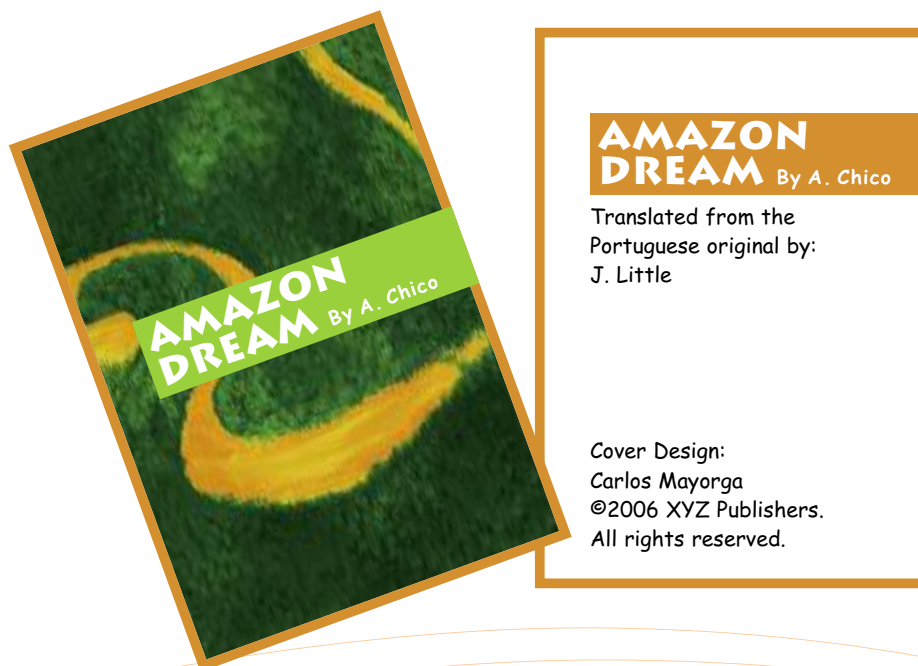
Who owns the moral rights of the original, Portuguese text?

Who owns the moral rights to the English text translation?

Who owns the copyright of the artwork on the cover?

Who owns the publishing rights?

What are the economic rights included in the reference *all rights reserved*?



\* See page 58 for answers



## What are related rights?

Artistic works are often made available to the public through the services of performers, producers of phonograms, and broadcasters. Think, for example, of a song played on the radio. Once the authors (songwriter and music composer) create the song, it is then performed by singers and musicians, recorded by a producer of phonograms, and distributed by a broadcaster.

Performing, recording and broadcasting works requires a big investment of time and money. In order to allow for a recovery of this investment and encourage more works to be made available to the public, governments give special rights to performers, producers of phonograms and broadcasters. These rights are called related rights because they are closely related to copyright.

The duration of related rights protection depends on the national law of each country. In general, the minimum protection lasts: for performers, 50 years from the end of the year in which a performance is fixed in a phonogram; for producers of phonograms, 50 years from the end of the year in which the phonogram is published; and for broadcasters, 20 years from the end of the year in which the broadcast takes place.

### Performers

Many works of art cannot be fully appreciated without the help of performers. For example, a musical composition is usually more enjoyable when it is played by a musician than when it is read in a music sheet. The same can be said for scripts, plays, and even novels, which many people prefer when they are performed by actors on stage or movie screens.



Performers, such as actors, musicians, dancers, and singers, bring life to the works of authors. As they act, play an instrument, dance or sing, performers interpret the works in their own unique style. Original interpretations of works are valuable and therefore protected by related rights.

In general, performers can prohibit the recording and broadcasting of their live performances without their consent. They also have the right to prevent, among others, further copying and Internet transmission of their music recordings. For example, a band can prohibit fans from videotaping their live performances. They can also prohibit fans from uploading copies of the band's album on the Internet.

Without these rights, performers would not be paid for their interpretations. If anyone could record and freely broadcast an artist's performance then some people who would have paid for a ticket to attend the performance may prefer to watch the free broadcast. Recordings copied without the artist's consent also do not provide any income to the artist. If an artist cannot earn income from his interpretations, he will have to make a living with another job and may therefore perform and record fewer works for us to enjoy.

In several countries, performers also have rights similar to authors' moral rights. These rights protect performers against the distortion of their performances. They also allow them to ask that their names be mentioned in connection with their performances.



## Young Author: Athena Adamopoulos

For as long as she can remember, Athena has been composing music in her head. She plays the cello and the piano and enjoys composing original works for both instruments. When it comes to the performance of her works, however, she prefers to sit back and let outstanding musicians play her works. In fact, it was the performance of one of Athena's compositions, *Soliloquy*, by world-famous cellist Yo Yo Ma on a radio broadcast, that earned Athena greater publicity and respect as a young composer. Athena dreams of one day hearing her compositions as part of a musical score in a film.

"When I heard the piece in my head originally, I heard it something like this but not quite...and this is about ten times better" - Athena's reaction after hearing Yo Yo Ma perform her composition.



Courtesy: Athena Adamopoulos

## Producers of Phonograms



A producer of phonograms is the person or the company which first fixes (records the sounds of) a performance. A phonogram is the original recording, while CDs and MP3 files are copies of this original.

Recording the sounds of a performance requires expensive technical equipment and specialized workers. Producers of phonograms recover the cost of this equipment and labor by selling copies of the phonograms in CDs or MP3 files. Producers of phonograms have the right to authorize or prohibit other people from copying, broadcasting, and distributing their phonograms.

While it is difficult and expensive to produce the first quality recording of a performance, new technology has made it very cheap and easy to copy the original recording. If producers of phonograms did not have the right to prevent others from reproducing their phonograms, many people would copy them free of charge instead of buying the CDs or MP3 files that the producers of phonograms try to sell. This uncontrolled copying would not bring any income to the producers of phonograms who would therefore not be able to recover the costs involved in the recording of the original performance. If producers of phonograms did not make money from their original recordings, they would have less incentive to record future performances. As a result, fewer authors and performers would have a chance to have their works and performances recorded. In addition, consumers would have less choice of new sound recordings to listen to.

