



European Copyright Law

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Intellectual Property Rights (IPR)

Divided in two groups

- Copyright
 - Literary and Artistic Works
 - Related Rights
 - Performing artists, producers of phonograms and films and radio corporations
- Industrial property
 - Patent/Models (new)
 - Design (new)
 - Trade marks (distinguish)



The copyright structure

- Copyright is a national right
 - International conventions
 - Berne Convention(1886)
 - Trade Related Aspects of Intellectual Property Rights including Trade in Counterfeit Goods, TRIPs (1995)
- Regional harmonisation (EU)



The copyright structure

- EU legal framework – directives
 - Copyright in the Information Society
 - Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (INFOSOC)
 - Orphan works
 - Rental and lending rights
 - Term of Protection
 - Satellite and Cable
 - Resale right
 - Protection of Computer Programs
 - Protection of Databases
 - Enforcement



The copyright structure

- 1) Protection
- 2) Use of protected work
 - Legal limitations/exemptions
 - Agreements
 - Implied, written, etc.
- 3) Sanctions



The copyright structure

- What is protected?
 - An *expression* in a particular form
 - Not facts, ideas, mathematical theories, etc. as such
 - That is expressed in an *original form*, i.e. marked by the personality of its creator



The copyright structure

- When is the work protected?
 - Automatic protection (created)
- Copyright © (first date of creation) (name of author/owner)



Copyright © 2012 Sanna Wolk



The copyright structure

- What is protected under copyright laws?
 - Literary and Artistic Works
 - Related Rights



Literary Works

- Literature
 - Books, poetry, fairy-tales
 - Letters
 - Texts of songs
- Scientific works
 - Articles, handbooks,
 - Education materials, thesis
 - Dictionaries
 - Maps
 - Interviews
- Computer programs and databases



Artistic Works

- Work of art
 - Painting, drawings
 - Photographs, graphics
 - Sculptures
 - Furniture, jewellery, cloths, textiles
 - Architecture
- Music
- Films
 - Drama, sitcoms, documentary, advertising
- Stage works
 - Drama, opera, musical



Lucasfilm Limited v. Ainsworth [2011] UKSC 39

Related Rights

- Performing artists
- Non-original pictures
- Producers of phonograms, films etc,





What ever form of expression!

13 years old boys essay (SMS):

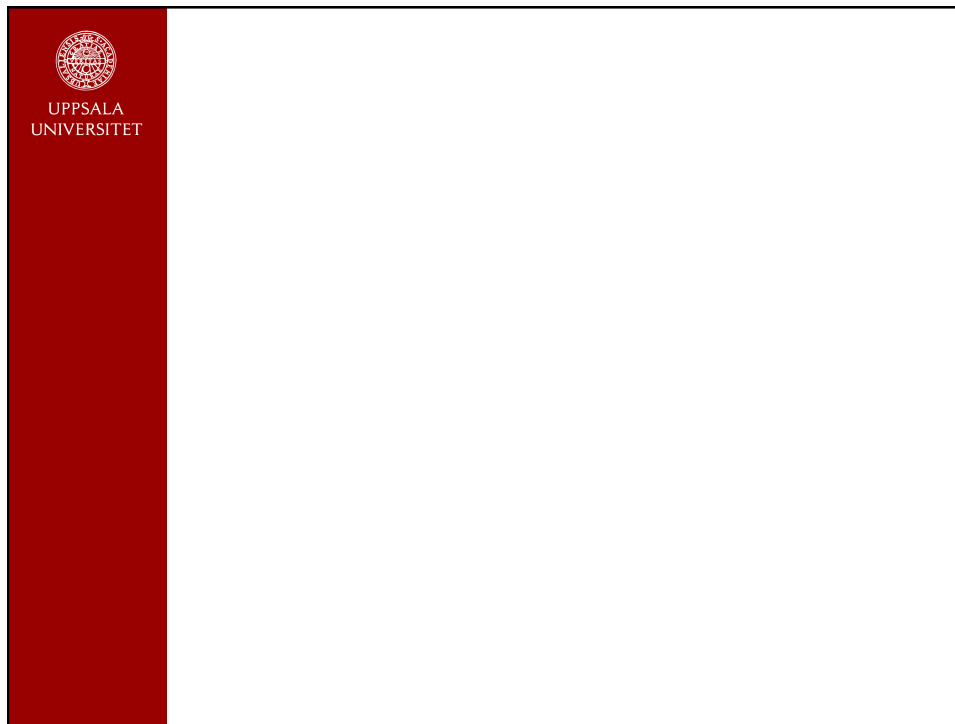
"My smmr hols wr CWOT. B4, we used
2go2 NY 2C my bro, his GF & thr 3: kids
FTF. ILNY, it's a gr8 plc..."



What ever form of expression!

Translation

"My summer holidays were a complete
waste of time. Before, we used to go to
New York to see my brother, his girlfriend
and their three screaming kids face to
face. I love New York. It's a great place..."




