



Implementation of the National Intellectual Property Strategy and
Intellectual Property Rights Protection for Small and Medium-Sized
Enterprises (SMEs)

Creative Expression: Benefiting from Your Copyright and Using the Copyright Works of others

Bishkek, November 20-21, 2013

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Introduction

- What is the issue?

Copyright = IP

IP = Capital

Capital = Economic Development

- Why it is important to us?

Copyright protects only original works

- How this is important?

The Copyrighted works benefit Creativity
and Creativity benefits Economic growth

What are the Objectives?

- Understand the basics of copyright and related rights.
- Understand the importance of copyright ownership in works and how to use such works in your business.
- Know the best way to use copyrighted works to support your business strategies.
- Know how to avoid infringement of the copyright of others and in the case of infringement, how to minimize its potential damage.

How can we reach these Objectives?

- **1- Basics of copyright**
 - Definition of copyright
 - Requirements for copyright protection
- **2- Copyright and related rights**
 - Scope of copyright protection
 - Basics of related rights
 - Period of protection
- **3- Ownership of copyright**
 - Meaning of ownership of copyright
 - In case of commissioned works
 - In case of works created by an employee
 - In case of works created by several authors
- **4- Using works owned by others**
 - When do you need permission
 - When you don't need permission
 - The process of obtaining authorization
 - How to reduce the risk of infringement

1- Basics of copyright

- **Definition of copyright**
 - Copyright law grants authors, composers, software writers, website designers, and other creators' **legal protection** for their **literary and artistic creation**, referred to as “works”

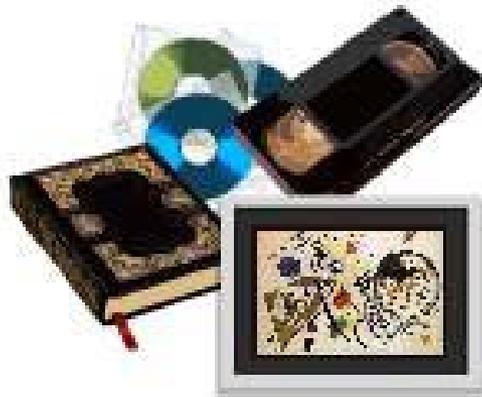


LEGAL PROTECTION



- **Definition of copyright**

- Copyright protects a wide **variety of original and/or creative expressions**, such as novels, poetry, music, paintings, photographs, sculptures, architecture, films, computer programs, video games, original databases, **etc...**



- **Definition of copyright**

- The rights granted enables the copyright owner to **control the use** of his work in a number of ways and to **receive remuneration**, within a specified **period of time**