In many sound recordings, the © symbol is used to identify the owner of the related rights for the recording.

### **Broadcasting Organizations**



Radio and TV broadcasts make the works of authors, and their interpretations by performers, available to a large public. In order to encourage broadcasting organizations to invest in the technology needed to broadcast works, governments also grant related rights protection to these organizations.

Broadcasting organizations have the right to authorize or prohibit the re-broadcasting, recording (fixation), and copying of the recordings of their broadcasts.

## Creation Activity

With a group of friends, either:

Create, perform and record a live music video:

- 1) Write the song lyrics, compose the music, choreograph a dance routine;
- 2) select the musician(s), singer(s) and dancer(s) to perform the song;
- 3) find a place to perform your music;
- 4) design a poster to promote the performance;
- 5) perform the song and record your performance.

or

Create, perform and record a sketch:

- 1) Write the script of the sketch to be performed, including stage directions and dialogue;
- 2) select the actors and nominate a director to help rehearse the sketch;
- 3) find a place to perform the sketch;
- 4) design a poster to promote the performance;
- 5) act out the sketch and record the performance.

Then consider:

- 1) What copyright and/or related rights do each of the members of your team have in your collective work and performance?
- 2) How much time and money did you spend to create and perform the music video / sketch?
- 3) What would you like to do with the final work? (For example: show it to music executives to try to get a recording contract; make it available for free downloading on the Internet; sell copies of it yourselves; etc.)

## How are copyright and related rights managed?

Before you or anyone can use a work protected by copyright and/or related rights, you must find the right holders to ask for permission and sometimes pay for the right to use the work. This process is called **rights clearance**.

Authors and performers (especially popular ones) can easily become overwhelmed by all the requests from people who want to reproduce, broadcast, adapt or otherwise use their works and performances in a way that requires their permission. Keeping track of all these requests and deciding whether or not to grant them permission free of charge or for a fee, can be very time consuming.

These requests are very important since it is by granting permission through licenses and assignments that authors and performers receive their royalty payments. In order to have time to continue creating and performing while still attending to all the requests, many authors and performers rely on the services of **Collective Management Organizations**. These organizations act as a link between authors and performers and those who want to use their works. They grant authorizations, collect royalty payments, and detect, prevent and seek compensation for unauthorized uses. Thanks to these organizations, authors and performers receive the payments they deserve when their works and performances are used, and users can more easily obtain permission for the use of such works and performances.

Most countries have national collective management organizations, which you can contact to manage the rights to your works or performances. You can also contact these organizations when you need permission to use the works or performances of other authors.

National collective management organizations usually belong to an international association (group) of these organizations. To find the national organization that can help you manage your rights as an author, or guide you on how to obtain permission to use someone else's work or performance, you could contact such an international association.

Below are Internet links to some of the most well known international associations that help authors, performers, producers of phonograms, and broadcasting organizations enforce their rights:

- ◆ Association of European Performers' Organisations  
<http://www.aepo.org>
- ◆ International Confederation of Societies of Authors and Composers  
<http://www.cisac.org>
- ◆ International Federation of Actors  
<http://www.fia-actors.com>
- ◆ International Federation of Musicians  
<http://www.fim-musicians.com/eng/index.html>
- ◆ International Federation of Reproduction Rights Organisations  
<http://www.ifrro.org>
- ◆ International Federation of the Phonographic Industry  
<http://www.ifpi.org/>



## Game: Clear the rights\*

Take a good look at the covers and song details of the fictitious music CD below. Identify whose permission you would need in order to:

- ◆ Sing the Indigo theme song at your band's next public performance.
- ◆ Upload songs from the album onto your Internet site.
- ◆ Reproduce the cover's artwork on a T-shirt.
- ◆ Broadcast the Indigo theme song on your town's radio station.
- ◆ Record the melody of the Indigo theme song to use as background music for a film you're working on.
- ◆ Use the lyrics of the chorus of the Indigo theme song as part of a song you're composing.



\* See page 59 for answers

# PUBLIC DOMAIN AND COPYRIGHT LIMITATIONS

Copyright laws try to find a balance between the rights they give to authors and the right of the public to access and use these works. Even authors benefit from the ability to access and use the works of previous authors that inspire them and help them learn techniques that they can use to develop new works. The **public domain** and copyright limitations provide this balance between the rights of authors and the rights of the public.

## What is the public domain?

The public domain consists of all the works that are not protected by copyright and are therefore free for use without permission from, or payment to, the original author. This means that public domain works can be freely copied, distributed, adapted, performed and displayed in public as if they were owned by the public.

Works enter the public domain when:

- ◆ **Their copyright protection expires.** As previously mentioned, the term of copyright protection varies from country to country but it usually expires around 50 to 70 years after the death of the author.
- ◆ **They don't qualify for copyright protection.** Facts and lists do not qualify for copyright protection, so the list of ingredients in a recipe and the dates on a calendar are both in the public domain. However, the description of how to use the recipe's ingredients and the artwork that is included in a calendar may be considered as original expressions and therefore protected by copyright. Furthermore, in some countries, government documents also do not qualify for

Courtesy: NASA



Public domain image of Saturn available in NASA's image gallery.

copyright protection. For example, the National Aeronautics and Space Administration (NASA) is a United States government agency which produces many images and videos that do not qualify for copyright protection and are therefore in the public domain. You can find NASA's public domain works at: <http://www.nasa.gov/multimedia/imagegallery/index.html>

### Beware !!

Works that are out-of-print or no longer available for sale are not necessarily in the public domain. Unless their copyright has expired, permission must still be obtained from the right holders before such works can be copied, printed, distributed or otherwise used.

### How can works in the public domain be used?

Works in the public domain can be used in any way by anyone. Take for example, *The Scream* painting by Norwegian artist Edvard Munch. Since its entry into the public domain, this painting has been reproduced in posters, art books, inflatable dolls, key chains, cartoons, and an infinite number of other products. The different businesses that sell these reproductions did not have to pay any royalties for the commercial use of this public domain work.



