

Introduction to revision materials

Greetings from the CopyrightX:CIPPM 2015 group. We wish to say a big thank you to HarvardX, Professor Terry Fisher, and everyone involved in CopyrightX. This diagnostic test is our contribution to the next generations of CopyrightX students. We have tried to follow the structure and content of the pre-recorded lectures and have come up with a few questions for revision purposes. Please feel free to test your knowledge and share with your peers.

This is a joint project created by: Dr Argyro Karanasiou, Evangelia Papadaki, Ramon Romano, Amanda Soares-Kemmer, Constantinos Papantoniou and Metaxas Nicolaides. This work is licensed under the Creative Commons Attribution-ShareAlike 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-sa/4.0/> or send a letter to Creative Commons, PO Box 1866, Mountain View, CA 94042, USA.

The test is divided into sections mirroring materials taught in each lecture. Each section includes a mixture of basic multiple-choice questions and a few multiple choice problem questions in the hope that the test will help you to revise and hopefully provide some further food for thought. The correct answer is highlighted in green - below follows an example:

Example for an easy MC Q (multiple choice question)

The following is NOT protected by copyright:

- A. A literary work
- B. A music composition
- C. A choreography
- D. The list of ingredients in a recipe

Example for a problem MC Q

Amazon allows a publisher to grant certain rights that permit a Kindle customer (who buys an e-book) to loan it to a friend (as long as he is also a Kindle customer). While the book is on loan, the original owner is unable to access the book as the rights are temporarily transferred to the person who loaned it. This is:

- A. An agreement of the copyright holders to a secondary market for their good
- B. A copyright infringement
- C. Implying that infinite copies can be produced
- D. Not consistent with the first sale doctrine

You can find the revision test online in two parts: Part 1 will help you test your knowledge after revising lectures 1-6 and part 2 will do the same for lectures 7-12.

PART 1

CopyX Revision part 1 (Lectures 1-6) <http://www.quiz-maker.com/QY3YRP1>

CopyX Revision part 1 results <http://www.quiz-maker.com/Account-Quiz-Results?gp=446346xcF11a128-5>

PART 2

Copy X part 2 (Lectures 7-12) <http://www.quiz-maker.com/QC8ACOV>

CopyX Revision part 2 results <http://www.quiz-maker.com/Account-Quiz-Results?gp=446428x031f02C6-5>

****** The following pages of this document contain questions and right answers. If you intend to take the revision MCQ test to test your knowledge it is advisable to click on the links below and to no turn the page/scroll down *******

LECTURE 1: The Foundations of Copyright Law

1. A requirement of copyright protection is that a creation must have the following element:
 - a. Originality
 - b. Novelty
 - c. To be artistic
 - d. To be commercial

2. The Berne Convention requires each signatory country to grant:
 - a. To “protected authors” the same rights it accords to its own nationals.
 - b. neighbouring rights
 - c. effective mechanisms for punishing infringers
 - d. expansion of the rights of performers

3. Which country’s law applies when radio or TV broadcasting containing copyrighted material originates in another country?
 - a. Country where the radio or TV broadcastings are transmitting
 - b. The country, where viewers receiving and watching the broadcasting
 - c. None of the above
 - d. Both the above

4. The TRIPS agreement parallels the Berne Convention, in the sense that:
 - a. They impose on member countries obligations to establish effective remedies when copyrights are violated
 - b. Both have a mechanism for compelling member countries to comply with their obligations
 - c. They impose moral rights
 - d. They share the principle of national treatment

5. When the compositional elements in a photograph in common are “standard photographic conventions or devices” there will be no copyright infringement because it is considered to be
 - a. Not artistic
 - b. Not original
 - c. Scenes a faire
 - d. An idea

Lecture 2: Fairness and Personality Theories

1. Which theory Michael Snow used to support his claim for requesting the removal of the Christmas ribbons from Toronto's Eaton Centre from his work?

- a. The welfare theory
- b. The culture theory
- c. The personality theory
- d. The fairness theory

2. In 1954 the US Supreme Court in the case of Mazer v. Stein, 347 U.S. 201 (1954) held that "Sacrificial days devoted to such creative activities deserve rewards commensurate with the services rendered." Which theory supports this statement?

