
Comparative Analysis of International Copyright Law Applicable to University Scholarship:

Prepared for the Zwolle Group by:

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An earlier draft of this document was prepared for distribution at the “Copyright Management for Scholarship” conference in Zwolle, the Netherlands, on February 13-14, 2004. This updated version is for evaluation by the Zwolle Group. It is DRAFT ONLY, and we invite comments. A final version of the document will be posted at the website of the Surf Foundation: www.surf.nl/copyright.

Introduction

The management of intellectual property rights to scholarly works created at universities must begin with a fundamental understanding of the general principles of copyright law. This chart summarizes portions of copyright statutes from eleven countries for the purpose of concisely communicating critical elements of the law to all members of the scholarly communication chain-- authors, institutions, and publishers. This project is integral to the advancement of the “Zwolle Principles,” a multinational initiative of the Surf Foundation of Utrecht, the Netherlands. The Zwolle Group seeks to promote more constructive understandings of copyright law as applied to the creation and publication of scholarly works by universities and other institutions of higher education. More information about the undertaking is available at: www.surf.nl/copyright.

This study focuses on the copyright law of countries most closely associated with the Zwolle project. Laws of other countries may be added in the future. The selection of specific aspects of copyright law centers on provisions most relevant to the creation, acquisition, management, and publication of scholarly works—most notably journal articles, books, and other traditional works. Thus, the laws surveyed here encompass fundamentals essential to understanding copyright, as well as provisions specifically applicable to scholarship and the work of universities.

The international scope of this project reflects the worldwide communication of scholarly information. Authors, publishers, librarians, and others involved in scholarly communication and publication must understand the framework permitting or constraining their actions as they seek to effectively manage copyright in scholarly works in the most effective way. The creation and publication of scholarly works also frequently crosses national boundaries and thus gives rise to the need for understanding the laws of more than one jurisdiction.

Readers will find many important differences from one country to the next. For example, Swiss law grants protection for works that are not fixed in a tangible medium, while British law protects only works that are “recorded.” Further, American law permits an author to assign a copyright, while German law does not.

The national laws also include many similarities. Much of copyright law throughout the world is shaped by requirements of the Berne Convention and other multinational agreements. Approximately 150 countries have adopted the Berne Convention, which requires member countries to conform their copyright law to certain prescribed

standards. A major objective of the Berne Convention is to promote international business relations, including creating and publishing scholarly works.

This chart is principally a reference tool to assist with the management of copyright and constituent rights. As such, it offers only an introduction to the legal issues. Users must recognize that it is not legal advice, and they may need to research issues more thoroughly and consult a legal professional. For example, when a work is produced within the scope of employment, French statutory copyright law regards the employee as initial owner of copyright to most works. But a separate rule applies to computer software, and courts have developed a duty that the employees grant to employers the rights necessary for a normal exploitation of the work. The details of such an evolving and elaborate law exceed the parameters of an introductory study.

This chart is a “work in progress,” to be revised and expanded by the Zwolle Group. We welcome any comments and suggestions.

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For more information, see: <http://www.emeraldinsight.com>

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	Australia
Eligibility of works for copyright protection	A literary, dramatic, musical or artistic work must be “original” originating from the author, who is a qualified person, and reduced to a material form. <i>Australia Copyright Act 1968, Secs. 22, 32.</i> “A qualified person” means an Australian citizen, an Australian protected person or a person resident in Australia. <i>Australia Copyright Act 1968, Sec. 32.</i>
Formalities of copyright	Formalities of copyright registration and notice are not required for copyright protection.
Scope of Rights	Fundamental economic rights for most works include: (1) Right to reproduce the work in material form. (2) Right to publish the work. (3) Right to perform the work in public. (4) Right to communicate the work to the public. (5) Right to adapt or translate the work. <i>Australia Copyright Act 1968, Sec. 31.</i>
Moral Rights	Moral rights for most works include: (1) Right to attribution to the work. (2) Right to integrity of the work. (3) Right to not have a work falsely attributed. <i>Australia Copyright Act 1968, Secs. 193, 195AC, 195AI.</i>
Initial Ownership	An author who creates an original work is the initial copyright owner. <i>Australia Copyright Act 1968, Sec. 35(2).</i> Works of joint authorship: Copyright in a joint work is held by all of its coauthors in equal shares. <i>Australia Copyright Act 1968, Secs. 78, 35(2).</i>
Work Made for Hire or in the Course of Employment	Where a work is made pursuant to the terms of his employment under a contract of service or apprenticeship, the employer is deemed first owner of the copyright in the work, unless otherwise agreed. <i>Australia Copyright Act 1968, Sec. 35(3).</i>
Assignment or transfer of copyright	Copyrights may be assigned (whether total or partial) and may be limited by reference to the exclusive rights, time, or geographic location. <i>Australia Copyright Act 1968, Secs. 196(1), 196(3).</i> To be enforceable at law, the assignment must be in writing and signed by the copyright owner. <i>Australia Copyright Act 1968, Sec. 196(3).</i> Similarly, exclusive licenses must be in writing and signed by the copyright owner. <i>Australia Copyright Act 1968, Sec. 10(1).</i>

	<p>The moral rights recognized under the Act are non-transmissible. However, they may be waived in certain circumstances. <i>Australia Copyright Act 1968, Secs. 195 AWA, 195 AWB, 195 AW.</i></p>
Duration of Copyright	<p>In general, for most works copyright lasts for the life of the author plus 50 years or 50 years after first publication. However, this general presumption depends on whether works were published during the author's lifetime. <i>Australia Copyright Act 1968, Secs. 33(2)-(3).</i></p> <p>Works of joint authorship: Copyright lasts 50 years after the death of the last coauthor. However, this general presumption depends on whether works were published during the authors' lifetime. <i>Australia Copyright Act 1968, Sec. 80.</i></p> <p>Government Works: Works made or first published by or under the direction or control of the Commonwealth or State have a copyright term of 50 years from the end of the year of first publication, or from the year in which the work was made, depending upon the class of copyright subject matter. <i>Australia Copyright Act 1968, Secs. 176-183, 233-235.</i></p>
Status of government works	<p>Governmental works are not excluded from copyright protection. <i>Australia Copyright Act 1968, Sec. 8(A).</i></p>
Status of works funded by government	<p>Works produced by employees or persons under the direction or control of the Commonwealth or State are eligible for copyright protection. The Commonwealth or State is the owner of the copyright. <i>Australia Copyright Act 1968, Secs. 176-183.</i></p>
Status of works funded by other bodies	<p>The author generally owns copyright in a literary, dramatic, musical, or artistic work, which has been commissioned by another person, unless otherwise agreed. <i>Australia Copyright Act 1968, Sec. 35.</i></p>
Fair Use or Fair Dealing	<p>The fair dealing of a copyrighted work is not an infringement. However, fair dealing is limited to specific situations. The statute includes the following examples and provides additional details when they may apply:</p> <ol style="list-style-type: none"> (1) Research or study. (2) Criticism or review. (3) Giving professional advice or in judicial proceedings. (4) Non-profit, archival, educational, charitable, or government uses. (5) Temporary reproductions made in the course of communication. (6) Inclusion of short extracts in collections for use by places of education.