Works in the public domain, such as Munch's *The Scream*, can be freely copied, adapted and distributed by anyone.

Courtesy: Associated Press

## Beware !!

Works in the public domain are often used by different authors to create new works. When an original work is translated, adapted or changed in any other form, the new work is called a **derivative work**. Derivative works are also protected by copyright, even if the original works from which they were derived are in the public domain. The person who created the derivative work is its author and owns its copyright. Anyone wishing to use (reproduce, translate, adapt, etc.) a derivative work that is protected by copyright must obtain permission from the author of the derivative work.

When looking for public domain works to use as part of your own new creations, make sure that the version you are using is the original, public domain version, and not a derivative work which may still be protected by copyright.

For example, the original text by Lewis Carroll and illustrations by John Tenniel for the book *Alice's Adventures in Wonderland*, first published in 1865, are in the public domain and can be freely used by anyone. However, the movie, drawings, cartoon characters, merchandise, etc., created by Walt Disney in 1951, which are an adaptation of Carroll's original *Alice*, are still protected by copyright and cannot be used without the permission of The Walt Disney Company. Furthermore, the picture of Alice shown below has been registered as a trademark and this will prevent it from entering the public domain, even after its copyright expires.

The original drawings of Alice by John Tenniel are now in the public domain, but the adapted drawings by Walt Disney are still under copyright and trademark protection.



© Disney Enterprises, Inc.



Chopin's original compositions are in the public domain, but recent recordings of these compositions may still be protected by related rights.

When looking for a work in the public domain, don't forget about related rights. For example, while classical music compositions, such as those created by Chopin, are now in the public domain, recent performances and recordings of such compositions may still be protected by related rights. This means that you can use the original composition by playing it in a public recital or incorporating parts of it in a song you are creating. However, you cannot copy, distribute, broadcast, or use in any other way, the recordings of this composition that are still protected by related rights.

### Young Performer: Evgeny Kissin

World famous pianist Evgeny began playing the piano when he was just two years old. At the age of 12 he performed Chopin's Piano Concertos 1 and 2 with the Moscow State Philharmonic Orchestra and shot to stardom. Since then, Evgeny has given concerts around the world, made dozens of recordings, and won a series of awards.

The music he plays is usually by composers such as Chopin, Mozart, Beethoven, Tchaikovsky and Schumann whose works are in the public domain. Evgeny's interpretations of these works, however, are protected by related rights. Thanks to these rights, Evgeny can make a living for himself and his family from his concerts and recordings.

Evgeny Kissin has made a living by performing works that are in the public domain.



(Credit: Sheila Rock)  
Courtesy of SONY/BMG

## Game: Public Domain Treasure Hunt\*

In the European Union, copyright for literary works expires 70 years after the death of the author. Below is a list of well-known literary works by European authors. Can you identify the four works that are not yet in the public domain?



by Jules Verne  
(1827-1905)



by Carlo Collodi  
(1826-1890)



by Hergé  
(1907-1983)



by Roald Dahl  
(1916-1990)



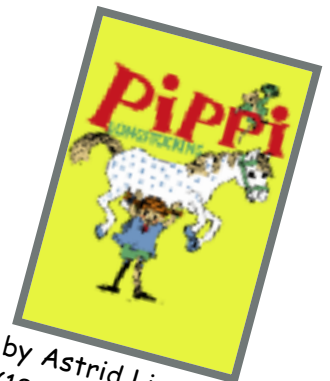
by Miguel de Cervantes  
(1547-1617)



by C. S. Lewis  
(1898-1963)



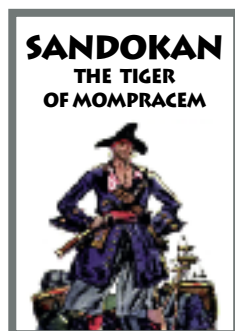
by Hans Christian Andersen  
(1805-1875)



by Astrid Lindgren  
(1907-2002)



by Alexandre Dumas  
(1802-1870)



by Emilio Salgari  
(1862-1911)



by Robert Louis Stevenson  
(1850-1894)

## Where can works in the public domain be found?

As a general rule, many of the works considered *classical* or *traditional* are old enough to be in the public domain. However, finding more recent works that are in the public domain is not always an easy task. As we have seen so far, it helps to follow these steps when looking for a work in the public domain:

- 1) Know the specifics of copyright and related rights protection in your country: how long they last for each type of work, and which works do not qualify for protection. For works not created in your country, find out if your country and the countries in which the works were created are members of the Berne Convention. Also check if your country follows the rule of the shorter term, which will help you decide if a work that is already in the public domain in the country where it was created is also in the public domain in your country.
- 2) Be clear about whether the work you want to use is the original work or a derivative work, which may have additional copyright and/or related rights protection.
- 3) Check the copyright notice and terms of use included in the work. This notice should help you identify the right holders and the types of rights reserved. This step is especially important when searching for works on the Internet.

### Beware !!

The availability of a work on the Internet does not mean that it is in the public domain and free for use by anyone.

Always consult the terms of use sections in websites before you copy, distribute or otherwise use anything that you find on the Internet.

- 4) Check that the work is not protected by another type of intellectual property, such as trademarks (often identified by the symbols ® or TM).

If after these basic checks you are still unsure whether or not the work is in the public domain, it is best to ask for permission before you use it. The sample permission letter on page 65 will give you an idea of how to ask for such permission.

### What are copyright limitations?

National laws allow works protected by copyright and related rights to be freely used in special situations. In other cases, national laws allow works to be used without asking the right holder for permission as long as he is compensated for such use. Thanks to these copyright limitations, even works that are not in the public domain can sometimes be used without asking for permission or paying royalties to the author or other right holders. However, credit must still be given to the author, performer, producer of phonograms, and broadcaster of the work by mentioning their names and the source of the work.

