

TEACHER HANDBOOK ON COPYRIGHT

Introduction

In current times copyright has gained great importance in social and economic reality. It is a determining factor in the development of culture, economy and the arts, closely interwoven with every aspect of human expression.

This handbook is part of a series of Hellenic Copyright Organization instructive materials. This handbook is addressed to teachers and aims to provide answers to basic questions regarding copyright and related rights.

In 2014 Hellenic Copyright Organization (HCO) in close cooperation with a group of teachers prepared a training program, approved by the Ministry of Education and Religious Affairs with a view to informing and educating, on the importance of copyright, fifth and sixth graders in elementary school.

For any queries on copyright and related rights feel free to contact us or visit our website at www.opi.gr.

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A few words about Hellenic Copyright Organization (HCO)

Hellenic Copyright Organization (HCO) is the competent body for copyright and related rights in Greece. It is a legal entity under private law supervised by the Minister of Culture. Lead responsibilities include: supervision of collecting societies; implementation of Law 2121/93 on copyright and related rights; implementation of international conventions; law preparatory works on relevant matters; liaison between interested parties; public awareness, and representation of Greece before all the competent international organizations and European Union instruments.

In an attempt to promote copyright and raise public awareness, the purpose of this handbook is to become a valuable tool for teachers, introduce them to the basic concepts of intellectual property and show them the usefulness of the HCO website. It will help them initiate students to the concepts and the importance of copyright and related rights and convey to them the need to respect them both.

1. What is Intellectual Property and what is Copyright?

Intellectual property includes both industrial property (patents, trademarks, industrial designs, etc.) and intellectual property (copyright and related rights).

Copyright is the right of an author upon his work. **Related right**, on the other hand, is the right granted by law to performers and performing artists (actors, singers, musicians, in relation to their performances) as well as to those who are involved in making the work accessible to the public (such as publishers, producers of phonograms, broadcasting organizations and so on).

2. Why should copyright be protected?

It is very important for children, especially within the school community, to understand that copyright is essential to human creativity. It ensures author's survival and gives them incentive for further creation; let alone recognition and respect for their works.

Copyright provides authors the means and the way to exploit their works; that way they do not depend on others and they can have an independent profession.

Ultimately, copyright contributes to the creation and enjoyment of more cultural goods worldwide. In addition, it helps the development of culture, economy and the arts.

3. What is an intellectual work?

In order for something to be copyright protected the prerequisite is that it is original.

If someone creates something using his mind, it is considered an intellectual work; more specifically any original intellectual creation of speech, art or science expressed in any form is considered a work.

Intellectual works can be considered written texts (novels, chronicles, poems, fairytales, scripts, lyrics, scientific creations, etc.); oral texts (like lectures); musical compositions; theatrical works; choreographies; audiovisual works (films, documentaries, music videos, cartoons, etc.); works of fine and applied art (works of painting, sculpture, engravings, illustrations, jewelry and furniture designs, dolls, etc.); works of architecture and photographs. Moreover intellectual works can be considered translations, adaptations, collections of works or collections of simple facts and data such as encyclopedias, anthologies etc. Finally, databases and computer programs can also be considered intellectual works.

The element of originality is not defined in the law. However, it is common ground that original works are works which did not exist beforehand and that had they been created

by a third party under similar circumstances and with the same goal in mind the creative result would not be the same (criterion of statistical uniqueness).

NOTE: It is important to keep in mind that ideas as such are not protected so as to ensure free flow and progress in the artistic and scientific field. In consequence, the main requirement for protection is that the work be expressed in a specific form. In other words, it is not the idea that is protected but its expression in a form. For example, my idea of a theatrical play staged by the students of my class or my idea of composing a poem on the four seasons is not protected. However, when my idea takes any kind of form and when it is original and I end up writing the poem or theatrical play, then and only then will the work be copyright protected.

4. What is not protected?

Besides ideas, mathematical formulas, procedures and methods are not protected either, since they seem more akin to ideas rather than to works; prohibition of their use would halt evolution and progress. Moreover, information which does not include any originality is not protected either; neither do simple facts, news, folklore expressions (such as traditional poems, sayings, proverbs, traditional dances).

5. Who is protected by copyright?

Is protected by copyright the author of the work, in other words, the natural person who created it. In most cases, it is easy to identify who it is because his name is mentioned on the work; for instance, in the case of a book the author's name appears on the book cover.

Many a times, the work is a product of collective effort; for instance, when a teacher assigns a project not to an individual student but to a group of students, be it a drawing or a choreography. In this case, each member of the group is considered co-author of the work; there is not one author but many co-authors that hold an equal share in the exploitation of the work.

6. What does copyright include?

Copyright consists of an economic and a moral right.

The economic right enables the author to profit financially from it, for example to reproduce, distribute, translate or upload it on the internet.