www.shutterstock.com · 17392255



1- Basics of copyright

- **Requirements for copyright protection**

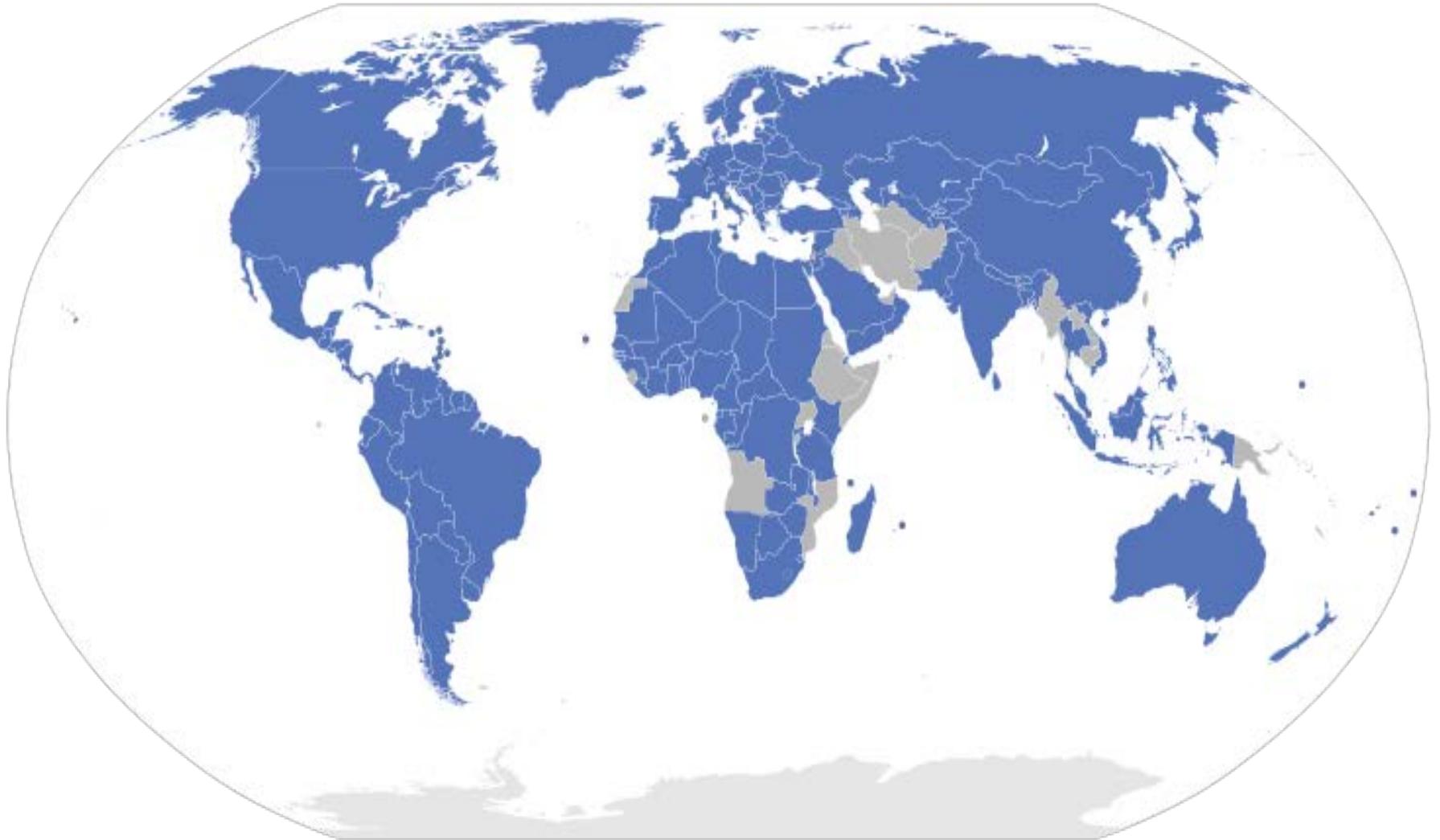
- To qualify for copyright protection, a work must be **original**
- Originality relates to **expression** of thought and not to the underlying idea or thought
- Essentially, originality refers to the fact that the work was independently created and it was **not copied** from somewhere else



1- Basics of copyright

- **Copyright Protection Abroad**
 - If you are a national or a resident of a country party to the Berne Convention, your work will **automatically** enjoy the level of protection granted in the Berne Convention in all countries that are party to the Convention
 - However, as copyright protection remains **territorial**, your copyright work has to satisfy the requirements of the copyright law where you seek protection

Berne Convention Members: 164 countries



1- Basics of copyright

- **Copyright Notice**

- It **is not mandatory** to put the notice on your work in view to be protected.
- But it is strongly **recommended** to remind people that the work is copyrighted and identifies the copyright owner