	<p><i>Australia Copyright Act 1969, Secs. 40, 41, 43, 43A, 44, 49.</i></p> <p>Regarding reproduction for research and study, the determination of fair dealing is balanced on these factors:</p> <ol style="list-style-type: none"> (1) Purpose and character of the dealing; (2) Nature of the work or adaptation; (3) Possibility of obtaining the work or adaptation within a reasonable time at an ordinary commercial price; (4) Effect of the dealing upon the potential market for, or value of, the relation to the whole work or adaptation; and (5) Amount and substantiality of the part copied in relation to the whole work. <p><i>Australia Copyright Act 1968, Sec. 40(2).</i></p>
Other specific exceptions to infringement	<p>The Australian Copyright Act includes numerous exceptions, but they are usually narrowly crafted and apply only under specified circumstances, to narrow classes of works, and for specifically defined activities.</p> <p>Some examples:</p> <ol style="list-style-type: none"> (1) Reading or recitation in public of an extract of reasonable length if sufficient acknowledgment is made. <i>Australia Copyright Act 1968, Sec. 45.</i> (2) Reproducing and communicating works by libraries and archives for users, when a written request and declaration of the purpose for personal use is made for the reproduction and the user has not previously been supplied with the reproduction of the same work. <i>Australian Copyright Act 1968, Sec. 49.</i>

	Canada
Eligibility of works for copyright protection	<p>“Original” literary, dramatic, musical, and artistic works of a qualified person are eligible for copyright protection. Performers’ performances, sound recordings, and communication signals are also protected by copyright as “other subject-matter” when produced by a qualified person.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Secs. 5, 15, 18, 21.</i></p>
Formalities of copyright	<p>There are no formal requirements for copyright protection. Copyright arises automatically upon creation of a work or other “subject-matter.”</p>
Scope of Rights	<p>Fundamental economic rights for most works include:</p> <ol style="list-style-type: none"> (1) Right to reproduce the work. (2) Right to perform the work in public. (3) Right to publish the work. (4) Right to adapt the work. (5) Right to communicate the work to the public by

	<p>telecommunication.</p> <p>(6) Right to present an artistic work.</p> <p>(7) Right to rent computer programs and sound recordings.</p> <p>(8) Right to authorize the work.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Secs. 3, 15, 18.</i></p>
Moral Rights	<p>Moral rights for literary, dramatic, musical, and artistic works include:</p> <p>(1) Right to associate: Creators have legal recourse against the unauthorized use of their work in association with products, services, causes, or institutions, in ways which are prejudicial to their honor or reputation.</p> <p>(2) Right to remain anonymous.</p> <p>(3) Right to use a pseudonym.</p> <p>(4) Right to be identified with a work as its author.</p> <p>(5) Right to prevent distortions, mutilations, or other modifications to a work that result in prejudice to the honor or reputation of its creator.</p> <p>(6) Right to prevent distortions, mutilations, or other modifications to a painting, sculpture, or engraving regardless of whether there is prejudice to the creator's honor or reputation except for legitimate conservation or restoration activities and changes in the location of the work.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 14.1.</i></p>
Initial Ownership	<p>The author is the first owner of copyright in a literary, dramatic, musical, or artistic work.</p> <p>The performer is the first owner of copyright in his or her performance.</p> <p>The maker of a sound recording is the first owner of copyright in a sound recording.</p> <p>A broadcaster is the first owner of copyright in a communication signal.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Secs. 13, 18, 21.</i></p>
Work Made for Hire or in the Course of Employment	<p>Where a work is made in the course of employment under a contract of service, the employer owns the copyright unless there is an agreement to the contrary.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 13(3).</i></p>
Assignment or transfer of copyright	<p>The owner of copyright may assign the right either wholly or partially, and either generally or subject to limitations, relating to territory, medium, or sector for the whole term of the copyright or for any part of it and may grant any interest by license.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 13.4</i></p> <p>No assignment or license is valid unless it is in writing.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 13.4.</i></p> <p>Moral rights cannot be assigned but they may be waived.</p> <p><i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 14.1 (2).</i></p>

Duration of Copyright	<p>The general rule is that copyright lasts for the lifetime of the author, to the end of the calendar year in which the author dies, plus an additional 50 years. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 6.</i></p> <p>Works of joint authorship: Copyright lasts until the end of the calendar year of the author who dies last plus an additional 50 years. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 9.</i></p> <p>Government works: Works created by government employees are protected until they are published and for another 50 years from the date of publication. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 12.</i></p> <p>Other “subject-matter”: Sound recordings, performers’ performances, and communication signals are protected for a fixed term of 50 years from fixation, performance, or broadcast. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 23.</i></p>
Status of government works	<p>Government works are protected by copyright. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 12.</i></p>
Status of works funded by government	<p>Where a work is prepared or published, either by the government or under its direction, the copyright is owned by the government, unless there is an agreement to the contrary. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 12.</i></p>
Status of works funded by other bodies	<p>The author, performer, sound recording maker, and broadcaster is the first owner of copyright in their work or subject-matter which has been commissioned by another person, unless there is an agreement to the contrary. A special rule applies to commissioned photographs, which are owned by the commissioner provided the commission fee is actually paid. <i>Canadian Copyright Act, S. C. 1997. c. 24, Secs. 13, 18, 21, 13(2).</i></p>
Fair Use or Fair Dealing	<p>Fair dealing of a copyrighted work is not an infringement for any of the following purposes:</p> <ol style="list-style-type: none"> (1) Research or private study. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 29.</i> (2) Criticism or review if the appropriate information of the source is mentioned. <i>Canadian Copyright Act, S.C. 1997. c. 24, Sec. 29.1.</i> (3) News reporting if the appropriate information of the source is mentioned. <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 29.2.</i> <p>In addition to these specific uses, the court balances the following factors to decide if the use is “fair”:</p> <ol style="list-style-type: none"> (1) The purpose of the dealing.

	<p>(2) The character of the dealing.</p> <p>(3) The amount of the dealing.</p> <p>(4) The alternatives of the dealing.</p> <p>(5) The nature of the work.</p> <p>(6) The effect of the dealing on the work.</p>
Other specific exceptions to infringement	<p>The Canadian Copyright Act contains a number of specific exceptions within the context of fair dealing that are narrowly crafted, and apply in specified circumstances and to defined types of works.</p> <p>Some examples include:</p> <p>(1) “It is not an infringement of copyright for a library, archive or museum or a person acting under its authority to do anything on behalf of any person that the person may do personally” for research, private study, criticism, or review under “fair dealing.” <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 30.2(1).</i></p> <p>(2) “A library, archive, or museum or a person acting under the authority” of the above to make, by reprographic reproduction, “a copy of a work that is, or that is contained in an article published in (a) a scholarly, scientific or technical periodical; or (b) a newspaper or periodical if published for more than one year prior to the copy being made,” for any person requesting to use the copy for research or private study. Reproduction in this category is limited to one copy. <i>Canadian Copyright Act, S. C. 1997. c. 24, Secs. 30.2(2), 30.2(4).</i></p> <p>(3) “It is not an infringement of copyright to incidentally and not deliberately include a work or other subject-matter in another work or other subject-matter.” <i>Canadian Copyright Act, S. C. 1997. c. 24, Sec. 30.7(a).</i></p>

	Czech Republic
Eligibility of works for Copyright Protection	<p>“A literary work, other work of art or a scientific work which are the unique outcome of the creative activity of the author and are expressed in any objectively perceivable manner including electronic form, permanent or temporary” are eligible for copyright protection.</p> <p><i>Czech Republic Copyright Act, Art. 2.</i></p>
Formalities of Copyright	<p>There are no formal requirements for copyright protection.</p> <p><i>Czech Republic Copyright Act, Art. 9(1).</i></p>
Scope of Rights	<p>Fundamental economic rights for most works include:</p> <p>(1) Right to reproduce the work.</p> <p>(2) Right to distribute the original or copy of the work.</p> <p>(3) Right to rent the original or copy of the work.</p> <p>(4) Right to lend the original or copy of the work.</p>

