

UNIVERSITY OF
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Intellectual Property on the Web

COMP1202 Web Infrastructure

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“On one hand information wants to be expensive, because it's so valuable. The right information in the right place just changes your life, on the other hand information wants to be free because the cost of getting it out is getting lower and lower all the time. So you have these two fighting against each other”

Steward Brand, 1984

Intellectual Property

“Nonphysical property that stems from, is identified as, and whose value is based on an idea or some ideas”

“Only the concrete, tangible, or physical embodiments of the idea are protected by intellectual property law”

Types of IP Rights

Type	Description
Copyright	Protects the skill and labour expended by someone creating something new
Patents	Protect inventions by giving invention a monopoly on exploiting their inventions for a certain period
Trademarks	Exclusively identify the product of a particular manufacturer or supplier
Database (EU only)	Protects the skill and labour expended by someone creating collections of data or other materials
Performance rights	Protects against unauthorised making of copies of “public performances”, which includes musical, theatrical, dance performance, and also lectures
Design rights	Protects the shape and configuration (how different parts of a design are arranged together of objects)
Moral rights (EU only)	Right of a creator to insist that his/her name is associated with his/her creation. Right of the creator to object to derogatory his/her work which damages his/her reputation

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Copyright

Protects:

- Original literary, dramatic, musical, and artistic works
- Sound recordings, films, broadcasts and cable transmissions
- The typographical arrangement of published editions

Copyright

Copyright gives five exclusive rights to the owner of the copyright.

The right to:

1. Copy the work
2. Issue copies to the public
3. Perform, play or show the work to the public
4. Broadcast the work or transmit on a cable service
5. Make an adaptation of the work

Who owns the Copyright?

Copyright is owned by the author(s) of the work

- An employer owns the copyright if the author created the work in the course of employment
- Independent contractors own the copyright unless agreed otherwise
- Copyright can only be transferred in writing
- Copyright does not need to be registered

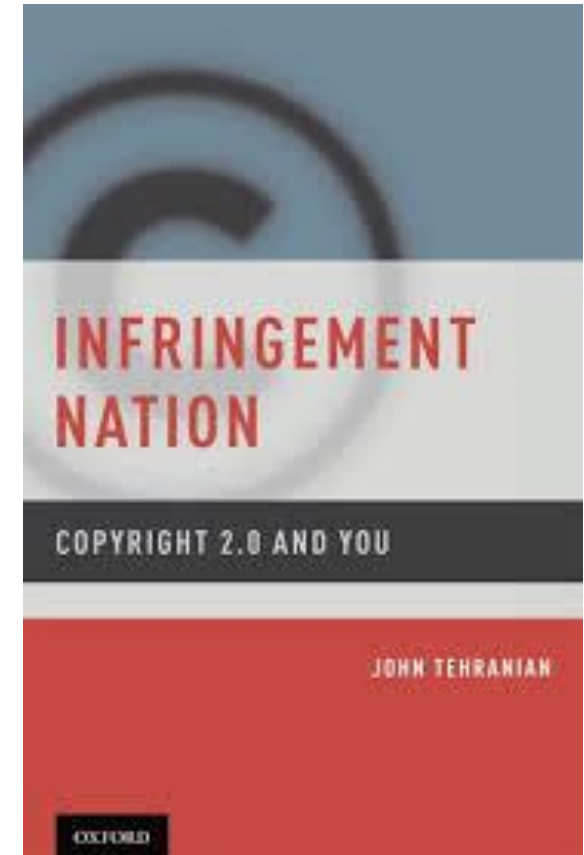


Infringement

- **Primary infringement** is anyone who, without consent, does any of the five things that are the exclusive right of the owner of the copyright
- Primary infringement is purely a civil matter
- **Secondary infringement** occurs when an infringement is performed knowingly and in the course of business
- Secondary infringement can be a criminal offense

Infringement Nation

- He describes a day in the life of an a law-abiding American who infringes on the copyrights of:
 - 20 emails
 - 3 legal articles published online
 - an architectural rendering
 - a poem
 - five photographs
 - an animated character which is tattooed on his arm,
 - a musical composition
 - a painting
 - fifty notes and drawings
- Assuming that full enforcement of rights by copyright holders he would be liable for \$12.45 million



Exceptions and Limitation

- the reproduction of works for blind and disabled persons
- the libraries and archives can preserve copy and distribution protected works
- “first rule of sale”
 - once a copyright owner sells you a legal copy of a book then they no longer have control over the distribution right of that particular copy



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Copyright and Fair Use

- US has Fair Use exception
- Determined by the courts
- Difficult to prove fair use



Database Rights

- Database rights only arise where the maker of the database has invested substantially in obtaining or verifying data from independent sources
- Investment in actually creating data which forms part of a database will not automatically result in a database right
- Databases can be subject to copyright if a database is the author's "*own original intellectual creations*"
- Database rights are independent of copyright
- A new set of rights are created each time a database is substantially modified
 - "*substantial investment in obtaining, verifying or presenting the contents of the database*"
- Owners can object to the copying of substantial parts of their database, even if data is extracted and reconstructed
- Database rights under the EU are created automatically
- Rights last for 15 years

Trademark Rights

- Trademark Rights is a type of IP
- Recognisable logo, sign or expression which makes products or services identifiable
- The trademark owner can be an individual, business organization, or any legal entity
- Trademarks may be located on packages, labels, and or products
 - Or on websites, downloads, or files
- Registered Trademark **®**
- Non Registered Trademark **TM**

Trademark Rights

- Web domains can be trademarked
- Cyber squatting is registering a domain name with no legitimate reason other than to benefit from another's good reputation
- Cyber squatters profit from the trademark by either:
 - Making money from the trademark, trafficking users to unrelated material
 - Selling the trademarked domain at an inflated price

In the US through arbitration, if you can show that:

1. Someone registered a web address with your trademark in it
2. Registered the web address with the sole purpose of making money
3. No legitimate reason for the site to be using the trademark

Trademark Rights

- Twitter
 - Forbids selling usernames
 - Forbids the impersonation of a person that is non-parody
 - Prevents identify confusion with verified accounts with insignia
- Facebook
 - Reserves the right to claim usernames on the website if they infringe on trademark
 - Owners are responsible for reporting
 - Requires mobile phone verification

Learning Outcomes

- Identify the most relevant rights to the web:
 - Copyright
 - Database Right
 - Trademark
- Evaluate and identify what elements on the Web can be protected by IP
- Argue why copyright isn't suited to modern lifestyle