For example, free uses apply when works are used in:

- ◆ Quotations
- ◆ Teaching
- ◆ Reporting news

In addition, several national laws also allow the copying of a work exclusively for *personal, private and non-commercial use*. Meaning that you could, for example, print a copyrighted image from the Internet to paste on your wall for your private and personal enjoyment, but you could not use this same image to produce t-shirts and sell them (commercial use).



The Internet sites listed below could help you find works that are either in the public domain or available for limited free use. However, beware that the information in these sites is only indicative, and does not provide a definitive view of the legal status of the works in your country. Also, before using any of the works listed in these sites, don't forget to check the *Terms of Use* sections.

### Images

- ◆ Big Foto  
<http://www.bigfoto.com>
- ◆ morgueFile  
<http://morguefile.com>
- ◆ Pics4learning  
<http://www.pics4learning.com>

### Literature

- ◆ The Online Books Page  
<http://onlinebooks.library.upenn.edu>
- ◆ Project Gutenberg  
<http://www.gutenberg.org>

### Movies

- ◆ OpenFlix™  
<http://www.openflix.com>

### Music

- ◆ Gutenberg Music  
<http://www.gutenberg.org/music>
- ◆ Mutopia  
<http://www.ibiblio.org/mutopia>
- ◆ Sheet Music Digital  
<http://www.sheetmusicdigital.com>

# COPYRIGHT

# INFRINGEMENT

## What is copyright infringement?

Infringement takes place when a copyrighted work is used (reproduced, translated, adapted, exhibited or performed in public, distributed, broadcast, or communicated to the public) without the permission of the right holders or under a limitation to copyright.

**Copyright infringement** reduces the possibilities that authors have of earning income from their works, and harms us all by lowering the incentive for authors to create new works that we can all enjoy.

## What is plagiarism?



**Plagiarism** is the act of copying a work, wholly or partially, and then pretending to be its original author.

As we saw in the previous section, ideas themselves are not protected by copyright, so there is nothing wrong in writing about an idea that we find in another work. However, in order to avoid plagiarism, we have to express the idea in our own unique way.

Sometimes an author has expressed an idea so well that we cannot put it better in our own words. In these cases, we can copy the original text word for word as long as "quotation marks" are used. These marks inform the reader that this particular text is taken from another author's work. The original author must be credited in the text above or below the quotation, or with a footnote.

Most schools, universities and businesses have strict rules against plagiarism. While the Internet may make it very simple to *copy* and *paste* another person's work and claim it as one's own, the consequences of plagiarism can be very serious. Students who plagiarize risk being expelled from school.

## Beware!!

A copy can be considered as infringing even if it is not exactly the same as the original work. In fact, infringement occurs when the copy is *substantially similar*. This is usually determined by a court, which compares the language, appearance, format, sequence, sound, etc. of both the original work and the work accused of infringement.

In order for infringement to take place, the infringer must have had access to the original work. After all, it could be possible that the accused created a very similar work by pure chance, without ever having seen the original work. If this is the case, there is no plagiarism.

## What is piracy?



The term **Piracy** usually refers to the intentional and illegal sale of copyrighted works.

Music is the type of work that is pirated most often, though other works such as movies, video games and computer software are also victims of piracy. Piracy is an illegal activity that hurts not only authors, performers, producers of phonograms, and broadcasters, but also the society as a whole.

Pirated copies of works are often sold:

- ◆ at very low prices;
- ◆ by street sellers in markets, car-boot sales or other informal locations, rather than in established stores;
- ◆ on Recordable Compact Disks (CD-Rs);
- ◆ as MP3 compilations of albums by different artists;
- ◆ with poor quality inserts (blurry images and text; cheap and badly cut paper with printing only on one side; misspelled words and handwriting; loose plastic wrapping or none at all);
- ◆ without any © notices.

Reasons we should avoid buying pirated copies of works include:

- 1) **Piracy takes away the financial reward that authors deserve, and reduces their ability to continue creating new works.** No money from the sale of a pirated CD goes back to the authors or performers of the songs in that CD. If the authors and performers cannot earn income from the sale of their works, then they may need to find other jobs to make a living. These other jobs may take up so much of their time that they may not be able to continue creating and performing new works.



"Making an album is a team effort, so when somebody pirates a record that not only affects the artist but also the people who worked on it like co-producers, co-writers and musicians. Say no to piracy." - Shakira at musicunited.org

- 2) **Piracy reduces the incentive for publishing and distributing companies to invest in new authors and performers.** It costs a lot of money to discover, develop, record, and promote new authors and performers. If, due to piracy, legal publishers and distributors cannot recover their investment by making a profit on the sale of the works they help produce, they will have fewer funds to invest in new authors and performers. This means that young, unknown authors and performers will have less chance of obtaining a publishing and distribution contract. It also means that consumers will have less choice of new music.
- 3) **Consumers are not protected against faulty copies.** The quality of pirated products is often lower than that of originals. When consumers have any problems with a legal product, they can complain to the store where they bought it and either obtain a refund, or a new copy. On the other hand, when consumers buy a pirated copy, there are no guarantees that they can get their money back or exchange the faulty product for a working one. In many cases, they may even have trouble finding the same pirate seller again!

- 4) **Piracy makes legal copies more expensive.** In order to recover their losses from piracy, publishers and distributors may increase the prices of legal copies of works.

### What is peer-to-peer file sharing?



**Peer-to-peer (P2P) file sharing** is a way in which different computer users across the Internet who are logged on to the same network can share computer files (text, music and/or video).

The downloading and uploading that takes place in P2P file sharing involves copying and communicating the work to the public - both of which are exclusive rights of the author (or other right holders) of the work. Therefore, when done without permission of the right holders, P2P file sharing is an infringement of copyright. Some P2P file-sharing platforms are legitimate services, which obtain the necessary authorizations from right holders. Unfortunately, it is estimated that most of the files shared in P2P networks are unauthorized and therefore illegal.