	<p>(5) Right to exhibit the original or copy of the work. (6) Right to communication the work to the public. <i>Czech Republic Copyright Act, Arts. 12, 13, 14, 15, 16, 17, 18..</i></p>
Moral Rights	<p>Moral rights for most works include: (1) Right to make the work public. (2) Right to attribution to the work. (3) Right to integrity of the work. <i>Czech Republic Copyright Act, Art. 11.</i></p>
Initial Ownership	<p>The author who created the original work is the initial copyright owner. <i>Czech Republic Copyright Act, Arts. 1, 5(1).</i> Works of joint authorship: Copyright in a joint work is owned jointly by the coauthors and is inseparable. <i>Czech Republic Copyright Act, Art. 8(1).</i></p>
Work Made for Hire or in the Course of Employment	<p>Unless otherwise agreed, if the author is acting within the scope of employment or civil service contract when the work is created, the economic rights of the work are granted to the employer. <i>Czech Republic Copyright Act, Art. 58.</i> The author’s personal (moral) rights may be unaffected by the “employee work.” <i>Czech Republic Copyright Act, Art. 58(4).</i> Unless agreed otherwise, the author of a “school work” may use his work or grant a license to another party if not in contravention of the legitimate school interests of the educational establishment. <i>Czech Republic Copyright Act, Art. 60(2).</i> “School work” is defined as a work created by pupils or students as a part of their school or educational assignments ensuing from their legal relationship with school or educational establishment. <i>Czech Republic Copyright Act, Art. 35(3).</i></p>
Assignment or transfer of copyright	<p>Economic rights may not be waived nor are they transferable. <i>Czech Republic Copyright Act, Art. 26(1).</i> The author may grant all or a portion of the rights of use (license) in all manners of use with a restricted or unrestricted scope. <i>Czech Republic Copyright Act, Art. 46.</i> Exclusive licenses are required to be in writing. <i>Czech Republic Copyright Act, Art. 46(4).</i> Moral rights are inalienable and cannot be waived. <i>Czech Republic Copyright Act, Art. 11(4).</i></p>
Duration of Copyright	<p>In general, for most works created on or after April 7, 2000: Copyright lasts for the life of the author, plus 70 years. <i>Czech Republic Copyright Act, Art. 27(1).</i> Works of joint authorship:</p>

	<p>Generally, jointly held works created on or after April 7, 2000: Copyright lasts for the life of the last of the joint authors to die, plus 70 years. <i>Czech Republic Copyright Act, Art. 27(2).</i></p>
Status of Government works	<p>Official works, such as legal regulations, decisions, public charters and collections of legal regulations, decisions, and public charters are not afforded copyright protection. <i>Czech Republic Copyright Act, Art. 3(a).</i></p>
Status of works funded by Governments	
Status of works funded by other bodies	
Fair Use or Fair Dealing	<p>There is no broad statutory concept of “fair use” or “fair dealing.” However, the law provides a broad ability to exclude from copyright protection works that have a “public interest.” <i>Czech Republic Copyright Act, Art. 3(a).</i></p>
Other specific exceptions to infringement	<p>The Czech Republic Copyright Act includes numerous exceptions, but they are usually narrowly crafted and apply only under specified circumstances, to narrow classes of works, and for specifically defined activities. Some examples: (1) The “free use” of a copyrighted work is not an infringement. “Free use” is limited to personal use in the reproduction or imitation of a work as long as it is for no other purpose than personal use. <i>Czech Republic Copyright Act, Art. 30.</i> (2) Quotations, to a justified degree, or excerpts from the published works of other authors are not infringements, subject to always indicating the name of the author of the work being quoted or excerpted. <i>Czech Republic Copyright Act, Art. 31(a).</i> (3) Inclusion of small published works in their entirety into an independent scientific, critical, technical work, or a work designated for teaching purposes, for clarification of its content. <i>Czech Republic Copyright Act, Art. 31(b).</i> (4) Use of a published work in a lecture exclusively for scientific, teaching or other instructional or educational purposes. <i>Czech Republic Copyright Act, Art. 31(c).</i> Preceding exemptions 2, 3, and 4 require indication of the name of the author of the work, title of the work, and source of the work being used.</p>

	<p><i>Czech Republic Copyright Act, Art. 31(c).</i> (5) Copyright is not infringed by a library, archive, and other noncommercial school, educational, and cultural establishment which makes a reproduction of the work for archival or conservation purposes. <i>Czech Republic Copyright Act, Art. 37.</i> All of the restrictions specified may not be interpreted in a manner that would conflict with a normal exercise of copyright and would unreasonably prejudice the legitimate interests of the author. <i>Czech Republic Copyright Act, Art. 29.</i></p>
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	France
Eligibility of works for copyright protection	<p>Works must be “a work of the mind,” whatever kind, form of expression, merit, or purpose. <i>France Intellectual Property Code, Arts. L. 111-1, 112-1.</i> A “work of the mind” is an individualized, intellectual creation. A work shall be deemed to have been created by the “mere fact of realization of the author’s concept, even if incomplete.” <i>France Intellectual Property Code, Art. L. 111-2.</i></p>
Formalities of copyright	There are no formal requirements for copyright protection.
Scope of Rights	<p>French law list two fundamental economic rights for most works with extensive elaborations in the statute: (1) Right to reproduce the work. (2) Right to perform the work. <i>France Intellectual Property Code, Art. L. 122-1.</i></p>
Moral Rights	<p>Moral rights for most works include: (1) Right to divulge the work. (2) Right to attribution to the work. (3) Right to integrity of the work. <i>France Intellectual Property Code, Arts. L. 121-1,121-2.</i></p>
Initial Ownership	<p>Only natural persons who create works may be deemed to be authors. <i>France Intellectual Property Code, Art. L. 121-1.</i> Authorship shall belong, unless proved otherwise, to the person or persons under whose name the work has been disclosed. <i>France Intellectual Property Code, Art. L. 113-1.</i> Works of joint authorship: Collaborative works are the common property of the coauthors, and copyright is owned by common accord. <i>France Intellectual Property Code, Art. L. 113-3.</i> Collective work:</p>

	<p>A collective work shall be the property, unless provided otherwise, of the natural or legal person under whose name it has been disclosed. <i>France Intellectual Property Code, Art. L. 113-5.</i></p> <p>Composite work: A composite work shall be the property of the author who has produced it, subject to the rights of the author of the preexisting work. <i>France Intellectual Property Code, Art. L. 113-4.</i></p>
Work Made for Hire or in the Course of Employment	<p>There is no broad statutory doctrine of “works made for hire.” However, courts have developed an implicit transfer doctrine in case of employment. <i>France Intellectual Property Code, Art. L. 111-1.</i></p> <p>Collective works and those made in the course of employment, and to a lesser extent works made on commission, share some, but not all, of the legal features of works for hire.</p>
Assignment or transfer of copyright	<p>Economic rights, or any portion thereof, may be transferred by contract. <i>France Intellectual Property Code, Art. L. 122-7.</i></p> <p>Where a contract contains the complete transfer of the rights referred to in this article, its effect shall be limited to the exploitation modes specified in the contract. <i>France Intellectual Property Code, Art. L. 122-7.</i></p> <p>Transfers of copyright must be evidenced in writing and must specifically mention the rights to be transferred. <i>France Intellectual Property Code, Arts. L. 131-2, 131-3(1).</i></p> <p>Moral rights are inalienable under the Act. However extensive case law details circumstances when moral rights may be waived. <i>Intellectual Property Code, Art. L. 121-1</i></p>
Duration of Copyright	<p>In general, for most works created on or after March 28, 1997: Copyright lasts for the life of the author plus 70 years. <i>France Intellectual Property Code, Art. L. 123-1.</i></p> <p>Works of joint & collaborative authorship: In general, copyright lasts for the life of the last of the joint authors to die, plus 70 years. <i>France Intellectual Property Code, Art. L. 123-2.</i></p>
Status of government works	<p>Official acts such as legislative texts, administrative texts and judicial decisions are not warranted copyright protection.</p>
Status of works funded by government	
Status of	<p>The author of a commissioned work is usually vested with</p>

