

The Department of Trade and Industry

# Guide to Key Concepts in Copyright and Related Rights

The Guide

INTELLECTUAL PROPERTY UNIT  
1/20/2017

## **Audio Visual**

Using both sight and sound, typically in the form of images and recorded speech or music.



**Fig 1.**

## **Beijing Treaty**

Is a treaty that regulates copyright for audiovisual performances and expands the performers' rights. It was adopted in Beijing city of China.

The Beijing Treaty modernizes and updates for the digital era the protection for singers, musicians, dancers and actors in audiovisual performances.

AudioVisual refers to the combination of hearing (Audio) and seeing (Visual).



Example: Music Videos and live recorded performances.

**Fig 2.**

## **Broadcasting**

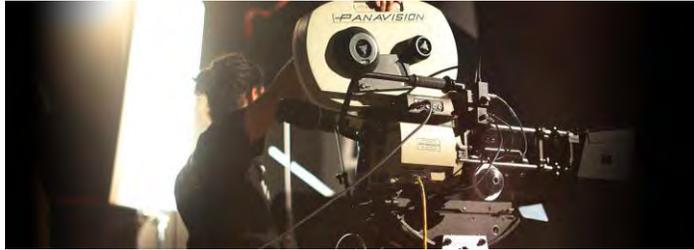
Is to transmit (a programme or some information) by radio or television.



**Fig 3.**

### **Cinematographic Work**

Is the science or art of motion-picture photography by recording light or other electromagnetic radiation, either electronically by means of an image sensor, or chemically by means of a light-sensitive material such as film stock.



**Fig 4.**

### **Copyright Management Information**

Is information conveyed with a copyrighted work that identifies the owner and nature of that copyright.



**Fig 5.**

### **Collecting Society**

Is like a union (e.g. COSATU) for Authors/Musicians/Performers that collects royalties (payment/fee) on their behalf.

Example: When a musician makes music and his music is played on radio or television, the union that he is part of monitors how many times his music is played and then collects a payment/fee that has been agreed upon between the one playing the music and the union (on behalf of musician) and this fee is called a royalty.



**Fig 6.**

## Economic Rights

Economic rights give you the right to earn money from your creative work. This means you can give or deny people permission to:

- copy your work (for example by photocopying, scanning, recording, reproducing in a different format)
- rent or lend copies of your work to the public
- show, play or perform your work in public
- broadcast the work to the public – this includes putting the work on the internet
- making an adaptation of your work (for example by translating it).

You can give or sell your economic rights to another person or organisation.



Fig 7.

## Fair dealings and uses

This refers to using material that is protected by Copyright for purposes of teaching, research, criticism or reporting news without having to ask for permission from the copyright owner or having to pay a royalty for it. These Uses form part of exceptions and limitations.

Example: The cartoon figures that **Zapiro** uses in the form of satire (sarcasm/irony) in reporting current events in the country.



Fig 8.

## Fixation

Is an act of putting or placing definitely and more or less permanently of two or more things, e.g. fixing audio and images into one like Television combines sound and image into one presentation.

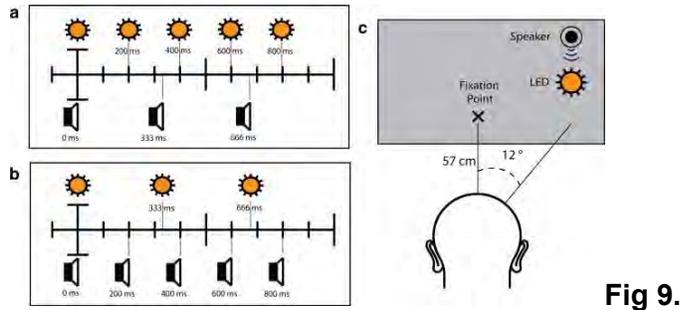


Fig 9.

## Intellectual Property Tribunal

This refers to a place where Intellectual Property related matters between parties that have been aggrieved (feel wronged) can be settled. It operates like a court of law that specialises in Intellectual Property (including Copyright) but with the advantage of being accessible in terms of Price and turn-around-time (conclusion of matters).

Example: Competition Tribunal/CCMA (for labour related matters)



Fig 10.

## Marrakesh Treaty

Is a treaty to facilitate access to Published Works for Visually Impaired people and people with print disabilities .e.g. Blind People/Dyslexic people. It provides for subtitles to television and movies or anything that has to be perceived visually.

It is called the **Marrakesh** Treaty because it was adopted in the city of Marrakesh in Morocco.



Fig 11.

## **Mechanical Rights**

Is a name for the royalties that composers, lyrists and music publishers earn when their music is copied and transformed into things like cassettes, CDs, DVDs, MP3s – even ringtones – for public use. In other words when it is reproduced by a device or machine.

Mechanical Rights remunerate authors, composers, and publishers.

It remunerates them for the reproduction of their musical works.



## **Meta Data**

A set of data that describes and gives information about other data.



## **Moral rights**

The right of an author or another creative artist to protect the integrity and ownership of their work. The ability of authors to control the eventual fate of their works. Require that your name is always shown with your work. This is called right of attribution.



### Needletime

The term comes from the use of gramophone (old-fashioned term for record player featured below) records as the main source of recorded music, which were played on gramophone record players using a gramophone needle.