- a. The culture theory
- b. The fairness theory
- c. The personality theory
- d. The welfare theory

3. "There is certainly no kind of property, in the nature of things, so much his own, as the works which a person originates from his own creative imagination: And when he has spent great part of his life in study, wasted his time, his fortune & perhaps his health in improving his knowledge & correcting his taste, it is a principle of natural justice that he should be entitled to the profits arising from the sale of his works as a compensation for his labor in producing them, & his risk of reputation in offering them to the Public". Who said that?

- a. Joel Barlow
- b. John Philip Sousa
- c. Stewart Sterk
- d. William Fisher

4. Which one of the following theoretical underpinnings is NOT within the remit of the personality theory?

- a. The emotional or psychic bond between artist and creation
- b. The enjoyment of a copyright work for every person
- c. The self-realization as an individual
- d. Modification might threaten the author's identity

LECTURE 3: Subject Matter

1. Who owns the copyrights to a film?

- a. The actors
- b. The music composer
- c. The producer
- d. The camera man

2. A particular object qualifies as a, “useful” article when

- a. It has multiple uses
- b. It has artistic utilitarian function
- c. It has commercial value
- d. It has very good quality

3. The difference in music compositions with other copyrighted works is that

- a. Compulsory licensing
- b. Only publishers can license them
- c. Only creators can license them
- d. They cannot be licensed

4. Copyright in choreography is given only

- A. If choreographers capture their work in a medium
- B. If the choreography is displayed publicly
- C. If public do not know about the movements in choreography
- D. If the choreography tells a story

5. One of the activities software owners seek to control in software is

- A. Consumer's use of object code
- B. Not to alter the object code
- C. Trade secrets
- D. Consumer's reproduction of object code

1. How does the welfare theory compare to the fairness theory?

- a. The former is prospective, looking to the future and collective while the latter is personal and looks to compensate for work already created.
- b. They can co-exist to underpin certain doctrines, i.e. fair use
- c. Welfare theory discusses only the monetary value of the creation, while fairness theory takes a wider moral view on the matter.
- d. The fairness theory cannot provide incentives for co-creation, the welfare theory does.

2. The welfare theory suggests that copyright is necessary, because:

- a. Public goods should not be freely available
- b. Unless creators can recoup the cost of their creations, they won't produce
- c. Free-riders will always find ways not to pay for consumption of goods.
- d. Price discrimination allows for an economy based on wealth re-distribution in a fair manner, regardless of the product cost.

3. Describe what "the problem of social goods" is according to the welfare theory

- a. Luxurious goods that due to high pricing cannot be enjoyed by everyone.
- b. Social beneficial goods that have high creation costs and positive externalities and thus are not accessible to all
- c. Social beneficial goods that are non-rival and non-excludable and thus accessible to all
- d. Categories of certain products that are non-rival but excludable due to technical imposed methods (e.g. DRM coffee pods)

4. In September 2015, cryptocurrency BitCoin was officially deemed a commodity in the US by the Commodity Trading Futures Commission. If you apply welfare theory to this:

- a. Digital Currencies would have to be controlled by the state to avoid the public good problem
- b. To say Peer-to-Peer is a commodity would amount to completely stifling innovation online
- c. Applying the welfare theory to crypto-currencies would amount to mask state-paternalism under copyright policy making
- d. All of the above.

5. In 2013 the [toy company Golden Box filed for a declaratory lawsuit against universal music and the Beastie boys that the use of their song "girls" in their commercial was fair use](#). In the will of one of the founding members of the band is stated: "in no event may my image or name or any music or any artistic property created by me be used for advertising purposes". What do you think?

- a. Commercial use can be fair use, according to the welfare theory
- b. Unauthorised commercial use is copyright infringement
- c. Commercial use can only be fair use if it amounts to parody
- d. Only non-profit activities can be fair use

Lecture 5: Authorship

1. "Copyrights are sticky": Choose the option that **best** describes this phrase.
 - a. Copyrights are attached to a particular work.
 - b. Copyrights are connected only to a sole creator of a work.
 - c. An author acquires a copyright and keeps it, even when the physical embodiment of a work is transferred to someone else.
 - d. Copyrights in a work are granted in a complicated way.

2. A work that is prepared by an employee within the scope of his/her employment, whose copyright vests in the employer, is:
 - a. Collective work.
 - b. Work for hire
 - c. Work of joint authorship
 - d. Work with limited copyright protection.

3. Which of the following is NOT a requirement for joint authorship?
 - a. The work is divided into separate parts, each attributed to its contributor.
 - b. The contributor's intention for all contributions to merge into a unitary whole.
 - c. All contributions should be inseparable.
 - d. Each of the contributors has made a copyrightable contribution to the final work.