works funded by other bodies	copyright protection, unless otherwise agreed. <i>France Intellectual Property Code, Arts. L. 111-1, L. 132-8.</i>
Fair Use or Fair Dealing	There is no broad statutory doctrine of “fair use” or “fair dealing.”
Other specific exceptions to infringement	The French Intellectual Property Code contains a list of exemptions to economic rights, including: (1) Copies or reproductions reserved strictly for the private use of the copier and not intended for collective use. This exception only applies to works which have already been disclosed. <i>France Intellectual Property Code, Art. L. 122-5(2).</i> (2) “Analyses and brief quotations justified on the grounds of the critical, polemic, educational, scientific, or informative nature of the work in which they are incorporated, on condition the name of the author and source are clearly stated.” <i>France Intellectual Property Code, Art. L. 122-5(3)(a).</i> (3) “Parodies, pastiches, and caricatures, with due consideration for the laws of this genre.” <i>France Intellectual Property Code, Art. L. 122-5(4).</i>

	Germany
Eligibility of works for copyright protection	Works that are “personal intellectual creations” shall be afforded copyright protection. <i>German Law on Copyright and Neighboring Rights, Art. 2(2).</i>
Formalities of copyright	There are no formal requirements for copyright protection.
Scope of Rights	Fundamental economic rights for most works include: (1) Right to reproduce the work. (2) Right to distribute the work. (3) Right to exhibit the unpublished work. (4) Right to communicate the work to the public in the broad sense. <i>German Law on Copyright and Neighboring Rights, Arts. 15(1), 15(2).</i> Adaptations or other transformations of a work may be published or exploited only with the consent of the author of the adapted or transformed work. <i>German Law on Copyright and Neighboring Rights, Art. 23.</i>
Moral Rights	Moral rights for most works include: (1) Right to publish (disclose) the work. (2) Right to recognition of authorship to the work.

	<p>(3) Right to integrity of the work. <i>German Law on Copyright and Neighboring Rights, Arts. 11, 12(1), 13, 14.</i></p>
Initial Ownership	<p>The person who creates the work is the author and enjoys the copyright. <i>German Law on Copyright and Neighboring Rights, Art. 7.</i> Works of joint authorship: (1) If several persons have created a work jointly, and their respective contributions cannot be separately exploited, they are the joint authors of the work. (2) The right of publication and exploitation of the work shall belong jointly to the coauthors. However, a joint author may not unreasonably refuse his consent to the publication, exploitation, or alteration of the work. <i>German Law on Copyright and Neighboring Rights, Art. 8.</i> Compound works: If several authors have combined their works for exploitation in common, each of them may require from the others their consent of the publication, exploitation, or alteration of the compound works, if such consent may be reasonably demanded of them. <i>German Law on Copyright and Neighboring Rights, Art. 9.</i></p>
Work Made for Hire or in the Course of Employment	<p>The statute does not specify any concept of “work made for hire” containing legal consequences for the initial ownership of the copyright. However the statute does contain a presumption giving exclusive rights to the employer in the specified circumstances of computer programs. <i>German Law on Copyright and Neighboring Rights, Art. 69(b).</i></p>
Assignment or transfer of copyright	<p>Copyright may be transferred by inheritance or testamentary disposition exclusively. Copyright shall not otherwise be transferable. <i>German Law on Copyright and Neighboring Rights, Arts. 28, 29.</i> However, the author may grant exploitation right(s) to another to use the work by means of an exclusive or non-exclusive license. <i>German Law on Copyright and Neighboring Rights, Art. 29(2), 31.</i></p>
Duration of Copyright	<p>In general, for most works copyright lasts for the life of the author plus 70 years. <i>German Law on Copyright and Neighboring Rights, Art. 64.</i> Works of joint authorship: Generally, copyright lasts for the life of the last surviving author plus 70 years. <i>German Law on Copyright and Neighboring Rights, Art. 65(1).</i> Audiovisual works: “Copyright shall expire 70 years after the death of the longest-living of the following persons: the principal director, the author of the screenplay, the author of the dialogues, the composer of</p>

	<p>the music composed” for the work in question. <i>German Law on Copyright and Neighboring Rights, Art. 65(2).</i></p> <p>Serial Works: For works that are published in parts, which are not self-contained, the term of protection of each installment shall be calculated separately from the time of its publication. <i>German Law on Copyright and Neighboring Rights, Art. 67.</i></p>
Status of government works	<p>Laws, ordinances, official decrees, notices, decisions, and official grounds of decisions shall not enjoy copyright protection. <i>German Law on Copyright and Neighboring Rights, Art. 5(1).</i></p> <p>There is no copyright protection (except for the right to object to changes and the obligation to indicate the source) for other official works made public for general information in the official interest. <i>German Law on Copyright and Neighboring Rights, Art. 5(2).</i></p>
Status of works funded by government	<p>These works are granted copyright under the general applicable rules.</p>
Status of works funded by other bodies	<p>These works are granted copyright protection under the general applicable rules.</p>
Fair Use or Fair Dealing	<p>German law includes no broad statutory concept of “fair use” or “fair dealing.”</p>
Other specific exceptions to infringement	<p>German Law on Copyright and Neighboring Rights includes numerous exceptions, but they are usually narrowly crafted to specific circumstances and specifically defined activities. Some examples include:</p> <p>(1) Reproduction, distribution, and making a work available is permissible where limited parts of certain works are incorporated after their publication in a collection, along with a considerable number of authors, for religious, school or instructional use. <i>German Law on Copyright and Neighboring Rights, Art. 46.</i></p> <p>(2) Reproduction, distribution, and communication to the public shall be permitted, to the extent justified by the purpose, where individual works after their publication are included in an independent scientific work, where passages are quoted in an independent work of language, or where passages of published musical works are quoted in an independent work of music. <i>German Law on Copyright and Neighboring Rights, Art. 51.</i></p> <p>(3) It is permissible to make copies of small segments of individual contributions published in newspapers or periodicals for personal use in teaching in non-commercial institutions of education and further education.</p>

	<p><i>German Law on Copyright and Neighboring Rights, Art. 53.</i> (4) Making available to the public small portions of published works, articles, individual contributions to periodicals, and other short works, exclusively for purposes of illustration for teaching, for students and other participants in instruction in schools, universities, post-secondary institutions, and noncommercial career-training institutions. Users may make reproductions of works as needed for this purpose. Access must be restricted to a limited circle of participants. Users must make a payment for such uses through a collective licensing society. <i>German Law on Copyright and Neighboring Rights, Art. 52a.</i></p>
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	The Netherlands
Eligibility of works for Copyright Protection	<p>Works eligible for copyright are “generally any production in the literary, scientific or artistic fields, whatever may be the mode or form of its expression” <i>The Netherlands Copyright Act 1912, Art. 10(1).</i></p>
Formalities of Copyright	<p>There are no formal requirements for copyright protection.</p>
Scope of Rights	<p>Fundamental economic rights for most works include: (1) Right to reproduce the work. (2) Right to make the work public. <i>The Netherlands Copyright Act 1912, Art. 1.</i></p>
Moral Rights	<p>Moral rights for most works include: (1) Right to attribution to the work. (2) Right to restrain modification of the work. (3) Right to restrain “distortion or mutilation” of the work prejudicial to reputation. <i>The Netherlands Copyright Act 1912, Art. 25.</i> There is a limitation of “reasonable modifications” that limits the author’s right to object to the modification of his work. <i>The Netherlands Copyright Act 1912, Art. 25(1)(c).</i></p>
Initial Ownership	<p>In the absence of proof to the contrary, the person who is indicated as the author in or on the work or, where there is no such indication, the person who, when the work is made public, is made known as the author by the party who makes the work public, shall be deemed the author of the work. <i>The Netherlands Copyright Act 1912, Art. 4.</i> Works of joint authorship: If a literary, scientific, or artistic work consists of separate works by two or more persons, the person under whose guidance and supervision the work, as a whole has been made, or if there is no</p>

