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European Copyright Law

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The copyright structure

- Copyright is a national right
 - International conventions
- Regional harmonisation (EU)



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The copyright structure

- EU legal framework – directives
 - Copyright in the Information Society
 - Orphan works
 - Rental and lending rights
 - Term of Protection
 - Satellite and Cable
 - Resale right
 - Protection of Computer Programs
 - Protection of Databases
 - Enforcement

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The copyright structure

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



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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

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The copyright structure

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



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The copyright structure

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



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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



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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

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Sculpture?

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Related Rights

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



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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..."



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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..."



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The copyright structure

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



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The copyright structure

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

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Economic Rights

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



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Economic Rights

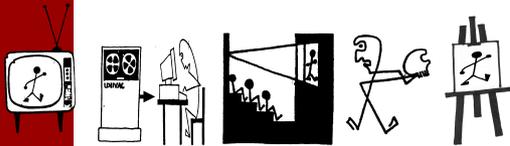
- Reproduction by any means and in any form
 - direct or indirect
 - temporary or permanent



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Economic Rights

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



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Economic Rights

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



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Economic Rights - example

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Moral Rights

- Paternity right
- Integrity right





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Moral Rights - example



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Use of protected works

- Legal exemptions
- Agreements

- Technical measures, linking, streaming



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Exemptions

- Limited (legal) exceptions and limitations
 - Private use
 - Public interests

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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

The pictures

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The pictures

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Agreements

- Individual
- Collective
- Implied

- Orphan works

- Creative commons (CC)



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Technical measures

- Circumvention and manipulation of such measures are prohibited

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Sanctions

- Injunction
- Border measures
- Damages
- Destruction (of the infringing goods)
- Publication of court decisions
- Penal sanctions

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Example: linking

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



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Example: streaming

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



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Example: a picture on Facebook

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





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Example: filtering and blocking

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



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Filtering and blocking

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



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Filtering and blocking

- 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.)

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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

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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

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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



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Thank you!

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