

Copyright And Digital Rights Management: Creator To Consumer In A Digital Age

Learning element 1.1

Existing Copyright Rules:

How has copyright traditionally been determined?



Bill Cope, Tom Davis and Mary Kalantzis

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Framework map

Copyright And Digital Rights Management

	<i>Empirical And Experiential</i>	<i>Conceptual And Critical</i>	<i>Applied And Transferred</i>
Theme 1: Copyright & Intellectual Property	1.1 Existing Copyright Rules <i>How has copyright traditionally been determined?</i>	1.2 Freedom v Protection <i>What is the best way to encourage innovation?</i>	1.3 Copyright & The Publishing Industry <i>How does the publishing industry deal with copyright issues?</i>
Theme 2: Digital Rights Management	2.1 Digital Rights Management (DRM) Systems & The Law <i>How do DRM systems work and how has copyright law responded?</i>	2.2 DRM & Freedom <i>How has technology change altered the freedom v protection debate?</i>	2.3 Industry Responsibilities Under DRM <i>What copyright issues do businesses need to consider under a digital regime?</i>
Theme 3: Copyright Commons	3.1 Software & The Intellectual Commons <i>What do we mean by the 'commons' and how have some software developers attempted to keep their work within it?</i>	3.2 Protecting The Commons <i>What legal, commercial and political arguments have occurred over the copyright commons?</i>	3.3 Copyright Commons & The Publishing Industry <i>How can businesses survive in a copyright commons?</i>

Aims

Knowledge scope

Existing Copyright Rules provides an introduction to the current copyright and intellectual property guidelines that apply in Australia and internationally. It introduces you to the key rules guiding the application of copyright and encourages you to investigate existing legislation, especially in relation to what it has to say about the rights and responsibilities of creators, publishers and distributors and consumers. From this, the legal parameters to creative production can begin to be identified. The existing guidelines are considered primarily in relation to print, although the beginning of their application to digital media is also noted. The material in this element can be used to establish a strong empirical base for further critical and applied study of copyright and digital rights management.

Knowledge and capability aims

By the completion of this Learning Element you will have the capacity to:

- ⊗ identify the key principles, legislation and rules that define copyright and intellectual property in Australia and internationally;
- ⊗ identify any conflicts between national and international legislation;
- ⊗ begin identifying how this legislation is translated to practices and guidelines for the print and publishing industries;
- ⊗ begin exploring the extent to which copyright is applicable in the production of ideas (especially in the print and publishing industries); and
- ⊗ form a solid knowledge base from which you can then begin to explore the competing ideas that underpin copyright and intellectual property.

Important terminology

The 'Learning Framework' is the overall educational endeavour of '*Copyright And Digital Rights Management*'. This is comprised of three 'themes', presented in the left-hand column of the Framework map. Each theme is divided into three learning 'processes', presented in the top row of the Framework map. Altogether this constitutes nine 'elements'. The Learning Framework is also referred to as the 'course'.

Learning processes

The primary learning process in this element is to discuss with fellow students the questions set out below. In your discussion you are to make reference to the readings listed underneath the questions. You should also seek out other material, starting from the list of weblinks provided.

You will notice that the information included along with the reference indicates the perspective of the reading, whether it tends to be:

Business
Cultural studies or
Technology oriented.

In your discussions and learning activities you should take account of the different perspectives represented by the readings and acknowledge those in your responses. You may wish to concentrate on one approach over another, such as technological change taking place in the industry.

Learning activity: Online/Tutorial Issues

Engage in Online/Tutorial discussion in response to the following questions:

- 1) **How original does a work have to be for it to be considered an ‘original work’ for the purposes of copyright?**
- 2) **What needs to occur for an idea to be copyrighted?**
- 3) **How much of a copyrighted work can an educational institution (e.g. a university) reproduce without requiring permission from the owner of that copyright?**
- 4) **If someone breaches copyright, what claim does the owner have against him or her?**
- 5) **What intellectual property rights do publishers own?**
- 6) **How has copyright protection begun to be extended to the distribution of materials on the Internet?**
- 7) **What is the international scope of copyright protection? What does this mean for ‘parallel importation’ of books into Australia?**

Recommended reading:

Focus initially on the Gerdson chapter and the information sheets from the Australian Copyright Council in order to establish the basic framework of copyright rules. You can then refer to the specific legislation and the other sources that focus on key copyright issues in Australia and internationally.