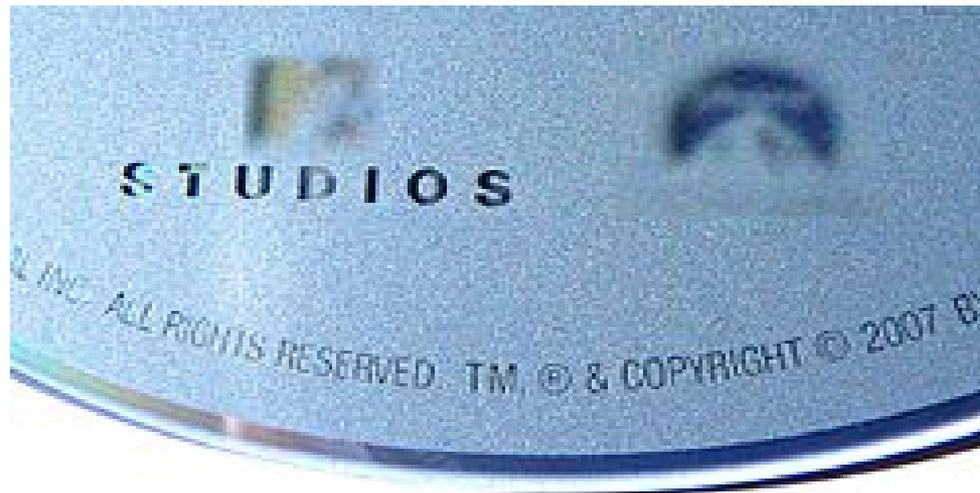
copyright

all rights reserved

- A copyright notice general consists of:

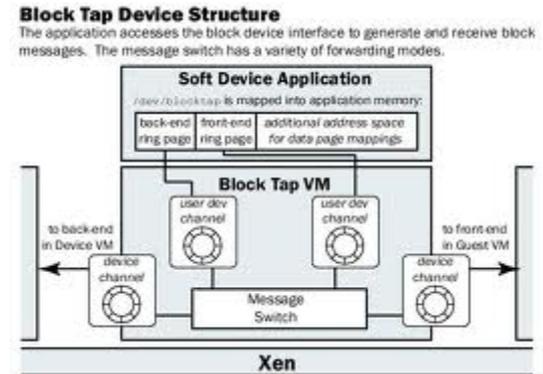
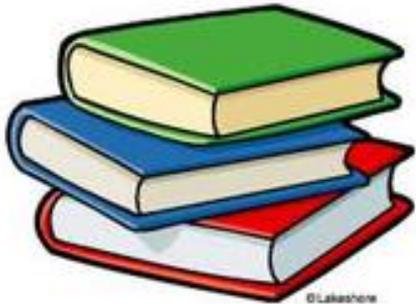
© WIPO 1998-2005

- The word “copyright” or the copyright symbol “©”;
- The **year** in which the work was first published;
- The name of the copyright **owner**; and
- The words “**All Rights Reserved**”



2- Copyright and Related Rights

- Scope of copyright protection
 - What does the copyright protect?
 - Literary works (books, written speeches, magazines, newsletters, trade journals, training materials, technical papers, instruction manuals, catalogues);



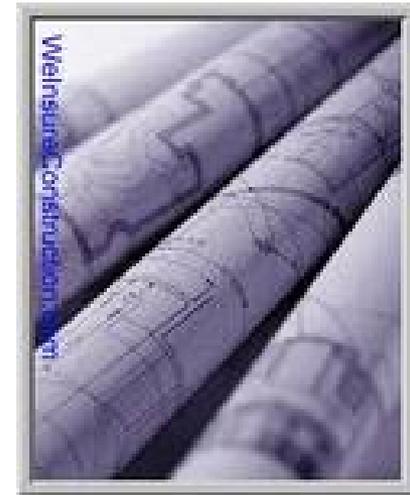
- Music works (songs, operas and musicals);



- Dramatic works (dance, plays, mime);



- Artistic works (cartoons, paintings, sculptures, architectural works, blueprints, computer and laser artwork);