4. Andy is an illustrator who works independently. Andy agrees with Bob in writing to work for him and prepare some illustrations. When the illustrations are ready, Bob pays Andy the agreed sum. Andy's illustrations consist of copyrighted material, which Bob

later decides to use in a second unrelated project. Andy sues Bob for copyright infringement. Is Andy's claim likely to prevail?

- a. No – Andy's work has now been integrated into another project.
- b. Yes - copyright in the illustrations belongs to Andy, as he is an independent contractor.
- c. No, because Andy was Bob's employee and copyright in the illustrations belongs to Bob.
- d. No, because Andy was paid for his work.

5. In the case of Lindsay and RMS Titanic, involving the underwater filming of the wreck of the Titanic, the identity of the author was not obvious. The Supreme Court held that Lindsay owned the copyright in the filming, because:

- a. The final product duplicated his conceptions of what the film should look like.
- b. Lindsay had supervised and directed all aspects of the filming, even though he did not have his hands on the cameras.
- c. Lindsay's ideas had been transposed into tangible form.
- d. All of the above.

Lecture 6: The Mechanics of Copyright

1. Is the abolition of formalities retroactive?

- a. Yes.
- b. No.
- c. Depends on the subject matter.
- d. Depends on the subject matter.

2. Which of the following is NOT a formality?

- a. Registration
- b. Notice
- c. Deposit
- d. The period since the publication.

3. A song is first composed in 1975, yet it is only published in 2005; when will it fall in public domain?

- a. 45 years after the publication.
- b. It is already in public domain.
- c. 70 years after the publication.
- d. 45 years after the death of the author.

4. How long does the copyright protection last (post 1978 regime)?
 - a. 28 years.
 - b. During the life of the author.
 - c. 70 years.
 - d. **The life of the author + 70 years.**

5. When can the author exercise the so-called termination right?
 - a. **5 years.**
 - b. 10 years.
 - c. 20 years.
 - d. At any point in his life.

Lecture 7: The rights to reproduce and modify

1. What are the conditions which the plaintiff must satisfy to prove infringement?
 - a. Copying and improper appropriation
 - b. Reproduction and illegally access
 - c. **Copying, copies and improper appropriation**
 - d. Copies, illegally access and profit gain

2. In the case of Fred Fisher v Dillingham (1924), the judge made the follow statement: "Everything registers somewhere in our memories, and no one can tell what may evoke it. Once it appears that another has, in fact, used the copyright as the source of this production, he has invaded the author's right. It is no excuse that in so doing, his memory has played him a trick." What does it mean?
 - a. Innocent copying is admissible
 - b. Memories is a source of creation
 - c. **Innocent copying constitutes infringement**
 - d. None of the above

3. Direct evidence of copying, access to the work, sufficient similarity and demonstration of the same errors are useful:
 - a. **Arguments for the plaintiff to prove copying**
 - b. Requirements of copyright infringement
 - c. A and B

d. None of the above

4. Which one of the options below is NOT within the scope of the “de minimis doctrine” ruled in the case of *Davis v The Gap*?

- a. Innocent copying constitutes infringement
- b. The law will not penalize the taking of trivial amounts
- c. This defence is not available for who samples sound recordings
- d. Copying a small piece of someone’s sound recording triggers a violation of s. 106

5. Read the following statements – true or false?

I - The list of derivative works on the scope of Sections 106(1) and 106(2) are exhaustive.

II - If a defendant’s work does not incorporate enough of the plaintiff’s work to violate the rules, it does not constitute a derivative work.

- a. Both true
- b. Both False
- c. I is False and II is True
- d. I is True and II is False

Lecture 8: Distribute, Perform and Display

1. Price discrimination is the practice of:

- a. Differentiating price of the same copyright work to reflect cost of creating different versions of the copyright work
- b. Capitalising on customer price sensitivity to not attributed to the extra cost in creating the copyright work
- c. Importing or exporting copyright works without the copyright owner’s permission
- d. Reselling copyright works on the second hand market

2. The copyright owner cannot prevent arbitrage of price differentiated copyright works:

- a. By implementing Technological Protection Measures which prevents further distribution of digital goods
- b. By relying on the exclusive distribution rights of copyright holders to suppress second hand markets
- c. By relying on contract clauses for copyright works licenced not sold
- d. By “versioning” their copyright protected works