	<p>such person, the compiler of the various works, shall be deemed the author of the whole work, without prejudice to the copyright in each of the works separately. <i>The Netherlands Copyright Act 1912, Art. 5.</i></p> <p>Where the copyright in a work belongs to jointly to two or more persons, it may be enforced by any one of them, unless otherwise agreed. <i>The Netherlands Copyright Act 1912, Art. 26.</i></p>
Work Made for Hire or in the Course of Employment	<p>Where the work of an employee consists in the production of certain literary, scientific, or artistic works, the employer shall be deemed to be the author thereof unless otherwise agreed between the parties. <i>The Netherlands Copyright Act 1912, Art. 7.</i></p> <p>In situations dealing with major and minor creative contributors, if the work has been produced according to the plan and under the guidance and supervision of another person (major contributor), that person shall be deemed to be the author of the work. <i>The Netherlands Copyright Act 1912, Art. 6.</i></p> <p>A work made public by a legal person (i.e. public institution) as its own, without indication of a natural person as author, the legal person is presumed to be the copyright owner. <i>The Netherlands Copyright Act 1912, Art. 8.</i></p>
Assignment or Transfer of Copyright	<p>Copyright may be assigned, in whole or in part. <i>The Netherlands Copyright Act 1912, Art. 2.</i></p> <p>To be enforceable at law, the assignment must be in writing, signed by the copyright owner and shall specify the rights to be assigned. <i>The Netherlands Copyright Act 1912, Art. 2(2).</i></p>
Duration of Copyright	<p>In general, for most works created on or after December 29, 1995: Copyright lasts for the life of the author plus 70 years. <i>The Netherlands Copyright Act 1912, Art. 37.</i></p> <p>Works of joint authorship: In general, jointly held works created on or after December 29, 1995: Copyright lasts for the life of the last of the joint authors to die, plus 70 years. <i>The Netherlands Copyright Act 1912, Art. 37(2)</i></p>
Status of government works	<p>No copyright subsists in laws, decrees, or ordinances issued by public authorities. <i>The Netherlands Copyright Act 1912, Art. 11.</i></p>
Status of works funded by governments	<p>Other government works have certain limitations to copyright such as subsequent making public or reproduction of the work shall not be deemed an infringement of the copyright in the work unless the copyright is expressly reserved by a notice appearing on the work itself or by a communication made at the time it is</p>

	made public. <i>The Netherlands Copyright Act 1912, Art. 15(b).</i>
Status of works funded by other bodies	
Fair Use and Fair Dealing	There is no broad statutory concept of “fair use” or “fair dealing”.
Other Specific Exceptions	The Act includes numerous exceptions, which are narrowly crafted and apply under specified circumstances and specifically defined activities. Some examples: (1) The use of published works made for use as illustrations for teaching purposes provided the work has been lawfully made public, is in accordance with social custom and the author and source has been clearly indicated. <i>The Netherlands Copyright Act 1912, Art 16(a).</i> (2) Copying on a limited basis for the sole purpose of personal practice or private study exclusively for himself. <i>The Netherlands Copyright Act 1912, Art 16(b).</i>

	Spain
Eligibility of works for Copyright Protection	Original literary, artistic, and scientific creations are protected by copyright. <i>Spain Copyright Law, Art. 10.</i>
Formalities of Copyright	There are no formal requirements for works created on or after December 7, 1987, for copyright protection. With respect to most works, there is an evidentiary advantage to registration under current law: rights and owners claimed in any registration are to be presumed correct in the absence of proof to the contrary. Works created before December 7, 1987, were subject to a registration requirement. However, works that entered the public domain for failure to register have had copyright protection restored. <i>Spain Copyright Law, Art. 37, 38, 39.</i>
Scope of Rights	Authors have a “general exploitation right” in whatever form. Fundamental economic rights encompassed within the “general exploitation right” include: (1) Right to reproduce the work. (2) Right to distribute the work. (3) Right to communicate the work to the public.

	<p>(4) Right to alter (transform) the work. (5) Right to collect from the work. <i>Spain Copyright Law, Arts. 17, 23.</i> These economic rights may not be exercised without the copyright owner’s authorization, except where the law provides. <i>Spain Copyright Law, Art. 17.</i></p>
Moral Rights	<p>Moral rights for most works include: (1) Right to disclose the work. (2) Right to attribution to the work. (3) Right to the integrity of the work. <i>Spain Copyright Law, Art. 14.</i></p>
Initial Ownership	<p>“The natural person who creates any literary, artistic, or scientific work shall be considered the author thereof.” <i>Spain Copyright Law, Art. 5.</i> Works of joint authorship: Generally, the rights in a work that is the unitary result of the collaboration of two or more authors shall belong to all of them. <i>Spain Copyright Law, Art. 7.</i> Collective works: “In absence of agreement to the contrary, the rights in the collective work shall vest in the person who publishes it and discloses it in his name.” <i>Spain Copyright Law, Art. 8.</i></p>
Work Made for Hire or in the Course of Employment	<p>For works that are created in an employment relationship, the exploitation rights are transferred to the employer, unless otherwise agreed. However, transfer of exploitation rights is limited to the rights necessary for the usual activity of the employer. <i>Spain Copyright Law, Art. 51.</i></p>
Assignment or transfer of copyright	<p>Economic rights, or any portion thereof, may be transferred to any other party. <i>Spain Copyright Law, Art. 48.</i> A valid transfer, whether an assignment or license must be evidenced in writing and may be subject to additional limitations. <i>Spain Copyright Law, Arts. 4, 45.</i> Moral rights are inalienable and cannot be waived under a literal interpretation of the Act. <i>Spain Copyright Law, Art. 14.</i></p>
Duration of Copyright	<p>For most works created on or after April 23, 1996: Copyright lasts for the life of the author, plus 70 years. <i>Spain Copyright Law, Art. 26.</i> Works of joint authorship: Copyright lasts for the life of the last of the coauthors to die, plus 70 years. <i>Spain Copyright Law, Art. 28.1.</i></p>

	<p>Collective, Anonymous, and Pseudonymous Works: Copyright lasts (generally) for a term of 70 years from a lawful disclosure. <i>Spain Copyright Law, Art. 27.2.</i> Copyright in works by authors who died on or before December 6, 1987, has a duration of life of the author plus 80 years. <i>Spain Copyright Law of 1879.</i></p>
Status of Government works	<p>Laws, decrees, regulations, drafts, bills, judicial decisions and acts, deliberations, and enactments of public bodies and official translations of such material are expressly excluded from copyright protection. <i>Spain Copyright Law, Art. 13.</i></p>
Status of works funded by Governments	<p>Creations made in the service or at the command of officials of the Spanish State are protected under general copyright rules. <i>Spain Copyright Law, Art. 51.</i></p>
Status of works funded by other bodies	
Fair Use or Fair Dealing	<p>Spanish law includes no broad category for “fair use” or “fair dealing.” The Spanish Intellectual Property Act expressly states that the author’s rights are to be limited only “in cases this law provides.” <i>Spain Copyright Law, Art. 17.</i></p>
Other specific exceptions to infringement	<p>The statute includes numerous exceptions, which are narrowly crafted and apply under specified circumstances and specifically defined activities. Some examples: (1) Copying fragments of others’ copyrighted works in one’s own work is permitted only as quotations or for analysis, comment or criticism, provided it is for teaching or research purposes. <i>Spain Copyright law, Art. 32.</i> (2) Museums, libraries, and archives, if they are public or part of institutions of a cultural or scientific character, may reproduce works on a nonprofit basis exclusively for research purposes. <i>Spain Copyright Law, Art. 37.</i></p>

