Introduction to copyright and intellectual property rights

Teacher's notes

Overview

This exercise explores copyright law and how it affects everyday life, providing students with an understanding of the topic and the debates and conflicts that arise. It covers what copyright is, who it belongs to, how protection is administered, exceptions, how students should deal with copyright material, and other intellectual property rights.

It may well provoke discussion on:

The social contract and the purpose of laws to govern behaviour
Common and statute law; international law and jurisdictions
Importance of definitions for 'private use' and 'research'
Balance between rights of creators and society's benefit
Commercial impacts on cultural activity

- *This exercise is intended for A/AS Level students and undergraduates*
- *The exercise expands on the topic Computer Security and Privacy in the Microsoft Digital Literacy Curriculum*
- *An introduction for Key Stage 3 (11-13) is available at* http://www.crackingideas.com/
- *For 14-16 (Key Stage 4) there are resources at* http://www.ipo.gov.uk/education/education-school/education-thinkkit.htm *and* http://www.bbc.co.uk/schools/gcsebitesize/ict/legal/2copyrightrev1.shtml
- *Additional information for teachers is listed by Becta at* *http://schools.becta.org.uk/index.php?section=is&catcode=ss_to_es_pp_le_03&rid=14159*

Learning outcomes

At the end of this exercise the student should be able to:

- explain the origins and purpose of copyright law
- discuss who owns copyright and how it is created
- list some of the exceptions to copyright protection
- use copyrighted material correctly

Lesson plan

Content/Skills development	Teacher activity	Learner activity	Resources	Checking learning/ assessment opportunities
Discussion: what do	Record suggestions	Explain	Whiteboard	Level of

people know about copyright already?		examples		contribution from students
Copyright affects modern life: introduce factsheet	Introduce activity			
Discussion: why do we have laws? Who decides them?	Respond to contributions	Provide opinions		Level of contribution from students
How copyright works for creators		Read first two pages		
Discussion: should creators be paid? How long for? Can you save or make copies?	Respond to contributions	Provide opinions		Level of contribution from students
Copyright and students		Read page 3 and 4		
Discussion: how many times have you broken copyright law?		Give examples		Level of contribution from students
Review	Summarise points from discussions and point to further resources			
Assignment: what would change if copyright was abolished tomorrow?	Mark assignments (scheme below)	Assignment		Mark assignments

Suggested marking scheme for assignment:

Demonstrates understanding of role of copyright in society	30%
Demonstrates knowledge of current copyright law	40%
Discusses balance of effects in terms of creators and others	30%

Factsheet

Introduction to copyright and intellectual property rights

Copyright is a concept idea that affects many aspects of modern life, including publishing, the broadcast media, music and the internet. It will control what you can include in coursework, presentations, and reports. It is important to understand how it might affect you as a user and creator of copyright material.

What is copyright?

Copyright is the legal right of creators to benefit from their work. Anybody else who wants to copy or re-use the work may need permission from the creator, who can demand payment in return. Copyright law concentrates on commercial exploitation, and there are exceptions which can allow people to make copies for their own use. Although there are international agreements about copyright, laws in different countries vary in their details and application.

The publishing and entertainment industries rely on copyright to protect their exclusive rights, and the law has to balance the interests of creators, publishers and the public. It is a complex and controversial subject and causes many court cases.

Why is copyright protection needed?

Copyright has always been controversial, and developments in copying technology make physical copying easier (music cassettes and CDs, photocopies, digital files). In the context of the internet, people become frustrated at restrictions on what they can access, save and copy.

The justification for copyright protection is that without it, creators will be denied the benefits of their work, and will therefore be unable or unwilling to create new works. Authors and musicians rely on money from their works to allow them to be full-time artists.

Some people have argued that copyright protection is not necessary, on the basis that ideas are free, creators create because they want to, not to benefit from their works, and society would benefit from unrestricted access to them. This is reflected in file-sharing, DRM software cracking and copying of restricted access material on the web.

A less radical approach has been that of the Creative Commons movement which retains the framework of copyright but encourage creators to give up some of their rights to facilitate re-use. When publishing material on the web, information about permitted re-use is often included as logos. A parallel development is open source software and copyleft, which allows free copying and development but requires any new version to be released under the same terms.

Types of work covered

Copyright covers written works (fiction, non-fiction and poetry), artistic works (images and photographs), music, and performance works (plays and TV programmes). The works created are unique and involve an element of creativity contributed by one or more individuals. Copyright covers physical and digital material.

There are other rights covering trademarks (logos and brand names), designs, and patents (methods and inventions).

Whose copyright?

Copyright usually belongs to the creator or creators. If a work is created as part of someone's job, the copyright will belong to the employer. There may be a bundle of rights held by different people for a single work: for example, a movie may include screenplay, music, and performance rights.