Sources

When viewing this online you can click on a learning source title to go to the reading. Each reading in the list is provided with a label titled '**Perspective**'. Use this as a guide in determining its relevance to the three categories: Business, Culture or Technology.

Title:	Chapter 2, "Introduction to Copyright" from Copyright: A User's Guide
Author(s):	Gerdsen, Trevor J.
Year:	1996
City:	Melbourne, Victoria
Publisher:	RMIT Publishing
Perspective:	Business, Law
Keywords:	Australian Copyright Rules and Legislation, Key Copyright Principles, Intellectual Property
Abstract:	An introduction to the regulation of copyright and intellectual property in Australia. While drawing on legislation and court cases, it is a textbook directed at the layman rather than the law student and sets out a solid framework for further study.

Title:	Copyright in Australia: an introduction (Information sheet G10)
Author(s):	Australian Copyright Council
Year:	2002
City:	Available on the Internet
Publisher:	http://www.copyright.org.au/
Perspective:	Business, Law
Keywords:	Australian Copyright Rules and Legislation, Key Copyright Principles, Intellectual Property
Abstract:	This is a basic information sheet put out by the ACC, which defines the key terms and regulations relating to copyright in Australia. It considers issues such as copyright ownership, establishment and enforcement.

Title:	Writers & Copyright: A Practical Guide
Author(s):	Australian Copyright Council
Year:	1997
City:	Redfern, NSW
Publisher:	Australian Copyright Council
Perspective:	Business, Law
Keywords:	Australian Copyright Rules and Legislation, Key Copyright Principles, Intellectual Property
Abstract:	A government information booklet that sets out in brief form the copyright rules most applicable to writers/creators and what the practical implications of these might be.

[Australia. Copyright Act 1968 \(Act No. 63 of 1968 as amended\)](#)

[World Intellectual Property Organisation \(WIPO\) Copyright Treaty 1996.](#)

[Berne Convention for the Protection of Literary and Artistic Works, Paris Act of July 24, 1971, as amended on September 28, 1979.](#)

Title:	Review of intellectual property legislation under the Competition Principles Agreement. September 2000. Final Report of the Intellectual Property and Competition Review Committee
Author(s):	Intellectual Property and Competition Review Committee
Year:	2000
City:	Available on the Internet
Publisher:	http://www.ipcr.gov.au/
Perspective:	Business, Law
Keywords:	Australian Copyright Rules and Legislation, Key Copyright Principles, Intellectual Property, Australian Government Involvement
Abstract:	This is the report of a three person review committee that investigated the effectiveness of the Patents Act 1990, the Trade Marks Act 1995 and the Designs Act 1906, all administered by the Minister for Industry, Science and Resources. The committee also reviewed the Copyright Act 1968 and the Circuit Layouts Act 1989, administered by the Attorney-General.

Title:	Chapter 6: "Copyright, moral rights and rights in databases" from Cyberlaw: cases and materials on the internet, digital intellectual property and electronic commerce
Author(s):	Fitzgerald, Brian F.; Fitzgerald, Anne Maria
Year:	2002
City:	Chatswood, NSW
Publisher:	LexisNexis Butterworths
Perspective:	Business, Law
Keywords:	Internet (Computer network) Law and Legislation Australia, Intellectual Property, Electronic Commerce Law and Legislation Australia
Abstract:	Updated Australian case law and materials textbook on digital copyright. Examines Australian cases and legislation as well as international agreements and treaties.