	Sweden
Eligibility of works for Copyright	<p>Anyone who has created a literary or artistic work shall have copyright in that work. <i>Sweden Copyright Act 1960:729, Sec. 1.</i></p>

Protection	
Formalities of Copyright	There are no formalities required for copyright protection.
Scope of Rights	<p>Fundamental economic rights for most works include:</p> <p>(1) Right to reproduce the work.</p> <p>(2) Right to make the work available to the public.</p> <p>“Available to the public” includes the original or an altered form, in translation or adaptation, in another literary or artistic form, or by other technical means.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 2.</i></p> <p>In addition, a person who has made a translation or an adaptation of a work or converted it into another literary or artistic form shall have copyright in the work in the new form, but his or her right to control it shall be subject to the copyright in the original work.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 4.</i></p>
Moral Rights	<p>Moral rights for most works include:</p> <p>(1) Right to attribution to the work.</p> <p>(2) Right to prohibit alteration of the work that is prejudicial to the author’s reputation or individuality.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 3.</i></p>
Initial Ownership	<p>The author is the initial owner of the copyright.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 1.</i></p> <p>Works of joint authorship:</p> <p>Joint authors shall own the copyright in that work jointly.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 6.</i></p>
Work Made for Hire or in the Course of Employment	<p>For most works, an employee acting within his scope of employment does not affect their copyright in the work except in the case of computer programs.</p> <p><i>Sweden Copyright Act 1960:729, Secs. 40, 40(a).</i></p>
Assignment or transfer of copyright	<p>Economic rights in copyright may be transferred entirely or partially.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 27.</i></p> <p>However, in specific circumstances there are limitations on the transfer of exclusive rights, unless agreed otherwise by the contracting parties. For example:</p> <p>In publishing contracts, the author only transfers the right to publish the work and reproduce the work by printing or similar means.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 31.</i></p> <p>In the absence of an agreement to the contrary, the person to whom a copyright has been transferred may not alter the work or transfer the copyright to others.</p> <p><i>Sweden Copyright Act 1960:729, Sec. 28.</i></p> <p>Moral rights are not transferable. However, moral rights may be</p>

	<p>waived for specific uses which are limited to the character and scope. Non-specific waivers will be held invalid. <i>Sweden Copyright Act 1960:729, Sec. 3(3).</i></p>
Duration of Copyright	<p>Generally, for most works the duration of a copyright lasts for the life of the author plus 70 years except in certain circumstances. <i>Sweden Copyright Act 1960:729, Sec. 43.</i> Works of joint authorship: In general, copyright lasts for the life of the last of the joint authors to die, plus 70 years. <i>Sweden Copyright Act 1960:729, Sec. 43.</i></p>
Status of Government works	<p>Laws, decisions, reports, or official translations of such works created by Swedish public authorities are excluded from copyright protection. <i>Sweden Copyright Act 1960:729, Sec. 9(1)(4).</i> Copyright may still be asserted in maps, works of drawing, paintings, engravings, musical works, and works of poetry that constitute materials issued by public authorities within official reports, but limited to certain exceptions. <i>Sweden Copyright Act 1960:729, Sec. 9(2).</i></p>
Status of works funded by governments	<p>These works enjoy the same protection of the general rules of copyright prescribed under the act.</p>
Status of works funded by Other bodies	
Fair Use or Fair Dealing	<p>No broad statutory limitation of “fair use” or “fair dealing.”</p>
Other specific exceptions to infringement	<p>A literary or artistic work may not be made available to the public under a title, pseudonym, or signature such that the work or its author may be easily confused with a work which has previously been made available to the public or with its author. <i>Sweden Copyright Act 1960:729, Sec. 53.</i> The Sweden Copyright Act includes numerous exceptions, but they are usually narrowly crafted to specific circumstances and specifically defined activities. Some examples: (1) Anyone is entitled to make a copy of the work for his or her private use. <i>Sweden Copyright Act 1960:729, Sec. 12.</i> (2) Archives and libraries may make reproductions of the work if within their purpose or activity, but must be in compliance with the rules and regulations set forth in copyright regulation.</p>

	<p><i>Sweden Copyright Act 1960:729, Sec. 16.</i> (3) Quotations from a work already made public may be made without liability if they conform to proper usage, and if they do not exceed the scope required by the purpose of quoting the work. <i>Sweden Copyright Act 1960:729, Sec. 22.</i></p>
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	Switzerland
Eligibility of works for Copyright Protection	<p>"A work shall enjoy copyright protection as soon as it is created, whether or not it has been fixed on a physical medium." <i>Switzerland Federal Act on Copyright and Neighbouring Rights of October 9, 1992, Art. 29(1).</i> Works granted copyright protection are those of "any literary or artistic creation of the mind, whatever its value or purpose, which evidences an individual character." <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 2(1).</i></p>
Formalities of Copyright	There are no formalities required for copyright protection.
Scope of Rights	<p>A fundamental right for most works: (1) The author has the exclusive right to decide whether, when, how, and under which designation (name) his work may be published. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Arts. 9(2).</i> The author, in principle, has the exclusive right to decide whether, when, and how his work is to be used, encompassing the following: (1) Right to reproduce the work in copies. (2) Right to distribute copies of the work. (3) Right to deliver or perform the work. (4) Right to (re)communicate a work (including broadcasting). <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 10.</i></p>
Moral Rights	<p>The Swiss Copyright Act does not explicitly delineate between economic rights and moral rights. However, there are certain rights that are attributed to being an authors' moral rights, among them are: (1) Right to be identified as author of the work. (2) Right to first publication of the work including whether, when, how, and under what name his own work may be published. (2) Right to alter or adapt the work and the untouchable integrity</p>

	<p>of the work as part of the personality rights. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Arts. 9(1,2), 11(1,2).</i></p>
Initial Ownership	<p>Initial ownership of copyright belongs to the author. <i>Switzerland Federal Law on Copyright and Neighbouring Rights, Art. 6.</i></p> <p>Works of joint authorship: In the case of joint authorship, copyright shall belong to all such persons jointly subject to good faith, unless otherwise agreed. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 7(1,2).</i></p> <p>If contributions to a work are separable, the relevant co-contributor can use his contribution separately if not detrimental to the collective work, unless otherwise agreed. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 7(4).</i></p>
Work Made for Hire or in the Course of Employment	<p>There is a statutory concept of “works made for hire” valid only for computer programs. The Act sets the presumption that exclusive use rights on computer programs created by an employee are vested with the employer. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 17.</i></p>
Assignment or transfer of copyright	<p>Copyrights shall be transferable by assignment or inheritance. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 16.</i></p> <p>There are no statutory formalities, such as a required writing, to transfer copyright.</p>
Duration of Copyright	<p>For most works created on or after July 1, 1993: Copyright lasts for the life of the author, plus 70 years, or for computer programs, life plus 50 years. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 29(2)(a,b).</i></p> <p>Works of joint authorship: Joint works created after July 1, 1993: Copyright lasts for the life of the last of the joint authors to die, plus 70 (50 for computer programs) years. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 30(1)(a,b).</i></p>
Status of Government works	<p>Laws, ordinances, international treaties, other official instruments, and official translations are not protected under copyright. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 5(1a,2).</i></p>
Status of works funded	<p>These works are granted copyright protection.</p>

