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Sources of copyright Legislations

We will begin by understanding where the source on copyright comes from and it is the Copyright Designs and Patents Act 1988 (CDPA). The CDPA is the main law for both copyright and also unregistered design rights.

The Motive behind the CDPA

This is to provide the owner of the copyright in a work the right to avert others from trying to copy their work.

Areas of Work Guarded

An important point to make note of is that only these categories are safeguarded by copyright:

- original literary works;
- original dramatic works;
- original musical works;
- original artistic works;
- films/sound recordings/broadcasts; and
- typographical arrangements of published editions.

This list is closed therefore works that are not found in any one of the categories will not be guarded by copyright. For this reason it is very important to decide what (if any), category a given work falls within as the first step of addressing any subject on copy right.

Criteria Required For Copyright Protection

When faced with a new copyright matter it is critical to consider that the work you are involved in must fulfill certain criteria so as to enjoy copyright protection.

The criterion varies based on the category:

• Some but not all works need to be fixed

• In most cases the works have to be original.

• It must qualify for protection under UK legislations.

Once it is established that a work is in line with the above mentioned criterion, the next step is always to rule out the possibility of copyright expiration after which the last step at this juncture of establishing the subsistence of copyright, is to consider length of time.

Subsistence: Works and the required Criteria for Protection

Work

The first step when addressing copyright is to identify the "work" because without understanding what the work is you can't really address the copyright. It is usual for a single work to include several different works.

S.1(1) CDPA stipulates the works protected and the sections following, case law and s.1(1). (up to section 8.) offers a bit of guidance on works mentioned in section 1(1).

The s. 3 definition includes computer software and databases. Examples of works which are held to be literary works are exam papers, application forms, calendars, catalogues and lists of football fixtures.

Database is defined in section 3A: Note how wide the meaning is. It is the "selection or arrangement of the contents" of a database which counts as a literary work, not its content, unless an item of content happens to qualify as a work in its own right. If the content does not comprise works, it may be protected by database right instead.

Dramatic works: s.1(1a) and section 3:

The dramatic works definition found in s.3(1): is more of a clarification that dance and mime fit into this category rather than a proper definition of dramatic works. With the help of caselaw it can be inferred that dramatic works can be a "work of action, with or without words or music" that must be performed for its complete realisation, therefore it is capable of being performed in front of an audience.

To illustrate this point note that, the script for a play on its own can be defined as a literary work, however the production of that same play is a dramatic work.

Musical works: s. 1 (1)(a) and s. 3

An example of a musical work would be the tune for a song (having said that,

note the lyrics will not be inclusive, as these are a separate literary work).

Artistic works: section 1(1)(a) and s. 4

The scope of artistic work in section s. 4(1) is restricted to the following three categories:

a) Section 4(1)(a): graphic works, photographs, sculptures and collages

Irrespective of artistic deserve: graphic works, photographs, sculptures and collages all qualify as works. For instance diagrams, maps, charts and plans and so forth are graphic works, even if they have no artistic value and weren't intended to be artistic when created.

Photograph is defined by the CDPA to take into account new technologies as at when they develop.

There is no definition for sculpture as such having said that there is a useful guide defining sculptures as a 3d work made by an artist's hand

There cannot be any definition found for a collage however, in accordance with case law for a collage to exist it is required that all the different elements be stuck jointly.

b) Section 4(1)(b): works of architecture (as well as models)

Fixed structures, parts of fixed structures the models made for buildings ahead of them been built are included in this category.

On the other hand architectural drawings are as a standalone protected as artistic works so a building produced by an architect, such as the Beetham building Manchester has multiple protection.

c) Section 4(1)(c): works of artistic workmanship

This category contains items including furniture, fine jewellery, ceramics and appliqu d quilts.

It has been held that this type of work must:

  have some visual appeal (be artistic); and

  be made by a craftsman (someone who exercises skill to produce it and takes pleasure in his workmanship).

Sound recordings, films and broadcasts: section 5A, 5B and 6

These are occasionally referred to as secondary works as there will be at least one underlying literary, dramatic or musical work. By way of example ,a physical object will frequently contain multiple works, e. g. a CD (sound recording) of a symphony (musical work). 

The typographical arrangement of published editions: s. 1(1)(c) and section 8

This can be defined as the layout and typesetting of a book, newspaper, journal etc. which qualifies as the published edition of (a brand new edition of a book isn't created by just basically reprinting that same book.  It is important to note that the typographical arrangement is a work in its own right, different from the underlying literary work.

This point can be illustrated by comparing two different editions of the same classic novel  close examination will identify many differences in details such as the physical appearance of the text on the page  page size, margins, paragraph spacing, typeface, type size, placement of page numbers, headers etc.

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