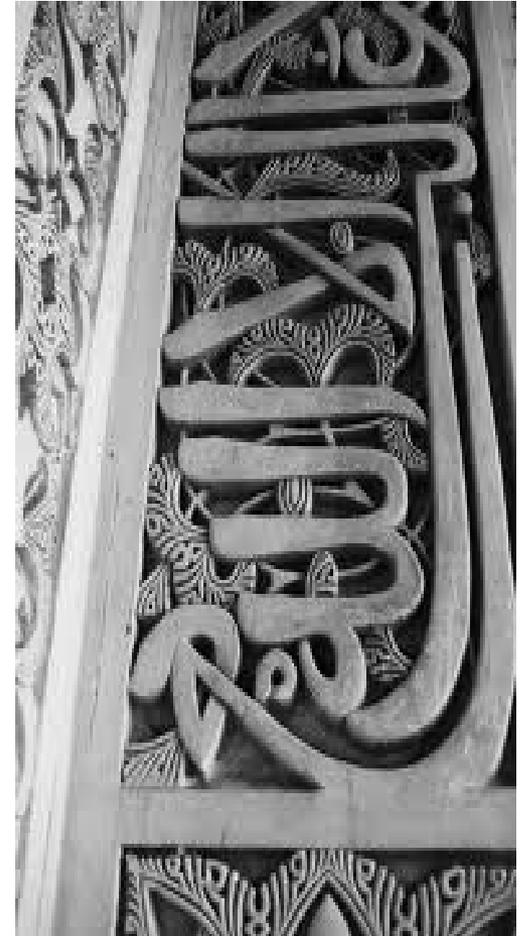


LASER ARTWORK

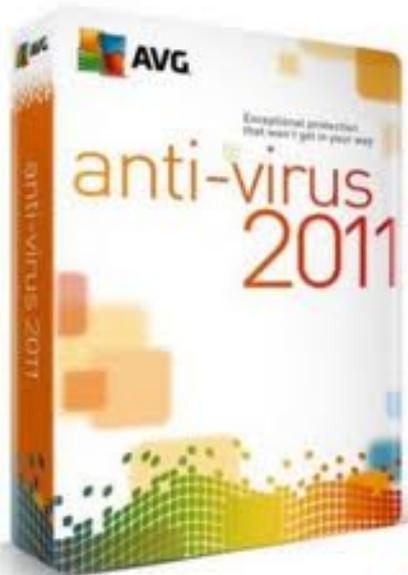
Awesome Visual Decor



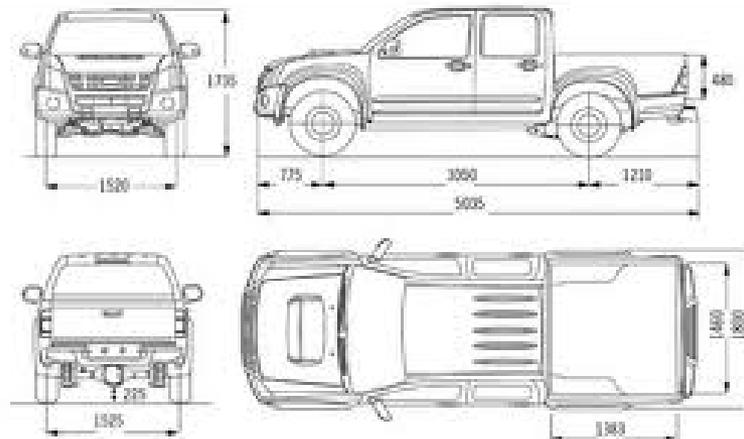
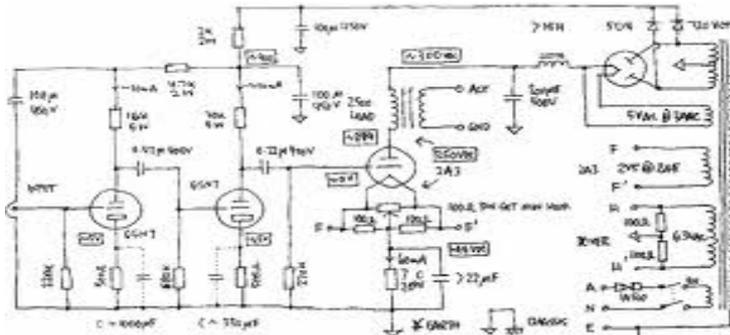
- Photographic works (such as photos, gravures);



- Computer programs, software, and original databases;



- Maps, globes, charts, diagrams and technical drawings;



- Advertisements, commercial prints and labels;
- Motion pictures (films, documentaries, television advertisements);
- Multimedia products (text combined with images, sound and computer programs, such as video games);
- Works of applied art (artistic jewellery, wallpaper, carpets)

**Law of the Kyrgyz Republic on Copyright
and Related Rights as last amended by Law
No. 197 of August 5, 2008:**

Article 6 . Works Subject to Copyright

Works are protected irrespective of their form: printed or electronic, online, on CD/DVD...