The moral right has to do with the personal connection of the author to the work. This right includes, among others, the publication right (i.e., the right of the author to publish the work where and when he sees fit), the paternity right, namely the right to be

recognized as the rightful author of the work and the integrity right, that is to say the right to prohibit any interference or modification to it..

7. Do I always have to ask for the author's permission?

The rule is that you cannot use someone else's work without his permission unless the use of the work you intend to make falls under an exception or limitation provided by law.

That given, free reproduction of works as a part of school textbooks for example, their use in teaching methods or exams, as well as the juxtaposition of short excerpts in support of an opinion, or for criticism purposes, is permitted under certain conditions.

8. How long does copyright last?

Copyright does not last forever. What does this mean? It lasts from the date of the creation of the work to 70 years after the author's death.

Example: If someone wrote a book at the age of 19 in 1950 and died at the age of 79 in the year of 2010, copyright shall last until 70 years after his death, namely until 2081 (the 70 years period is calculated from the following year, in this particular case, from 1.1.2011).

9. What happens next? Can I use the author's work without permission?

Yes, you can. When copyright expires you can use the work without asking for the author's permission.

You must bear in mind that the moral right is independent from the economic right and stays with the author even if the economic right has expired. The economic right is a right that expires. On the contrary, the moral right of paternity and integrity do not end, but last forever; this means that the protection afforded by them never expires.

10. How does the law apply to the internet?

A computer is an indispensable tool for accessing the internet. For a computer to be able to function a computer program known as software is needed. Software is a set of instructions in a language understood by a computer.

The law provides that software can be copyright protected. Consequently, copying software is not permitted and 'downloading' similar software programs from the

internet is not allowed either. Similarly, all other intellectual work found on the internet is copyright protected (for instance, music, photography and any other literary texts). Accordingly, ‘downloading’ music, using excerpts from written texts as well as publishing photographs on the internet is not allowed unless specifically permitted by the author. However, if this use falls within the scope of exceptions that law permits then it is allowed.

E-mails are also subject to copyright protection when they present an element of originality. Texts such as newspaper articles published on the internet, photographs and graphic designs – irrespective of whether they are products of digital processing or not – can also be subject to copyright protection. Moreover, views on everyday life presented in chat rooms may well be protected by copyright too.

Even websites can be subject to copyright protection but only in respect to those parts that present an originality element. To that extent, they can be characterized as works.

For instance, can be copyright protected the computer program that helps us visit a website. Texts, therein, their design, graphic designs, images, music and any other content are also copyright protected insofar as they consist an original intellectual work. Websites as a whole are protected as databases.

Video games and virtual reality games are also copyright protected.

Consequently: Not everything found on the internet is free for use. Internet disseminates information and works easily and broadly; that, however, may also facilitate their infringement because of their illegal use or modification and, in turn, create problems to the authors’ effective copyright protection.

11. I want to use a pre-existing work available on the internet, modify it and incorporate it into my own work. Is it permitted? Will my work be perceived as original?

If you know for sure that the specific work is not protected, say that copyright protection has expired (namely 70 years from the death of the author) then you can modify it and incorporate it into your own work without asking for permission.

If your work is original it constitutes a question of fact and is decided on a case by case basis. Whether each new (derivative) work resulting from this kind of incorporation or modification constitutes or not an original work cannot be stipulated by definition. The determining factors for this are the number and the quality of modifications/alterations as well as the additions made on it. What you should keep in mind is that copyright only protects the parts of the work that are original.

Since the pre-existing work you are about to use is original, and therefore protected, you must get permission either from the author or from the rightholder, in order for its use to be legal.

(The rightholder of the work is the person to whom the author has either transferred his rights or consented the relevant permission.)

12. What are the sanctions for ‘downloading’ music or films from the internet?

The fact that a large number of people illegally download music or films from the internet does not make it legitimate. To the contrary, Greek legislation provides for a number of civil and criminal sanctions.

What is important is your responsibility as a teacher to emphasize to your students that, putting aside the sanctions, anyone, that ‘downloads’ illegal files from the internet, deprives authors, performers, and producers of their income. Your students must realize that this act is the same as if someone got their pocket money from their pockets without them noticing it. The fact that this act is not visible to them does not make it less illegal. In order for them to recognize the value of copyright they only have to put themselves in the artists’ shoes.

If one of your students aspires to become a creator or an artist (for example, an author, painter or actor) he will not be able to survive as such if no one respects his intellectual labor and works. If his job gives him no pay he cannot continue doing it for long.

13. May I present a video that is available on the internet in the classroom without any problem? Am I infringing others’ copyright?

A video available on the internet may be protected by copyright and/or related rights.

Even though the requirements of the law stipulate specific exceptions for the benefit of education, presenting an audiovisual work does not fall under this category as the law refers only to cases of reproduction of literary works.

14. Teaching a geography class, I made photocopies of a series of illustrated books which depict Greek Bridges and I distributed them to my students in order to initiate a class discussion. Is this allowed?