Computers, the Internet, and other digital technologies such as MP3 formats are wonderful tools that help us work faster and obtain infinite information about our world. However, these tools also create a big challenge for authors by making their works more vulnerable. With digital technology it is both cheap and easy to perfectly copy and distribute works worldwide in a matter of seconds. While it can take an author years to compose the right words and catchy melody for a hit song, it only takes a few seconds for a computer user to copy that song into a file in his computer and share it (through p2p networks) with millions of people around the globe.

Reasons why we should not upload/download illegal copies of works include:

- 1) **Risk of computer viruses and hacking.** Downloaded music files can contain viruses. In addition, P2P software can sometimes contain "spyware" which gathers information about the computer without the user's knowledge or consent. The P2P software that allows the sharing of music files can also allow strangers to view other files in the computer which the user would not want them to see.
- 2) **Risk of lawsuits.** The Internet is not anonymous, it is possible to identify individuals who illegally upload and download copyright material on P2P networks. Since 2003, the music industry has demonstrated that it will sue illegal users, regardless of their age.
- 3) **Reduced choice of music.** Illegal P2P file sharing reduces purchases of legal CDs which means that recording studios have a harder time recovering their investment in artists. By making the investment in new talent a risky business, illegal P2P file sharing makes it harder for new authors and performers to sign production and distribution deals. Recording studios may also try to reduce the risk of not recovering their investment by producing only the average type of music that many people like, making it less likely for truly original and creative authors and performers to be signed up.



"... the more illegal downloading is taking off, the more the record companies are suffering, the more that they're only concentrating on the big artists and the littler ones, who probably are making far better music quite frankly, aren't getting heard." - Dido at whatsthe-download.com

- 4) **Downloading music legally has never been easier.** There are hundreds of sites where music can be downloaded legally either on a pay-per-song or subscription basis. The following website provides up-to-date links to many legal-downloading sites:  
<http://www.pro-music.org/musiconline.htm>

## Game: Defending Authors and Performers\*

You understand the purpose of copyright and related rights protection and want to respect the rights of the authors and performers that you admire. Can you identify which of the following are legal and illegal actions?

		
1) Making a copy of your classmate's CD for your MP3 player:	Legal	Illegal
2) Giving a friend a CD you bought for her as a present:	Legal	Illegal
3) Giving a classmate a copy of a CD you bought for yourself:	Legal	Illegal
4) Swapping a CD on an unauthorized P2P network:	Legal	Illegal
5) Selling a CD that you bought at a second-hand garage sale:	Legal	Illegal
6) Uploading a song written, composed and performed by you on a free downloading site:	Legal	Illegal
7) Sending an MP3 file with your favorite song by e-mail to a classmate:	Legal	Illegal

\* See page 60 for answers

## What is Digital Rights Management?

In order to protect their works from infringement, right holders are using the same tool that made their works so vulnerable in the first place - digital technologies. Their use of these technologies, which make copyright infringement more difficult and facilitate the management of rights, is known as **Digital Rights Management (DRM)**.

DRM tools can be used to mark digital works with copyright information. They can also be used to control the way in which a work can be used. For example, DRM can limit the number of copies that can be made of a work, can prevent changes from being made to a work, and can limit the devices on which a work can be enjoyed.

According to international laws, it is illegal to remove, change (alter), or get around (circumvent) DRM protection of a work.

## How can works on the Internet be protected?

As an author, you may want to make your works available to other people by placing them on the Internet, while still retaining all the rights granted to you by copyright. The first thing you should do is to put a © notice with your name and year(s) on your website. You may also wish to include a *Terms of Use* section where you specify exactly what you do and do not allow other people to do with your work. For example, you may allow visitors to print a copy of your poems or drawings for their own personal use, but prohibit them from selling these works without your approval.

Whenever you upload new, original material into your website, print out a copy with the dates for your records. You could need this copy in the future to prove that you were the first person to upload the information onto the Internet.



You could also consider using some DRM technologies for extra protection. For example, you could use watermarks with your name on all your photos so that if people print them or copy them, your name will always appear in the photo. You could also decide to upload only low quality recordings or incomplete versions of your works to make copying less interesting.

Watermarks are a type of DRM that can help protect your copyrighted images against unauthorized use.