UPPSALA
UNIVERSITET

The copyright structure

- What is the term of protection?
 - Bernconvention
 - 50 years after †
 - EU
 - 70 years after †
 - 50/75 years for related rights
 - 15 years for databases



The copyright structure

- What does copyright afford the author?
 - Economic rights
 - Moral rights



Economic Rights

- Reproduction right
- Right of communication to the public
- Right of making available
- Distribution right





Economic Rights

- Reproduction by any means and in any form
 - direct or indirect
 - temporary or permanent



Economic Rights

- Right of communication to the public and right of making available





Economic Rights

- Distribution right
 - Sale, rental, lending etc.
 - Free movement (exhaustion)



Economic Rights - example



Moral Rights

- Paternity right
- Integrity right



Moral Rights - example



Use of protected works

- Legal exemptions
- Agreements
- Technical measures, linking, streaming



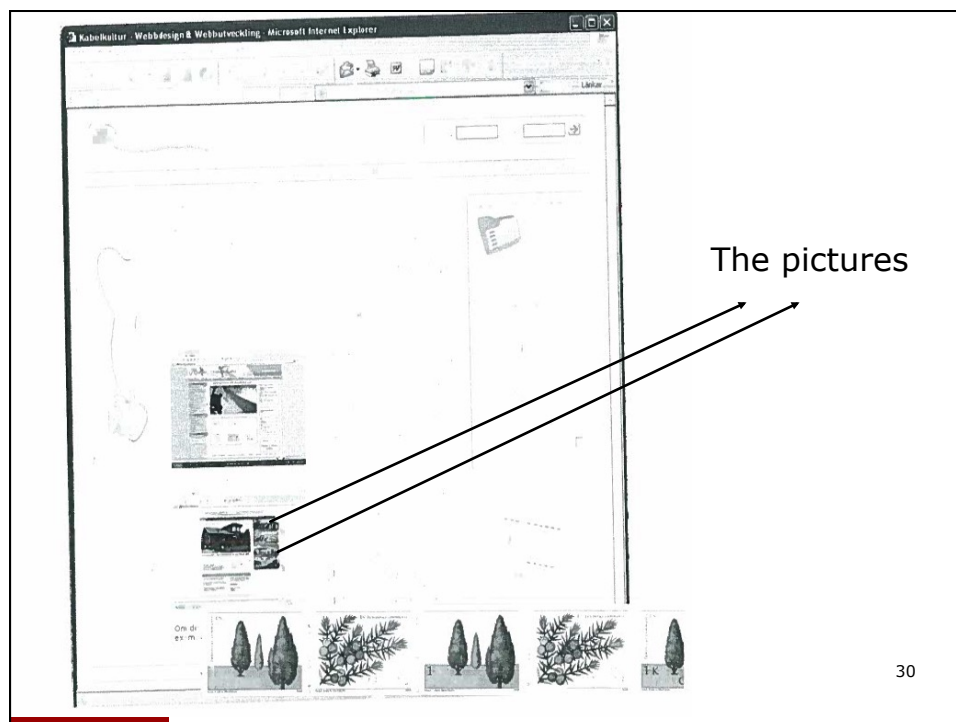
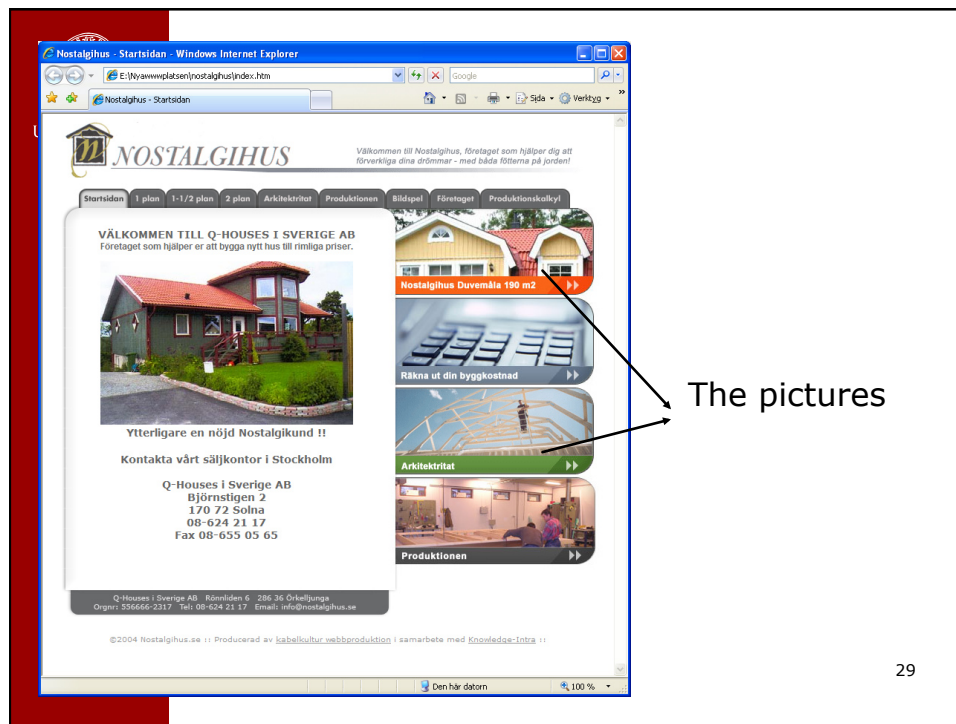
Exemptions

- Limited (legal) exceptions and limitations
 - To find a balance between creators and users, copyright legislation comprises exceptions to author's rights. The list and scope of these exceptions vary from one country to another
 - The Infosoc directive harmonises only very partly the exceptions regime
 - Private use
 - Public interests
 - Political speeches, court decisions, quotation, parody/satires, some types of use of copyrighted works for teaching purposes, news, libraries etc.