It means the limited time allocated by a radio channel to the broadcasting of music from records.

Needletime is also a right to which royalties are paid to performers/recording artists for the public performance of their recorded performances.



Fig 15.

### Novate/Novation

Novation, in contract law and business law, is the act of either: replacing an obligation to perform with another obligation; or adding an obligation to perform; or replacing a party to an agreement with a new party.

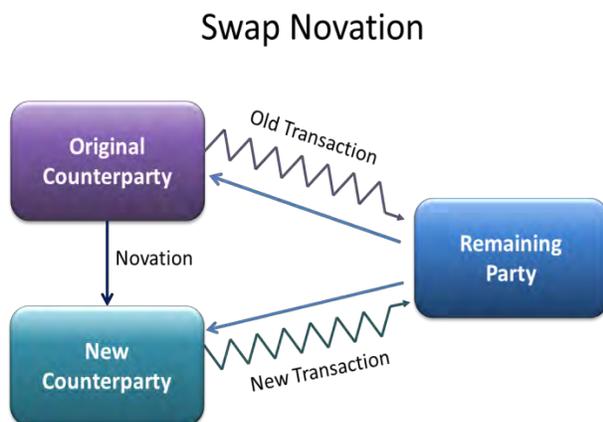


Fig 16.

### **Orphan Work**

Is work whose owner/s is difficult or even impossible to locate. As the word “Orphan” suggests, it refers to a work that has been abandoned.

Example: like a child that does not have parents (Found in Orphanages).

- Manuscripts/Books/Plays whose owners are unknown.



Fig 17.

### **Reciprocity of Needletime**

This simply means that if a collecting society has reciprocal relationship with another collecting society somewhere else/another country in the world, if a song of a South African artist is played/broadcast in mediums (television/radio) of that country, the collecting society in that country will collect royalties for that song on behalf of the collecting society in South Africa.

A reciprocal relationship is basically “you do for me, I do for you” relationship.



Fig 18.

## Reproduction

The term '**reproduction**' does not mean only the making of a direct copy. The term is defined to include also an indirect copy, i.e. a copy made from a copy, as well as a version in three-dimensional form made from an artistic work which itself is in two dimensions and vice versa).

I certify this and the following \_\_\_ pages to be a true and correct copy of the original sighted by me at.....on.....day of.....20....

John A Citizen J.P. # 12345  
A Justice of the Peace for South Australia

Fig 19.

## Resale of royalty right

A resale royalty right is a right that an artist e.g. a sculptor/painter has to a royalty (payment/fee) upon the art being sold again/for the second time by the person/organization that he (the painter/sculptor) sold too initially.

Example: Nkosinathi paints a picture and sells picture to Meshendri. After a few years after realising that the picture has accumulated in value, Meshendri sells it to MacDonald. In this regard, Nkosinathi will get a certain percentage of the purchase price between the transaction that took place between Meshendri and MacDonald.



Fig 20.

## Royalties

Is an agreed portion of the income from a work paid to its author, composer etc. and it is usually a percentage of the retail price of each copy sold.

$$\text{royalty} = \left( \begin{array}{c} \text{list} \\ \text{price} \end{array} \right) - \left( \begin{array}{c} \text{CS's} \\ \text{share} \end{array} \right)$$
$$\left( \begin{array}{c} \text{CS's} \\ \text{share} \end{array} \right) = \left( \begin{array}{c} 40 \\ \% \end{array} \right) + \left( \begin{array}{c} \text{author} \\ \text{cost} \end{array} \right)$$

Fig 21.

## Technological protection measure

Is a device or mechanism to control unauthorised copying or downloads/use of their products.

Example: **Copy Protect** is data protection **software** that lets you protect your audio, videos, pictures and documents. This is a depiction of it on DVD covers featured below.

Ex: enable the rights owner to allow certain permitted activities but to prevent illicit activities by a user who has access to the work.



Fig 22.

## Technological protection measure circumvention device

Is simply a device that is used to illegally “bypass” technological protection measures put in place. It is the opposite of a technological protection measure.

### WIPO Copyright Treaty (WCT)

Is a special agreement which deals with the protection of works and the rights of their authors in the digital environment.

The Treaty also deals with two subject matters to be protected by [copyright](#) : (i) computer programs, whatever the mode or form of their expression; and (ii) compilations of data or other material ("databases").

As to the **rights granted to authors**:

- **The right of distribution** is the right to give permission for making available to the public of the original and copies of a work through sale or other transfer of ownership.
- **The right of rental** is the right to give permission for commercial rental to the public of the original and copies of three kinds of works: **(i)** computer programs, **(ii)** cinematographic works and **(iii)** works embodied in phonograms.
- **The right of communication to the public** is the right to give permission for **any** communication to the public, by wire or wireless means



Fig 23.

### WIPO Performances and Phonograms Treaty

Is a treaty that deals with the rights of two kinds of beneficiaries, particularly in the digital environment:

Performers (actors, singers, musicians, etc.); and producers of phonograms (persons or legal entities that take the initiative and have the responsibility for the fixation of sounds).

A phonogram is a symbol (letter or combination of letters) representing a vocal sound.



Fig 24.

All Images were obtained from Google Images ([www.google.com](http://www.google.com)).