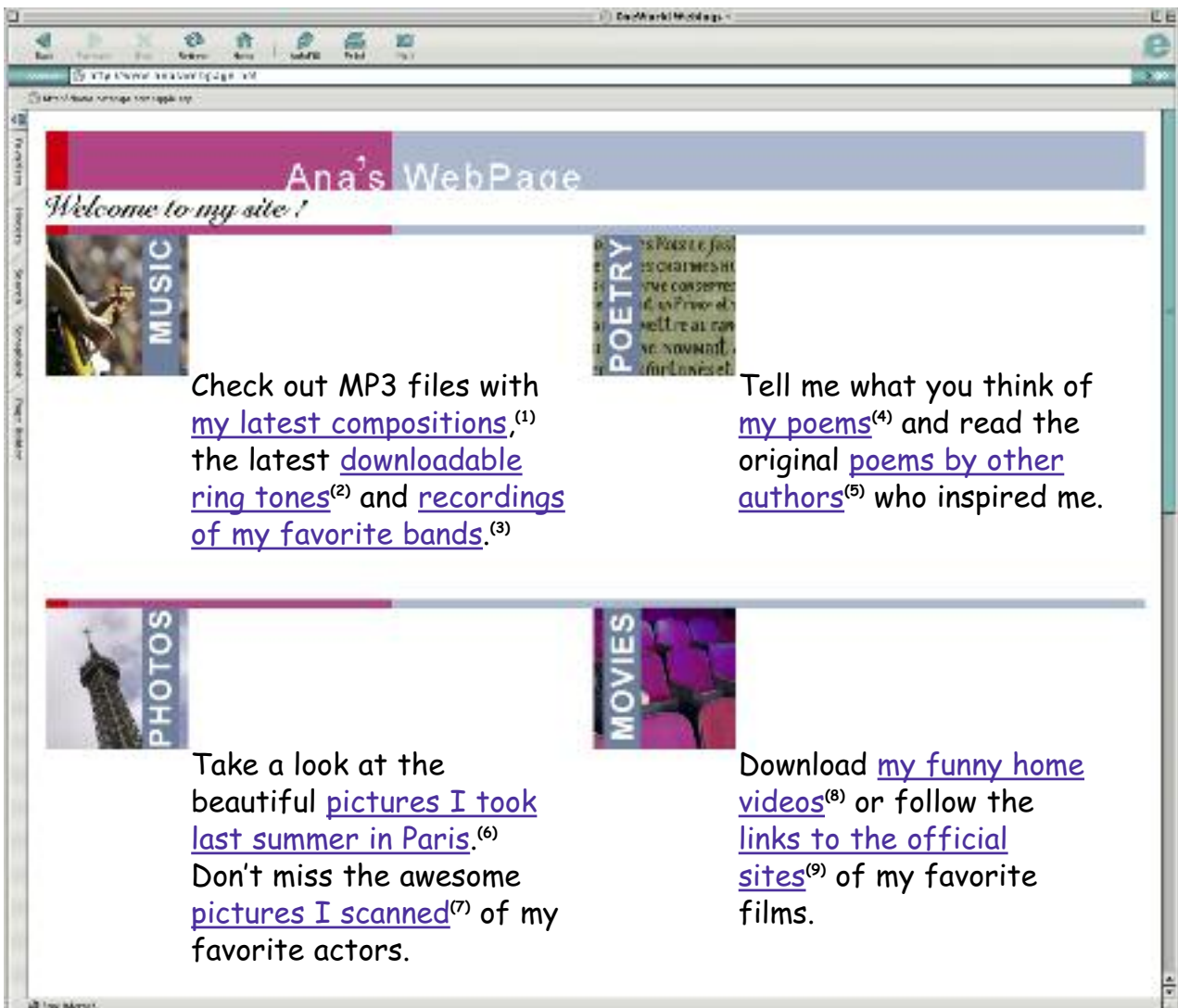
If despite your copyright notices and protection measures you find that your works are used without your permission, you should contact the infringer. First of all, however, print out a copy of your material in the infringing site (with the date visible) so that the infringer cannot simply delete the material and pretend that nothing happened.

Find the contact details of the infringer and send an e-mail stating that you are the author and the owner of the copyright of the specific work included in the infringing website. You may then ask the infringer to 1) remove your copyrighted material from the website immediately, 2) credit you as the author of the material, and / or 3) pay you a royalty for the inclusion of this work on the website. Give the infringer a deadline to reply to your message and do what you requested with your work.

Unfortunately, many people are unaware of copyright laws so there is a chance that the infringer doesn't even know that posting your work without your permission is illegal. It is likely that the infringer will quickly fix the problem and send you an apology. If this is not the case, you may wish to hire a lawyer to send a more legally constraining "Cease and Desist" letter and eventually sue the infringer. The lawyer could also help you to inform the Internet Service Provider hosting the WebPage about the infringement.

## Game: Spot the Infringement\*

Can you spot any areas in the fictitious website below where copyright is very likely being infringed?



Ana's WebPage  
Welcome to my site!

**MUSIC**  
Check out MP3 files with my latest compositions<sup>(1)</sup>, the latest downloadable ring tones<sup>(2)</sup> and recordings of my favorite bands<sup>(3)</sup>.

**POETRY**  
Tell me what you think of my poems<sup>(4)</sup> and read the original poems by other authors<sup>(5)</sup> who inspired me.

**PHOTOS**  
Take a look at the beautiful pictures I took last summer in Paris<sup>(6)</sup>. Don't miss the awesome pictures I scanned<sup>(7)</sup> of my favorite actors.

**MOVIES**  
Download my funny home videos<sup>(8)</sup> or follow the links to the official sites<sup>(9)</sup> of my favorite films.

\* See page 61 for answers



# FINAL THOUGHTS



The world we live in is surrounded by art. From the songs we sing in the shower, to the diary we write, the books we read, the movies we watch, and the video games we play- our day is filled with artistic expressions created by ourselves and others.



Find the artistic expression that best suits you and use your imagination to create new, original works. Look for inspiration in the works of other authors, and respect their rights in order to encourage them to continue creating works that will move you.



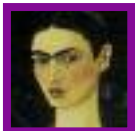
# ANSWERS

## TO GAMES

### Game: Young Author Matchmaker



Beethoven published his first musical works at the age of 12. These works were called the *Dressler Variations*.



Frida Kahlo painted her first self-portrait, *Woman in Red Dress*, when she was 19 years old.



Mary Shelley began writing *Frankenstein* when she was 18 years old.



Mozart wrote his first musical composition, *Andante in C*, at the age of 5.



Picasso completed his first recognized painting, *Le Picador*, at 8 years old.



Walt Disney sold his first drawings at the age of 7.

© Disney Enterprises, Inc.

### Game: Copyright Detective

**Armando Chico** owns the moral rights of the original, Portuguese text.

**J. Little** owns the moral rights to the English text translation.

**Carlos Mayorga** owns the copyright of the artwork on the cover.

**XYZ Publishers** own the publishing rights.



The economic rights included in the reference “all rights reserved” cover all relevant economic uses of the work, whether they have been licensed or transferred or remain with the author. These include the right to: **reproduce, translate, adapt, exhibit or perform** the work in public; **distribute, broadcast, and communicate** the work to the public.

### Game: Clear the Rights



**The Blueberries'** permission would be needed to sing the Indigo theme song at your band's next public performance.

**123 Record's** permission would be needed to upload the album on your Internet site. The authorization of the authors and performers (The Blueberries) would also be required unless the rights involved in the digital exploitation (reproduction, making available) have been transferred to the producer.

**Carlos Mayorga's** permission would be needed to reproduce the front cover's artwork on a T-shirt.

In principle, **The Blueberries'** (the authors) permission would be needed to broadcast the Indigo theme song on your town's radio station. In many countries, the performers and the record company (123 Records) would also be entitled to a right of remuneration.

**The Blueberries'** permission would be needed to record the melody of the Indigo theme song to use as background music for a film you're working on.