Web Sources

Australia. Department of Communications, Information Technology & the Arts. 2002. Intellectual Property

http://www.dcita.gov.au/Subject_Entry_Page/0,,0_1-2_12,00.html

See especially the Government Response To Intellectual Property And Competition Review Recommendations.

Australia. Copyright Law Review Committee internet

152.91.15.12/www/clrHome.nsf

World Intellectual Property Organisation

www.wipo.org

Assessment Task A option

You may wish to draw on the issues raised in this element, [Existing Copyright Rules](#), for your Assessment Task A (worth 25% of your overall grade).

To complete Assessment Task A you must write a proposal (of approximately, but not exceeding, 1,500 words) for the larger work that will constitute Assessment Task B. In choosing the format of this proposal refer to the range of assessment formats provided in the Framework Level description of the course. If applicable, you can draw on experience from your own workplace to provide examples of how these issues impact on the education, communication and/or business sectors.

The aim of Task A is to:

- (i) help you begin to format the structure of Task B
- (ii) help you begin to build the content for Task B.

You also need to consider how you will later integrate the final work you produce for Task A into Task B.

Note: You are required to do only one Assessment Task A throughout the course.

Choosing issues from [Existing Copyright Rules](#) as the springboard for your Assessment Task A does not necessarily lock you into pursuing them for Task B. For example, on completion of this task, you may decide to pursue a different theme for Task B.

Even if you choose not to base your Assessment Task on the issues raised in this element, the knowledge and capabilities you have gained here can be fed into whatever topic you eventually use as the basis for your Assessment Task A.

Note: Assessment Task A must be submitted by the end of week four.

Learning pathways

Transition from Learning Element 1.1

Having completed the learning process of this element (with or without completing the Assessment Task A option), you must decide which element to undertake next.

Possible transitions from this element are presented below, however it is recommended that you work out your own pathway in consultation with your teacher.

Pathway options

By the completion of this element, **Existing Copyright Rules**, you should have improved primary research capabilities and an in-depth empirical knowledge of the issues in this element as analysed from the perspectives of Business, Culture and/or Technology.

You may now wish to build on this empirical knowledge by exploring the **Conceptual And Critical** element of this Theme, **Freedom v Protection**. Alternatively, you may wish to follow the **Empirical And Experiential** direction and pursue more practical issues regarding the relationship between this element and that entitled, **Digital Rights Management (DRM) Systems And The Law**. If you wish to tackle an **Applied And Transferred** element at this point, you need to bear in mind that it may draw on information you have not yet covered.

Example pathways

	<i>Empirical And Experiential</i>	<i>Conceptual And Critical</i>	<i>Applied And Transferred</i>
<i>Theme 1: Print</i>	1.1 Existing Copyright Rules	1.2 Freedom V Protection	1.3 Copyright & The Publishing Industry
<i>Theme 2: Etext</i>	2.1 Digital Rights Management (DRM) Systems & The Law	2.2 DRM & Freedom	2.3 Industry Responsibilities Under DRM
<i>Theme 3: Convergence</i>	3.1 Software & The Intellectual Commons	3.2 Protecting The Commons	3.3 Copyright Commons & The Publishing Industry

About this Learning Element

Existing Copyright Rules introduces the copyright and intellectual property guidelines that apply in Australia and internationally. It introduces the key rules guiding the application of copyright and investigates existing legislation, especially in relation to what it has to say about the rights and responsibilities held by creators, publishers and distributors and consumers. From this, the legal parameters to creative production can begin to be identified. The existing guidelines are considered primarily in relation to print, although the beginning of their application to digital media is also noted. The material in this element can be used to establish a strong empirical base for further critical and applied study of copyright and digital rights management.

Keywords

Australian Copyright Act

Authorship

Berne Convention

Copyright

Creator

Fair Dealing

Intellectual Property

Literary Works

Moral Rights

Originality

Ownership

Publisher

Reproduction Of Work

World Intellectual Property Organisation (WIPO) Copyright Act