And irrespective of their duration in time



2- Copyright and Related Rights

- **Scope of copyright protection**
 - **Things that are not protected by copyright**
 - Ideas
 - Copyright law only protects the way ideas are expressed in a particular creation. It does not protect the underlying idea, procedure, method of operation, mathematical concept or system.



Creative Expression



read up

© 2011 Encanto.com



- **Things that are not protected by copyright**

- Facts

- Copyright does not protect facts – whether scientific, historical, biographical or news of the day – but only the manner in which such facts are expressed, selected or arranged

**Just the
Facts**



not protected

Very windy at first but winds slowly easing this evening or tonight. Cold. Heavy or thundery showers with clear spells. Ground frost in a few sheltered areas overnight.

- **Things that are not protected by copyright**

- Useful articles

- Copyright does not protect useful articles registered or protectable under industrial design law
- But the design of a useful article may be protected as an industrial design while copyright protection may apply to the pictorial, graphic or sculptural features on the object



- **Things that are not protected by copyright**

- Names, titles, slogans, single words, short phrases are generally excluded from copyright protection. But some countries allow protection if they are highly creative.

This means that the name of a product or a business slogan will not be protected by copyright (but protectable under trademark or unfair competition laws).

Logos, on the contrary, may be protected under copyright as artistic works (as well as by trademark law).

- **Things that are not protected by copyright**

- Official government works

- Official texts of the Government or statutory bodies of a legislative or regulatory nature, or judicial decisions
- This exclusion does not extend to works made by or under the direction or control of the Government or its officials



2- Copyright and Related Rights

- **Scope of copyright protection**

- **Economic Rights**

- Allow the author to earn a profit by direct or indirect exploitation of a work
- It includes the exclusive rights to:
 - Make reproductions or copies of the work in various forms
 - Distribute the work to the public
 - Rent or lend copies of the work
 - Make translations or adaptations of the work
 - Communicate the work to the public
 - Perform, show or play the work in public
 - Receive a percentage of the sale price if the work is resold

2- Copyright and Related Rights

- **Scope of copyright protection**
 - **Moral Rights**
 - The scope of moral rights vary from country to country.
 - Generally, two types of moral rights are recognized:
 - The right to be named as the author of the work “authorship right” or “paternity right” or “attribution”;
 - The right to protect the integrity of the work e.g. it prohibits any changes, modifications or alterations to a work that would damage the author’s honour or reputation; and
 - Moral rights cannot be transferred but in some countries they may be waived by the author by way of a written agreement, for a specified period of time.

2- Copyright and Related Rights

- **Basics of Related Rights / Neighboring Rights**
- Related rights = Rights given to persons or entities other than the author that also play an important role in bringing the work to the public
- Copyright and related rights complement each other by protecting different people's involvement in a particular work

- Related rights are independent of any authors' rights.
For example: a CD recording of a song is concurrently protected by four copyright-type rights:
 - Authors' rights of the composer of the music
 - Authors' rights of the lyricist
 - Performers' rights of the singer and musicians
 - Producers' rights of the person or corporation that made the recording

RELATED RIGHTS

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graph TD; A[RELATED RIGHTS] --- B[Performers]; A --- C[Producers of sound recordings]; A --- D[Broadcasting Organizations];
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Performers

Actor
Musician
Dancer
Singer

Producers of sound recordings

Virgin, BMG,
etc

Broadcasting Organizations

Kyrgyz TV,
BBC, etc

RELATED RIGHTS

Performers

- Fixation
- Reproduction
- Communication to the public/making available
- Distribution
- Paternity+integrity

Producers of sound recordings

- Reproduction
- Distribution
- Making available

Broadcasting Organizations

- Fixation
- Reproduction
- Rebroadcasting
- Communication to the public

- Rome Convention 1961 – 91 countries (**Kyrgyzstan** is member since August 13, 2003)
- WIPO Performances and Phonograms Treaty 1996 – 87 countries (**Kyrgyzstan** is member since August 15, 2002)

Period of Protection



Article 27: 50 years post mortem:

Статья 27. Срок действия авторского права

1. Авторское право действует в течение всей жизни автора и пятидесяти лет после его смерти, считая с первого января года, следующего за годом смерти автора.