**The Blueberries'** permission would be needed in order to use the lyrics of the chorus of the Indigo theme song as part of a song you're composing.

## Game: Public Domain Detective

Less than 70 years have passed since the death of the authors of the following works, which are therefore not yet in the public domain:

© Hergé - Moulinsart 2004



*The Adventures of Tintin*

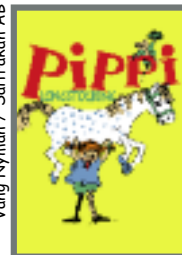


*The Lion, the Witch and the Wardrobe*














*Charlie and the Chocolate Factory*

© Astrid Lindgren & Ingrid Vang Nymen / Saltråkan AB



*Pippi Longstocking*

## Game: Defending Authors and Performers

- 1)  Making a copy of your classmate's CD for your MP3 player is  **illegal**.
- 2)  Giving a friend a CD you bought for her as a present is **legal**  according to the first-sale doctrine.
- 3)  Giving a classmate a copy of a CD you bought for yourself is **illegal**.
- 4)  Swapping a CD on an unauthorized P2P network is **illegal**.
- 5)  Selling a CD that you bought at a second-hand garage sale is **legal**  according to the first-sale doctrine.
- 6)  Uploading a song written, composed and performed by you on a free downloading site is **legal**, because as the author, you can do  whatever you want with the works you create.
- 7)  Sending an MP3 file with your favorite song by e-mail to your classmate is **illegal**.

### Game: Spot the infringement

Unless Ana obtained permission from the right holders and/or ensured that the works were in the public domain, she has very likely infringed copyright by uploading the following files onto her WebPage:

(2) latest downloadable ring tones / (3) recordings of my favorite bands / (5) original poems by other authors / (7) pictures I scanned of my favorite actors.

Since she is the author of the following works, she can do whatever she wants with them, including uploading them onto her WebPage:

(1) my latest compositions / (4) my poems / (6) pictures I took last summer in Paris / (8) my funny home videos.

Though linking to another site (follow the links to the official sites of my favorite films (9)) is not an infringement of copyright, it is considered polite to ask the owner of that site if Ana can add a link to them on her WebPage. If she wants to use the logo of the site she's linking to, she definitely needs to ask for permission.

# PERMISSION LETTERS

Before using (copying, adapting, performing, distributing, etc.) a copyrighted work, you must ask for permission from the author or other right holders. This permission can usually be requested by letter or e-mail.

Sometimes, the most difficult part in requesting permission is identifying and finding the contact details of the current right holders. If the author of the work you want to use is dead or otherwise transferred his rights, you may have to do a bit of research to find the current right holders.

- ◆ For printed materials (books, magazines, photographs, etc.) the best place to start is by contacting the publishers (their contact details usually appear at the beginning of the printed work). Even if the publishers do not own the copyright, they can usually tell you who you need to contact instead.
- ◆ For multimedia products such as movies and TV programs, the copyright notice at the end of the credits will let you know to whom to send your permission request. This copyright information can also be found in the packaging of DVDs and videos.
- ◆ WebPages usually have information about their copyright policies in the *Terms of Use* section. The *Contact* section usually provides an e-mail address to which you can send your permission request.
- ◆ For music, remember that there are related rights as well as copyrights to consider. If you only want to use the sheet music, then you only need to contact the author (or the music publisher). However, if you want to use a recording, you need to contact the author (or publisher) of the music, as well as the producer of the recording. Information on who to contact can be found on the sheet



music or on the CD packaging. Alternatively, you could contact a collective management organization that could help you identify and locate the right holders.

- ◆ In some countries, a public registration system can provide the information needed to contact the author of a work. To find out if your country has such a registration system, contact your national copyright office.

Once you know whom to contact, you can start preparing your letter. Permission letters should:

- ◆ Include the date and the name and contact details of the right holder.
- ◆ Briefly describe who you are and the project you are working on (reason why you want to use the work).
- ◆ Include detailed information about the work (or specific part of the work) that you want to use. Use ISBN numbers to identify the exact editions of books and URL links for works found on the Internet.
- ◆ Explain in detail how the work will be used. For example: how many copies of a work you want to make; where and for which audience you wish to perform the work; how you wish to adapt the work (translate it, sample it as part of a new work, etc.); or how you plan to distribute the work (uploading it on your website, selling printed copies, etc.).
- ◆ Ask for confirmation that the person to whom the letter is addressed is indeed the only right holder, and request information on any other right holders that you should contact.

- ◆ Request authorization to use the work as described.
- ◆ Inquire as to the way in which the right holder would like you to credit the work.
- ◆ Inform the right holder of your deadline for receiving their permission. Try to send your permission request with enough time to meet your deadline but keep in mind that the right holder is not obliged to reply to your letter. A non-reply should not be considered as permission to use the work.
- ◆ Include your contact details.

## Model template for permission request letter:

[Name of right holder]

[Address of right holder]

[date]

Dear [name of right holder]:

I am [short description of yourself such as "a young musician" or "an art student"] currently working on [short description of your project such as "practicing songs for a school play" or "selecting examples of works for an art website project"].

I understand that you own the copyright to [title of the work you want to use, include ISBN number or URL link if available] and would like to request your permission to [description of how you want to use the work - for example: perform, copy, upload on WebPage, translate, etc.] this work. [ Include more information on how the work would be used. For example, when you plan to perform the work and who would attend the performance; how many copies of the work you wish to make and to whom those copies would be distributed; who has access to the WebPage onto which you would like to upload the work; whether you plan to charge a fee for the performance, copies, use of the website; etc.]. My deadline for the completion of this project is [date by which you need a reply from the right holder].

Please reply to me at the address below if you agree to grant permission for the above-mentioned use of your work. If you are not the only right holder of this work, please inform me who else I should contact for this permission request. Also, do let me know if you have any preference on how I should credit your work.

Thank you in advance for your kind consideration of this request.