by Governments	
Status of works funded by other bodies	
Fair Use or Fair Dealing	There is not a broad statutory limitation to copyright of “fair use” or “fair dealing.”
Other specific exceptions to infringement	<p>There are numerous, narrowly crafted exceptions to copyright where the acts specified are not considered infringements, although these acts are not always exempt from remuneration. Some examples include:</p> <p>(1) Any personal or family use.</p> <p>(2) Any use of a teacher for teaching a class.</p> <p>(3) Reproduction of copies of a work in enterprises, public administrations, institutes, commissions, and similar bodies for internal information or documentation. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 19(1a,b,c).</i></p> <p>(4) A copy, including a copy of computer programs, may be made to preserve it, although a specimen must be archived where there is no public access. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 24.</i></p> <p>(5) Published works may be quoted, but only if and as far as the quotation serves as a reference or illustration and the source of the quotation is designated, including the eventual name of the author. <i>Switzerland Federal Law on Copyright and Neighbouring Rights of October 9, 1992, Art. 25.</i></p>

	United Kingdom
Eligibility of works for copyright protection	<p>Copyright subsists in “(a) original literary, dramatic, musical or artistic works, (b) sound recordings, films or broadcasts, and (c) the typographical arrangement of published editions.” <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s.1(1).</i></p> <p>“Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise; and references in this Part to the time at which such a work is made are to the time at which it is so recorded.” <i>United Kingdom Copyright, Designs and Patent Act 1988 (as</i></p>

	<i>amended) s.3(2).</i>
Formalities of copyright	There are no formal requirements for copyright protection. However, UK law imposes a formal requirement to assert the moral right of attribution. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 78.</i>
Scope of Rights	Fundamental economic rights for most works include: (1) Right to copy the work. (2) Right to issue copies of the work to the public. (3) Right to rent or lend the work to the public. (4) Right to perform, show, or play the work in public. (5) Right to communicate the work to the public. (6) Right to make an adaptation of the work or do any of the above in relation to an adaptation. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s.16(1), 17, 18, 18A, 19, 20, 21.</i>
Moral Rights	Moral rights for most works include (subject to some exceptions): (1) “The author of a copyright literary, dramatic musical or artistic work, and the director of a copyright film, has the right to be identified as the author or director” <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 77.</i> (2) Right to the integrity of the work including the right to object to derogatory treatment. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 80.</i> (3) Right to privacy of certain photographs and films commissioned for private or domestic purposes. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 85.</i> The scope of moral rights is limited to their statutory definitions and specific exceptions.
Initial Ownership	First ownership of copyright belongs to the author, except “where a literary, dramatic, musical or artistic work, or a film, is made by an employee in the course of his employment,” then the “employer is the first owner of any copyright in the work,” unless there is an “agreement to the contrary.” <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 11.</i> The law contains several special ownership provisions for anonymous works, entrepreneurial works (sound recordings, film, broadcasts and typographical arrangements), and computer generated literary, dramatic, music, or artistic works. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 9.</i>

	<p>Works of joint authorship: The statute merely defines joint authorship. Although the statute is not explicit about allocating rights, co-authors do hold title jointly. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 10(1).</i></p>
<p>Work Made for Hire or in the Course of Employment</p>	<p>“[W]here a literary, dramatic, musical or artistic work is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.” <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 11.</i></p>
<p>Assignment or transfer of copyright</p>	<p>“Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as personal or movable property” in whole or in part. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 90.</i> For a valid assignment it must be in writing and signed by the assignor. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 90(3).</i> Exclusive licenses must be writing and signed by the copyright owner. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 92.</i> Statutory moral rights are not assignable. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 94.</i></p>
<p>Duration of Copyright</p>	<p>Generally, for literary, dramatic, musical or artistic works copyright lasts for the life of the author plus 70 years. However, in the case of computer generated literary, dramatic, musical, or artistic works copyright expires at the end of 50 years from the end of the calendar year in which the work was made. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s.12.</i> Sound Recordings: Copyright expires at the end of the period of 50 years from the end of the calendar year in which the recording was made. If published, or made available to the public by being played in public or communicated to the public during that period, 50 years from the end of the calendar year in which it is first published. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 13(a).</i> Crown Copyright:</p>

	<p>Copyright in a literary, dramatic, musical, or artistic work subsists until 125 years from the end of the calendar year in which the work was made, or if published commercially within the first 75 years of the 125 year term then the copyright lasts 50 years from when it was first published.</p> <p><i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 163.</i></p> <p>Parliamentary Copyright: Parliamentary copyright applies where a work is made by or under the direction or control of the House of Commons or House of Lords and qualifies for copyright protection. The duration of parliamentary copyright in a literary, dramatic, musical, or artistic work lasts 50 years from the end of the calendar year in which the work was made.</p> <p><i>United Kingdom Copyright, Design and Patent Act 1988 (as amended) s. 165.</i></p>
Status of government works	<p>Crown copyright is given where a work is made by an officer or servant of the Crown in the course of his or her duties.</p> <p><i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 163,164.</i></p>
Status of works funded by government	<p>The government will only acquire the copyright by assignment from the copyright holder.</p> <p><i>See HMSO Guidance Note No. 5 (31 August 1999 rev 6 November 2000) Copyright in Works Commissioned by the Crown</i> http://www.hmso.gov.uk/copyright/guidance/gn_05.htm.</p>
Status of works funded by other bodies	
Fair Use or Fair Dealing	<p>“Fair dealing” in a copyrighted work is a major exception to copyright in UK law and is a term used to describe acts which are permitted to a certain degree. These uses include (among others):</p> <p>(1) Making of incidental transient or temporary copies. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 28A.</i></p> <p>(2) Private and research study purposes. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 29.</i></p> <p>(3) Performance, copying or lending for educational purposes. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 29.</i></p> <p>(4) Criticism and news reporting. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 30.</i></p>

	<p>(5) Incidental inclusion of copyrighted material. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 31.</i></p>
Other specific exceptions to infringement	<p>The Act includes numerous exceptions to copyright, which are narrowly crafted and apply under specified circumstances and specifically defined activities.</p> <p>Some examples:</p> <p>(1) Copies of literary, dramatic, musical, or artistic works if done in the course of instruction or of preparation for instruction if prepared by the one giving the instruction and accompanied by sufficient acknowledgement. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 32(1).</i></p> <p>(2) The librarian of a prescribed library may, under the prescribed conditions, make and supply from a published edition a copy of part of a literary, dramatic, or musical work (other than an article in a periodical) without infringing copyright in the work, in any illustrations accompanying the work or in the typographical arrangement. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 39.</i></p> <p>(3) The librarian of a prescribed library may, under the prescribed conditions, make and supply a copy of an article in a periodical if used for research for a non-commercial purpose or private study. <i>United Kingdom Copyright, Designs and Patent Act 1988 (as amended) s. 38.</i></p>

	United States
Eligibility of works for copyright protection	<p>Works must be “original works of authorship” and be “fixed in any tangible medium of expression.” <i>U.S. Copyright Act, 17 U.S.C. Sec. 102(a).</i></p>
Formalities of copyright	<p>Formalities of copyright notice and registration are not required for protection with respect to U.S. domestic works published after March 1, 1989. <i>U.S. Copyright Act, 17 U.S.C. Secs. 401(a), 408(a).</i></p> <p>Notice was required on works published before March 1, 1989. <i>U.S. Copyright Act, 17 U.S.C. Sec. 405(a).</i></p> <p>Registering the work with the U.S. Copyright Office can give additional benefits in the event of litigation. <i>U.S. Copyright Act, 17 U.S.C. Sec. 412.</i></p>