3- Copyright Ownership

WHO is the owner of copyright and RR?

Author \neq **Owner**

Creation

Exploitation

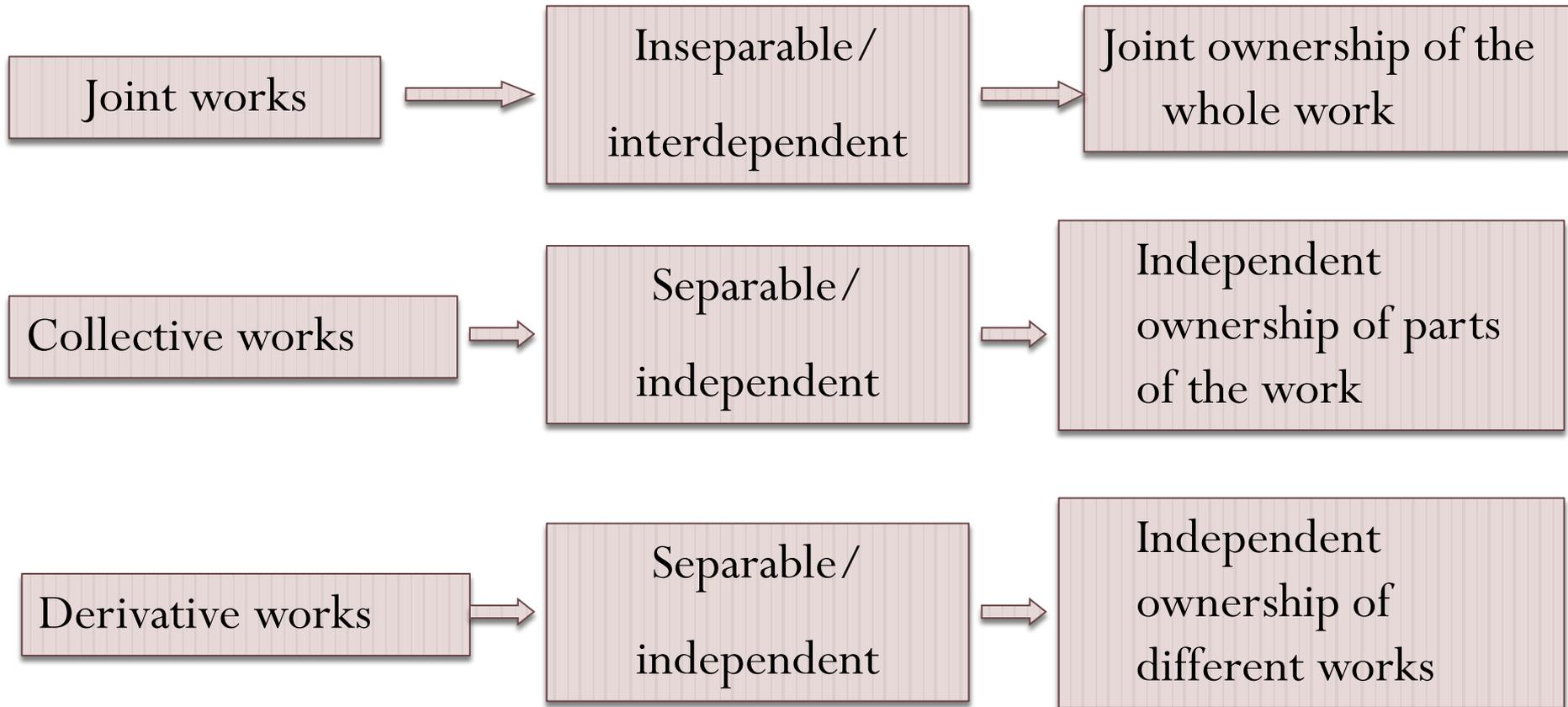
When is the owner not the author?

