

Copyright

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Terms

- Intellectual property rights – exclusive rights to creations of mind:
 - Patents, copyright, design, etc
- Author's rights comprises:
 - property rights
 - moral rights
 - right of attribution (authorship), right to integrity
- Copyright
 - in broad sense: branch of intellectual property law regarding creative works
 - in narrow sense: right to copy

Sources

- Berne Convention for the Protection of Literary and Artistic Works (1886)
 - Latest Revision: Paris, 1971
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- World Intellectual Property Organization Copyright Treaty (WIPO Copyright Treaty, WCT)

Property

- Property is something which could be owned; so owner has property rights: to consume, alter, share, redefine, rent, mortgage, pawn, sell, exchange, transfer, give away or destroy
- Intellectual property law tries to "emulate" ownership of creations of mind

Intellectual Property

- Imagine, that every physical representation of an idea bears a part of its author's mind, and every time you're using an idea, author wakes up in the night and helps you
- That's exactly the concept of copyright
- "The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title." (Article 2.6 of Berne Convention)

Exclusive Rights

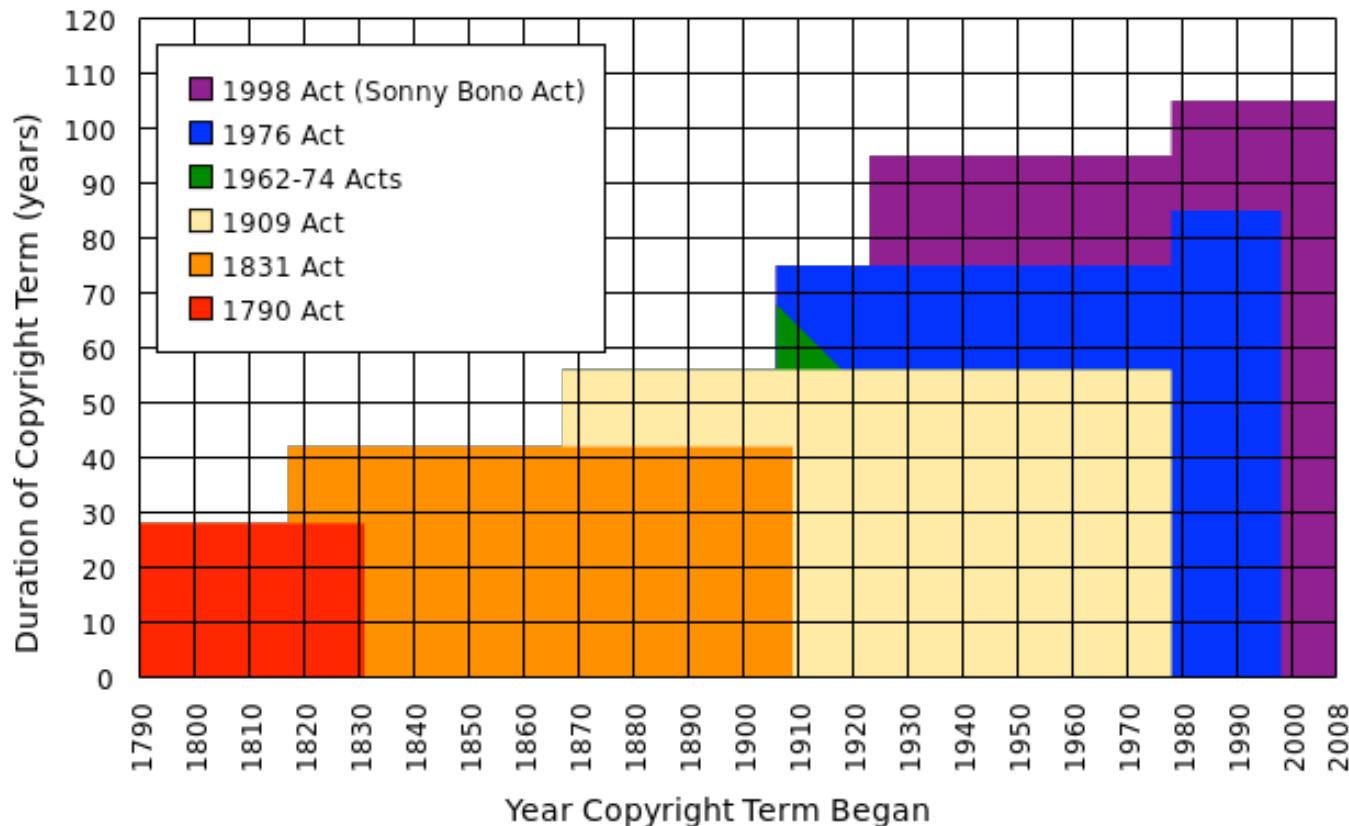
- Author's rights are exclusive:
 - author only (or copyright owner) has right to perform an action or acquire a benefit and to permit or deny others the right to perform the same action or to acquire the same benefit
 - only the copyright holder is free to exercise those rights, and others are prohibited from using the work without the holder's permission
 - "negative right": *prohibit* certain people from doing something they would otherwise be able to do, rather than *permitting* people to do something they would otherwise be unable to do
- Author's rights are a form of monopoly