Sincerely,

[your name]

[your contact details including post and e-mail addresses]

# GLOSSARY

**Assignment** - A way of transferring one or more of the author's economic rights so that the person who buys the right(s) becomes the new owner of the copyright.

**Author** - As a general rule, the author is the creator of a work.

**Berne Convention** - An international agreement on copyright, which provides a minimum set of rights to authors of all countries that are members to the Convention.

**Collective Management Organization** - An organization that helps authors, performers, producers of phonograms, and/or broadcasters manage their rights. It collects payments from users and distributes them to the right holders.

**Collective Work** - A work created by more than one author.

**Copyright** - A set of rights given to authors of original works. Sometimes the term 'copyright' is used in a broad sense to also cover related rights.

**Copyright Infringement** - The use of a copyrighted work without the authorization of the right holders or under a limitation to copyright.

**Derivative Work** - An adaptation or translation of an original work. Derivative works are also protected by copyright.

**Digital Rights Management (DRM)** - Digital technology employed by right holders to make the illegal use of protected materials more difficult and to facilitate the management of their rights.

**Economic Rights** - Exclusive and remuneration rights, which enable a right holder to benefit financially from a work. These include the right to reproduce, translate, adapt, exhibit or perform the work, distribute, broadcast and communicate the work to the public.

**First-sale doctrine** - A rule stating that the author's right of distribution for each copy of a work ends with a specific copy's first sale.

**Industrial Property** - A type of intellectual property, which includes patents, trademarks and industrial designs.

**Intellectual Property** - A branch of law that protects creations of the human mind. It is divided into Industrial Property and Copyright.

**License** - An official permission to carry out an act that is usually reserved for the author of a work.

**Moral Rights** - Rights of paternity and integrity, which maintain a personal link between the author and his work.

**Peer-to-peer file sharing** - A way in which different computer users across the Internet who are logged onto the same network can share computer files (text, music and/or video).

**Piracy** - Usually refers to the intentional and illegal sale of copyrighted works.

**Plagiarism** - The act of presenting another person's work as one's own.

**Public Domain** - The collection of all works that are not protected by copyright and are therefore free for use without permission from, or payment to, the author.

**Related Rights** - The rights of performers, producers of phonograms, and broadcasting organizations.

**Rights Clearance** - The process of asking for permission from, and paying fees to, the right holders for the use of a protected work.

**Right Holder** - The owner of the copyright or related rights of a work.

**Royalty** - A payment made to an author by the person using his copyrighted material.

**Work** - An original artistic expression.

**World Intellectual Property Organization (WIPO)** - A specialized agency of the United Nations dedicated to developing a balanced and accessible international intellectual property system.

# FURTHER READING

The following free booklets published by WIPO provide further information about patents and other forms of intellectual property. You can download them at [www.wipo.int/publications](http://www.wipo.int/publications). You can also request a paper copy by sending an e-mail to [publications.mail@wipo.int](mailto:publications.mail@wipo.int).

## Copyright



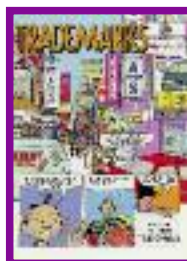
Pub. No. 484

## Patents



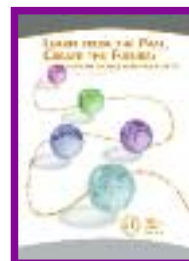
Pub. No. 485

## Trademarks



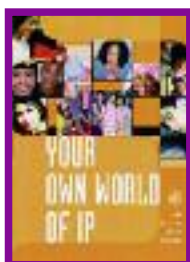
Pub. No. 483

## Learn from the Past, Create the Future: Inventions and Patents



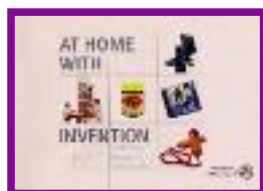
Pub. No. 925

## Your Own World of IP



Pub. No. 907

## At Home with Invention



Pub. No. 865

## What is Intellectual Property?



Pub. No. 450

## From Artist to Audience



Pub. No. 922

## Inventing the Future



Pub. No. 917

## Looking Good



Pub. No. 498

## Making a Mark



Pub. No. 900

## Creative Expression



Pub. No. 918

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Pimont, Marie-Renée  
*L'imagerie des Arts*  
Paris: Éditions FLEURUS, 2002

World Intellectual Property Organization (WIPO)  
*Berne Convention for the Protection of Literary and Artistic Works*  
Geneva: WIPO, 1979

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*Intellectual Property Handbook*  
Geneva: WIPO, 2004



# ONLINE SOURCES

Copyright Kids

<http://www.copyrightkids.org>

G.U.R.I

<http://www2.inpi.gov.br/Guri/index.jsp>

IP Kids

<http://www.ip-kids.gov.hk>

Iperckidz

<http://app.ipos.gov.sg/iperckidz/index.asp>

ProMusic

<http://www.pro-music.org>

Plaza de los niños

[http://www.derautor.gov.co/htm/Cartilla/plaza\\_de\\_los\\_ni%F1os.htm](http://www.derautor.gov.co/htm/Cartilla/plaza_de_los_ni%F1os.htm)

What's the Download

<http://www.whatsthe-download.com>

# NOTE

## TO TEACHERS

This publication can be used to supplement literature and arts curricula, especially when students are asked to create original works in these areas. The “Think about it” sections can be a starting point for class discussions on the importance of the arts and copyright.

Teachers may also complement this publication with a class session covering more specific information on the applicable national copyright law. Such information can be found in WIPO’s CLEA database:

<http://www.wipo.int/clea/en/index.jsp>

Students are encouraged to complete the *Creation Activity* to understand the effort and number of people involved in creating, producing, performing and distributing an original work.

Finally, teachers can use this publication to encourage their students to create more original works, recognize their rights on those works, and respect the rights of other creators.

This publication may be photocopied for classroom use as it appears, without any alteration.

For any comments, questions and requests please contact

[www.wipo.int/contact](http://www.wipo.int/contact).



For more information contact WIPO at [www.wipo.int](http://www.wipo.int)

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