- Assignment or transfer of rights
- Works created by employees
- Commissioned or especially ordered works
- Works created by several authors

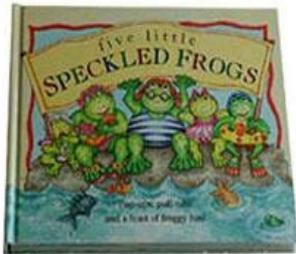
(1) Works created by employees

- In some countries the employer owns the copyright automatically, unless agreed otherwise
- In other countries the transfer of rights to the employer should be set in the employment contract

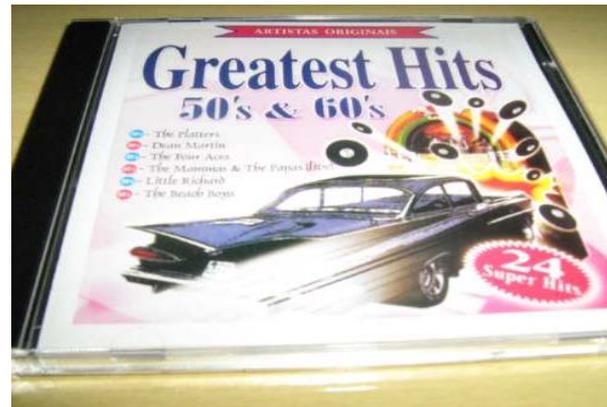
(2) Works created by several authors



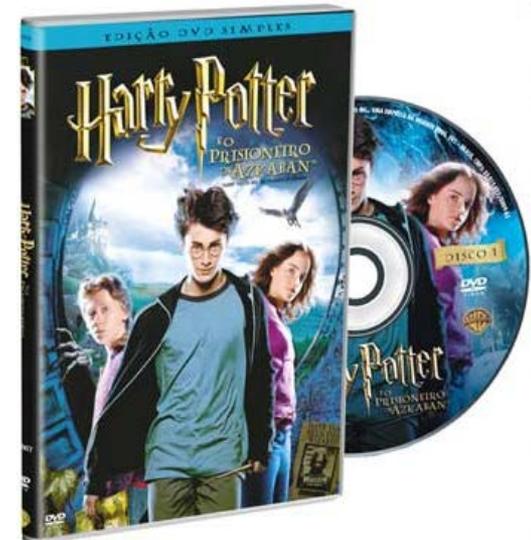
Joint works



Collective works



Derivative works



Advantages of using your copyright:

- © Control commercial exploitation = competitive advantage
- © Generate income (selling, licensing)
- © Get financing – using copyright as a collateral
- © Build up an image/brand

LICENSE

- Rights
- Economic use
- Keep ©
- Exclusive/
non-exclusive

SELL

- Original
work/copies
- Sell some rights
and Keep ©

ASSIGN

- Rights
- Transfer of
ownership

4- Using Works Owned by Others

WHEN do you need permission?

- Work is covered by copyright/related rights
+
- Use implies an exclusive right
+
- Use is not covered by limitation/exception

Limitations and Exceptions

- Personal or private use
- Quotations
- Parodies or criticism
- Teaching and researching

Process to get a permission

First Step:

Clarify if the work is protected

- Use of copyright notice or
- Search in the registrar/agencies

- **Second Step:**

Identify the copyright owner

- Contact publishers, record producers, distributors
- EMI (www.emi.com)

- **Second Step:**

Negotiation and conclusion of licensing agreement

Key points: scope, remuneration, precise terms and conditions of use

In Conclusion

- Copyright grants creators economic and moral rights in their creations
- Copyright protects both analogical and digital works
- Works are protected from the moment of their creation

спасибо
Thank You

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