Copyright Duration

- Most common form is "year of author's death" + N years
- Berne convention: 50 years (Canada, China, Japan)
- India: 60 years
- European Countries (with minor exceptions), US, Russia, Australia, Brazil: 70 years
- Spain, Colombia: 80 years
- Mexico: 100 years
- Lots of additional rules (Mort pour la France, Peter Pan, etc)

"Mickey Mouse Protection Act"

- In fact, copyright is perpetual



Public Domain

- Works whose intellectual property rights expired are in public domain
- There is no definition of "public domain" and therefore no procedure to donate work to public domain
- That's why CC0 exists

Related Rights

- Apart from author's rights there are related rights:
 - rights of performers
 - phonogram makers
 - film producers
 - database creators
 - etc

Related Rights

- Beethoven's works are in public domain
- But Beethoven works recordings are not
- In the US there is no phonograms in public domain because of 1971 Sound Recordings Act, which retroactively granted phonogram rights to recording labels

Derivative works

- Translations, editions, adaptations, arrangements, reproductions, etc are derivative works
- They have their own copyright term regardless of whether initial work is in public domain or not
- Law requires "degree of originality", but in practice this term is very fuzzy

Derivative Works

- Photo of 2D object is not a derivative works; photo of 3D object is a derivative work
- Digital mastering of analogue recording is derivative work
- Compilation of several articles is derivative work
- Edition of original work is derivative work

Usage

- Every possible action on author's work is an usage of it
- There is a list of actions, which are treated as usage, in Berne Convention and WCT
 - reproduction, broadcasting, public performance, communication to the public, translation, etc

Allowed Usage

- Berne convention grants only one exclusion from general principle of exclusiveness:
 - "It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose" (Article 10.1)
- Film makers have different opinion on quotations

Other Exclusions

- "Fair use" of "fair dealing"
 - using a work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research is not an infringement
- Fair use must not harm the copyright owner's ability to exploit original work

Other Exclusions

- Personal usage
 - In many legislatures it's allowed to use copyright-protected works in personal non-commercial purposes
 - terms vary in different countries

Copyright Infringement

- If your actions (including linking) somehow harm author's interests – you're infringing
- Copyright infringement is treated as property damaged
- You're obliged to compensate damage regardless of whether you were aware of copyright infringement or not
- If you had known that you were violating copyright, then your actions are treated as intentional property damage

Copyright Infringement

- Because of the nature of copyright law you're obliged to check legal status of every piece of creative work you're using
- An amount of damage is highly controversial topic. It's very likely you will be forced to pay "potential" damages
- In case of intentional infringement you will be a subject for an additional fine and even imprisonment

Licensing

- In theory, you must obtain license before performing any actions
- Most bizarre thing is that end-user licenses usually provide *less* rights to user than legislature allows:
 - it is usually prohibited to copy material
 - quoting is usually intentionally made difficult

Copyright & The Internet

- I'd like to say that copyright is incompatible with Internet principles, but...

Copyright & The Reality

- ... Copyright is just incompatible with the Reality itself, and I don't think this problem might be fixed until basic copyright law is changed.