Scope of rights	<p>Fundamental economic rights for most works:</p> <ol style="list-style-type: none"> (1) Right to reproduce the work in copies. (2) Right to prepare derivative works. (3) Right to distribute the work in copies to the public. (4) Right to perform most types of works publicly. (5) Right to display most types of works publicly. <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 106.</i></p>
Moral Rights	<p>Certain works of visual arts are eligible for the following moral rights:</p> <ol style="list-style-type: none"> (1) Right to attribution to the work. (2) Right to integrity of the work, including right to prevent intentional destruction. <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 106A(a).</i></p> <p>Scope of “works of visual art” that have moral rights is narrowly defined.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 101.</i></p>
Initial ownership	<p>The author who created an original work is the initial copyright owner.</p> <p>Works of joint authorship:</p> <p>Copyright in a work of joint authorship is held by all of its coauthors.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 201(a).</i></p>
Work Made for Hire or in the Course of Employment	<p>Works that are produced by “employees” who create the works “within the scope of employment” are deemed to be “works made for hire.”</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 101.</i></p> <p>The employer is deemed to be the “author” and owner of the copyright to works made for hire. Employer and employee may agree in writing, signed by both parties, that the rights to any works made for hire will belong to the employee instead of the employer.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 201(b).</i></p> <p>Some works created by independent contractors, as opposed to employees, may be treated as works made for hire, but only specified types of works, and only if the parties agree in a signed written instrument.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 101.</i></p>
Assignment or transfer of copyright	<p>Copyright, or any of the owner’s exclusive rights, or any portion thereof, may be transferred to any other party.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 201(d).</i></p> <p>A valid transfer, other than by operation of law, must be in a written instrument and be signed by the copyright owner who makes the transfer.</p> <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 204(a).</i></p> <p>Exclusive licenses must also be in writing and signed. Non-</p>

	<p>exclusive licenses do not require a writing. <i>U.S. Copyright Act, 17 U.S.C. Secs. 101, 204(a).</i></p>
Duration of copyright	<p>For most works created on or after January 1, 1978: Copyright lasts for the life of the author, plus 70 years. <i>U.S. Copyright Act, 17 U.S.C. Sec. 302(a).</i></p> <p>Works of joint authorship: Jointly held works created after January 1, 1978: Copyright lasts for the life of the last of the joint authors to die, plus 70 years. <i>U.S. Copyright Act, 17 U.S.C. Sec. 302(b).</i></p> <p>In the case of works made for hire created on or after January 1, 1978: Copyright lasts for either 95 years from publication, or 120 years from creation, whichever term expires first. <i>U.S. Copyright Act, 17 U.S.C. Sec. 302(c).</i></p> <p>Works created and published before 1978: Copyright may last a maximum of 95 years. <i>U.S. Copyright Act, 17 U.S.C. Sec. 304(a).</i></p> <p>Works created before 1978, but not published: Copyright lasts generally for the life of the author, plus 70 years. <i>U.S. Copyright Act, 17 U.S.C. Sec. 303(a).</i></p> <p>Term of protection for early works may be shorter, due to failure to comply with formalities. Special “restoration” rules may apply to foreign works that lacked formalities. <i>U.S. Copyright Act, 17 U.S.C. Sec. 104A.</i></p>
Status of government works	<p>Works produced by employees of the United States government, in the performance of their official duties, are not eligible for copyright protection. <i>U.S. Copyright Act, 17 U.S.C. Secs. 101, 105.</i></p>
Status of works funded by governments	<p>Government funding to support creation of a copyrighted work does itself not affect the copyright status of the work. Some government agencies may define copyright status or rights as a contractual condition for the receipt of funding.</p>
Status of works funded by other bodies	<p>Similar to the issue of government funding. Note that funding for a project does not produce an “employment” situation, leading to the creation of “works made for hire.”</p>
Fair Use or Fair Dealing	<p>The fair use of a copyrighted work is not an infringement. Fair use can involve reproduction or any other uses that might otherwise be infringement. Determination of fair use is based on a balanced application of these four factors:</p> <ol style="list-style-type: none"> (1) The purpose or character of the use. (2) The nature of the work being used. (3) The amount of the work used. (4) The effect of the use on the potential value of or market for the work. <p><i>U.S. Copyright Act, 17 U.S.C. Sec. 107.</i></p>

	<p>Fair use sometimes sanctions: common quoting; limited photocopying; creative or “transformative” uses of copyrighted works; uses that do not interfere with realistic markets for the original work.</p>
<p>Other specific exceptions to infringement</p>	<p>The U.S. Copyright Act includes numerous additional exceptions, but they are usually narrowly crafted and apply only under specified circumstances, to narrow classes of works, and for specifically defined activities.</p> <p>Some examples:</p> <p>(1) Copying of some works in libraries for preservation, giving copies to researchers, and sending copies through interlibrary loan. <i>U.S. Copyright Act, 17 U.S.C. Sec. 108.</i></p> <p>(2) Selling, lending, renting, or otherwise transferring possession of “lawfully made” copies. <i>U.S. Copyright Act, 17 U.S.C. Sec. 109(a).</i></p> <p>(3) Displaying works publicly at the location where the works are located, such as paintings in a museum or books in a library. The display may be direct, or may be by projection of not more than one image at a time. <i>U.S. Copyright Act, 17 U.S.C. Sec. 109(c).</i></p> <p>(4) Displaying or performing works in classrooms at nonprofit educational institutions. <i>U.S. Copyright Act, 17 U.S.C. Sec. 110(1).</i></p> <p>(5) Displaying or performing works in the context of distance education, but subject to elaborate requirements and restrictions. <i>U.S. Copyright Act, 17 U.S.C. Sec. 110(2).</i></p> <p>(6) Making copies of some works in special formats for persons who are blind or have other disabilities. <i>U.S. Copyright Act, 17 U.S.C. Sec. 121.</i></p>

Sources Consulted

Several books containing various countries copyright acts, implemented copyright legislation, and explanatory comments include:

Paul Edward Geller, ed., *International Copyright Law and Practice*, 2 vols. (New York, NY: Matthew Bender & Company, Inc., a member of the LexisNexis Group, 2003).

George Metaxas-Maranghidis, ed., *Intellectual Property Laws of Europe* (Chichester; New York: J. Wiley, 1995).

Wilhelm Nordemann, Kai Vinck, and Paul W. Hertin; English version by Gerald Meyer, *International Copyright and Neighbouring Rights Law: Commentary with Special Emphasis on the European Community* (R. Livingston trans., New York, NY USA: VCH Publishers, 1990).

Adrian Sterling, *World Copyright Law* (Thomson Professional Pub Cn., 1998).

Several legal databases and governmental websites containing current copyright legislation include:

Australia Copyright Act 1968 (updated June 2004) (West, 2004).

Canadian Copyright Act (updated September 2004) (West, 2004).

United Kingdom. Copyright, Designs and Patent Act, 1988 c. 48 (updated September 2004) (West 2004).

Ministry of Culture (trans.), Copyright Act. Czech Republic (last amended April 7, 2000), available at <http://www.mkcr.cz/en/www/article.php?id=469>; Internet.

In the World Wide Web, prominent websites containing many countries copyright acts and current implemented copyright legislation include:

WIPO (ed.), *Intellectual Property Laws and Treaties, Copyright and Neighboring Right Laws and Treaties*, available from www.wipo.int; Internet.

UNESCO Collection of National Copyright Laws, available at
<http://www.unesco.org/culture/copyrightlaws>