The position can become more complicated with 'derivative works', new works that include elements of other works, since there will be new rights covering the derived work alongside the rights to the works drawn upon (eg in music where samples from one song are included in a new song). Different countries treat derivative works in various ways: in the United States they belong to the original creator.

Out of copyright, orphan works, and public domain

When the period of copyright protection ends, the work is out of copyright, and can be re-used without permission. A new edition of an out-of-copyright book will be protected by its own copyright covering its layout and any new material. Orphan works are publications whose copyright holders cannot be identified. At the moment, somebody republishing an orphan work would have to pay damages if the copyright holder came forward, but the law is under review. The term 'public domain' is used in copyright terms to mean specifically out-of-copyright works, or works that have been deliberately released from copyright protection ahead of time; this is a different meaning than that used when discussing confidentiality and publication. A report may be published and available to the public but still not be 'public domain' in copyright terms.

How is copyright created and registered?

Copyright exists from the moment of creation. There is no need to register or mark it in a specific way to enjoy protection. It is much easier for people to respect copyright if they can find out who the holder is, and it is standard practice to include the © symbol, the creator's name and the date of publication (eg **© by Jane Bennett 2007**). For some types of material, collection societies take responsibility for bringing

together income from licensees and sharing it out among the copyright holders (for example, radio stations pay a standard fee per song played to an agency which passes it on to the relevant artist, record company, and songwriter).

Length of copyright

Copyright protection initially covered a specific period from first publication, but the duration of most rights are now linked to the creator's life. In the EU, it is standard for protection to last for 70 years after the death of the creator (allowing the creator's relatives and descendants to continue to benefit). Once the term of copyright has expired, the work is in the Public Domain and can be copied and re-used without restriction. Different rules apply to government publications and for publication formats.

Personal use

The law recognises that the restrictions it imposes are very wide-ranging and if enforced comprehensively would prevent many activities which cause no significant harm to the interests of the copyright holder. The principle of 'fair dealing' (or the equivalent principle of 'fair use' in United States law) allows people to make partial copies for their own personal use ('private study') without the permission of the copyright holder. There are restrictions on how much can be copied and what use can be made of the copies, the most important of which is that the purpose must be non-commercial.[1] 'Fair dealing' also requires the copier to acknowledge the source.

In the UK, the Copyright Licensing Agency operates a sticker scheme allowing copying for commercial purposes by paying a standard fee.

Copyright and plagiarism

Plagiarism is a form of misrepresentation where someone does not credit the source of the material they quote. It may breach copyright, since it does not give 'due acknowledgement', but is, more importantly, a form of fraud or deception.

Other exceptions

There are special rules covering the inclusion of material in reviews and parodies.

Managing copyright

If you want to avoid problems with copyright, you should take some simple steps:

[1] The old wording of the law allowed copying for 'private research', not specifying whether the purpose was commercial or not. In 2003 new regulations clarified that commercial research is not covered by 'fair dealing' exemptions.

- Be clear about which parts of your work are your own, and which are copied or quoted
- Ensure that you acknowledge the source of any material you copy
- When you make or order a copy, think about your intended use
- Think carefully about re-using material which you obtained on the basis of fair dealing for personal use
- If you create material, keep copies and records relating to it so that you can demonstrate your authorship
- If there is commercial demand for your work, consider using a registration or collection agency to deal with copyright issues

Libraries and copying

It is the responsibility of the person needing the copy to consider whether they come under the rules for 'fair dealing', but people or organisations involved in creating the copy may also be liable. They may therefore impose rules on what copying is allowed.

Intellectual Property and moral rights

Intellectual Property is the term used in modern legislation to cover rights over ideas and their expression, and includes copyright, trade marks, and patents. It includes a package of rights, some of which are transferable economic rights (the right to publish a book) and some are non-transferable moral rights.

Moral rights are the right to be identified as the author of work they create, the right not to be identified as the author of work they did not create, and protection from derogatory treatment (by misrepresentation which affects their reputation). In practice, moral rights become important when there are cases of plagiarism (somebody claiming to have written text created by someone else) and misrepresentation (such as a famous author's name being used on a work they did not create, or somebody being misquoted to mislead the reader as to their views).

Disclaimer

The information provided here is not intended as legal advice.

Further information

UK Intellectual Property Office (Government official advice)
http://www.ipo.gov.uk/home.htm

Creative Commons licensing terms
http://www.creativecommons.org.uk/

ALCS (Authors' Licensing and Collecting Society)
http://www.alcs.co.uk/

Copyright Licensing Agency sticker scheme for commercial copying
http://www.cla.co.uk/Library_sticker_licence.php

UK Copyright Service (a commercial service for registration)
http://www.copyrightservice.co.uk/

Anti-Copyright resources
http://praxeology.net/anticopyright.htm

British Academy guidelines on copyright and academic research
http://www.britac.ac.uk/reports/copyright/guidelines.cfm