Exemptions

- Public interests (non-commercial)
 - Temporary acts of reproduction
 - Quotations
 - Architecture, sculpture, etc. in public places
 - Caricature, parody or pastiche
 - By libraries, educational establishments, archives
 - By the press
 - For people with a disability
 - Political speeches
 - In the background, minor part of a picture





Agreements

- Individual
- Collective
- Implied
- Orphan works
- Creative commons (CC)



Technical measures

- Circumvention and manipulation of such measures are prohibited



Example: linking

- Surface links
- Deep links
- Frame links
- Embedded links/inline links



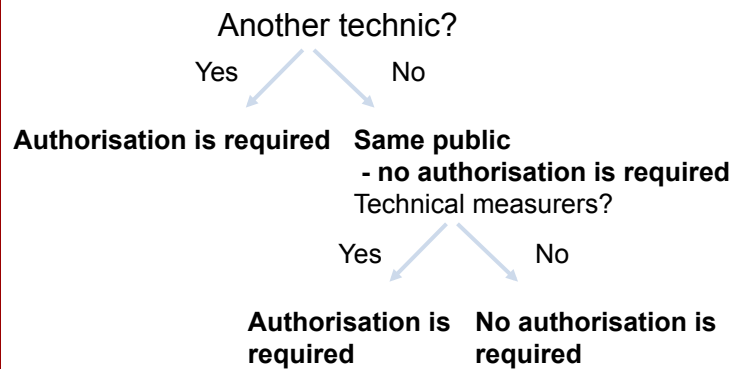
Example: streaming

- Looking, listen etc at the web
- Send out a stream
- Link to a stream



Linking and streaming

C-466/12 Svensson [2014]
C-348/13 BestWater [2014]



Example: a picture on Facebook

- Authorization
- The represented object may be protected
- The represented person

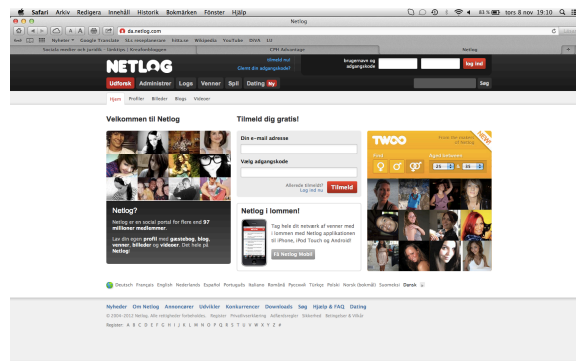


Example: filtering and blocking

- Technical (hosting) service providers
 - Internet providers, social networks, aggregator sites, search engines etc.
- Content publishers
 - Newspapers, companies websites etc.

Filtering and blocking

- When do service providers or social medias have an obligation to filter and block illegal copyrighted works?





Filtering and blocking

- C-314/12 UPC Telekabel [2014]
- EUD C-360/10 SABAM [2012] and EUD C-70/10 SABAM [2011]
- Filtering system = preventive monitoring
 - Identify (within all of the electronic communications of all its customers)
 - Determine (which files are stored and made available to the public unlawfully)
 - Prevent (block file-sharing/uploading etc.)



Filtering and blocking

- A delicate balancing act

copyright $\longleftrightarrow$ other fundamental rights

- IPRs not absolutely protected
- IPRs must be balanced against the protection of other fundamental rights



Filtering and blocking

- The balancing act
 - General monitoring is prohibited
 - Serious infringement of the freedom to conduct its business
 - Infringe the customers right to protection of their personal data and their freedom to receive or impart information



Filtering and blocking

- ISPs and social networks cannot be required to install filtering systems if
 - applies indiscriminately to all its customers;
 - as a preventive measure;
 - exclusively at its expense; and
 - for an unlimited period



Sanctions

- **Injunction**
 - The court stops the defendant from continuing or beginning an infringement of an IPR when a decision has been taken finding an infringement of an intellectual property right
- **Border measures**
 - Customs authorities seize of infringing goods
- **Damages**
 - Monetary compensation for the loss the right holder has suffered, may include the profits the infringer has made from the infringement



Sanctions

- **Destruction (of the infringing goods)**
- **Publication of court decisions**
- **Penal sanctions**
 - Criminal law generally only of interest in clear cases of counterfeiting and piracy



Thank you!

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