There is an exception in the law that permits the above mentioned act, provided, however, that the copies will be used strictly for the lesson in the classroom. (See article 21 of Law 2121/1993, <http://www.opi.gr/index.php/2013-10-03-12-24-10/2121-1993#a21>).

NOTE: The exemptions and limitations provided by law concern only the economic right. The moral right is not subject to restrictions.

15. In a teachers blog I uploaded landscape photos I took and poems I wrote. I want to use them as a part of my teaching. Shall I or should I first get copyright on them?

Copyright is acquired without any formalities. Copyright starts from the moment a work is created and acquires a specific form. Consequently, no formal procedure is required for an author to protect his work. However, for you to be assured and to have an element of proof of paternity of your work and of the date of its creation you can deposit a copy to a notary who will in turn draft the so-called 'notarial deed deposit act of intellectual creativity'. Your work will acquire in this way a certified date, proof that your work was created at a specified period in time.

It is common practice for an author to send a registered letter (you are advised to send two registered letters) with you, the author both as a sender and as a recipient or with a third person as recipient. You are also advised to store the receipt and retain the specific envelope unopened in case a future dispute arises. In such as case, the letter will be opened before the Court by a judge who will confirm its contents.

There are more ways of proof. For example, when 'uploading' a photo on the internet you may use a digital stamp with your name on it; so, whoever wants to download the photo will have to download the digital stamp with your name on it. You can also use technological measures that prevent copying (like lock, watermarking, etc.). Be aware, however, that all the above are considered a rebuttable presumption meaning that it can be contradicted by evidence to the contrary if the opposing party submits its own evidence.

16. May I use during the events of the school where I am employed copyright protected works without the author's permission?

Copyright law provides that without the author's consent and without remuneration, the public performance of a work by the staff and the pupils/students of an educational institution as a part of educational activities is permitted only if the audience is consisted exclusively of only the pupils, the students, their parents, the persons who have their legal custody or the persons who are directly linked to these kind of educational activities.

Only if the performance or execution of a work (theatrical, musical or other) is made by the school staff, your pupils/students and your audience is composed exclusively of pupils and their parents can you use the work without author's permission.

But please note: you are not allowed to upload this work on the internet.

17. The school that I work for has a YouTube platform channel on which I usually ‘upload’ videos I find interesting. If I only mention the source I found the works on am I legally covered?

No, you are not. If they are works protected by copyright and related rights you have to ask for the rightholder’s permission.

Besides that, English law is the law that applies in contracts between YouTube and its users (namely ‘contract’ is the acceptance of the terms of use agreed upon once you opened your own YouTube account). Bearing that in mind you should comply both with the Greek and with the English legal provisions at issue.

As to the policies that YouTube adopts once notified of the ‘uploading’, without the rightholder’s permission, of videos incorporating works which are protected by copyright and related rights you should search for the platform terms of use in the respective information material. In any case, you should know that ‘uploading’ works protected by copyright and related rights without the rightholder’s permission is not allowed.

18. I have written a theatrical play which I want to give to the Parent-Teacher Association in order so that they stage a theatrical performance based on it. I do not care about making profit but I do not want to find my work uploaded on the internet or exploited by someone else. What should I do?

As you are the author of the work you can choose either to transfer the rights of your work to the Parent-Teacher Association or to permit only the specific use of it.

The economic right includes a series of rights (powers) such as the reproduction right, translation right, rental right, right of fixation of works and communication to the public right. You may choose which of these powers that derive from your economic right you will transfer and what kind of use you will allow. In any case you have to know that any transfer or license must be in writing in order to be valid.

19. I want to make use of a pre-existing theatrical play so as to perform it with my students but not within the school environment. However the 70 years from the author’s death have not expired. To whom should I turn to?

In order for you to receive permission to use the work you should contact either the author himself or his legal heirs if the author has died. In case you have any kind of difficulty locating the author, you may refer to the collecting societies who are responsible for managing the rights of relevant copyright holders.

The collecting societies’ mission is to protect a category of authors or related rightholders (i.e. composers, photographers, actors, singers, etc.) and to manage (some aspects or all of) property rights.

For more information on collecting societies operating in Greece and as their contact details please visit our website at

<http://www.opi.gr/index.php/2013-10-03-12-23-43/2013-10-04-06-35-23>.

20. Can I upload my students' works on the internet to promote their activities in classroom or at school?

As long as students' works are their own original works and their consent is given you can. In cases of works by third parties that are also copyright protected (i.e. a song or a poem whose term of protection has not expired) you should ask permission from them.

In addition, you should always keep in mind your students personality right. If, for example, you want to perform a theatrical play in which your students participate, besides copyright there is also the right of the personality of each participant. In order for you to be absolutely legitimate, you should ask for a written permission from the students' parents or from those who have their legal custody.

For any queries on intellectual property feel free to contact us at (+30 213 214 7800 or info@opi.gr) or visit our website at www.opi.gr.