3. The “First Sale Doctrine” is not applicable when:
 - a. The purchaser engages in round trip parallel importation
 - b. The purchaser engages in parallel importation
 - c. The purchaser resells purchased software
 - d. The purchaser resells licenced software

4. Copyright owners seek to restrict further distribution of copyright works after the first sale in order to:
 - a. Protect the moral rights of the copyright owner
 - b. Increase demand and profitability for the copyright work without the fear of arbitrage
 - c. Align the copyright owners within the principles of copyright in the welfare, fairness and culture theories of copyright
 - d. Please the “court of public opinion”

5. Software will constitute a licence agreement rather than a sale when:
 - a. The copyright owner specifies the user is granted a licence, restricts the user’s ability to transfer the software, and imposes notable restrictions
 - b. The software is sold as a digital download, and not sold through a physical housing such as a CD or USB drive.
 - c. The purchaser is technically capable of reproducing and distributing further copies of the copyright protected software
 - d. The copyright owner makes no mention of the user’s ability to make copies of software, distribute further copies or imposes no notable restrictions on the use of the copyright protected software.

Lecture 9: Fair Use

1. Which factor is NOT taken into consideration when determining whether the use of a work in a particular case is a fair use:
 - a. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes
 - b. The nature of the copyrighted work
 - c. The intention of the person using the work
 - d. The effect the use has for the value of the copyrighted work in potential market.

2. The fair-use doctrine is best described as

- a. A codified and consolidated doctrine.
- b. An ad hoc, case-specific doctrine, continuously evolving to accommodate technological change.
- c. An excuse to use copyrighted material without the copyright owner's consent.
- d. A doctrine that exists only in US copyright law.

3. In the significant Betamax case, the Supreme Court held that:

- a. Sony Corporation was infringing copyright by facilitating and encouraging viewers to copy.
- b. VCRs had dire consequences for the film industry.
- c. Copying for private use was infringing.
- d. Time-shifting copyrighted material for home use was a fair use.

4. What constitutes a 'potential market' in one of the factors of fair use?

- a. A traditional, reasonable or likely to be developed market that may emerge through innovation in technology or business models
- b. A market in another country
- c. A future market that can suffer injury because of unfair conduct
- d. A different group of people that can enjoy the work

5. Marie is a professional photographer that shot a photograph of a celebrity within a specific scene. The photograph appeared on a well-known fashion magazine. Joey is a cartoonist. He created an illustration for his blog that depicted in a humorous way a non-celebrity in a similar scene as Marie's photograph. Joey's illustration had symbolical and satirical elements. Marie saw Joey's illustration on his blog and now threatens him with a copyright infringement suit. Is she likely to prevail?

- a. Yes - Joey has copied Marie's photograph.
- b. No - Joey's work is a parody which constitutes a fair use, as it is a transformative use.
- c. No, because Joey's illustration is recorded in a different physical medium.
- d. Yes, because Joey's illustration is substantially similar to her photograph.

Lecture 10: Cultural Theory

1. One of these theories does NOT form part of the main theories of copyright law:
 - a. Fairness
 - b. Welfare
 - c. Culture
 - d. **Autonomy**

2. Cultural theory is concerned with one of the following types of justice:
 - a. Commutative justice
 - b. **Distributive justice**
 - c. Individual justice
 - d. Universal justice

3. The people who contributed to the cultural theory were:
 - a. Only legal academics
 - b. **Scholars coming from different backgrounds such as philosophy, political theory, psychology and law**
 - c. Sociologists
 - d. Artists and legal scholars

4. Martin Luther King's speech is currently:
 - a. **Protected by copyright law and cannot be used or distributed without the permission of his estate**
 - b. Part of the public domain
 - c. Possible of being reproduced as a result of the impact of the cultural theory
 - d. Only possible of being used for political speeches

5. Why is it difficult to shield against the unauthorised uses of Traditional Knowledge?
 - a. Governments are not interested in recognising Traditional Knowledge as a thing capable of protection by copyright law
 - b. It is concurred amongst all scholars that it goes against the ideals of distributive justice
 - c. Copyright theories such as the cultural theory argue that there are no advantages for protecting unauthorised uses of Traditional Knowledge
 - d. **Authors of such products are usually collective, hard to identify or dead**

1. Digital Rights Management is correctly defined as:
 - a. The aggregation of the licence agreements and digital means governing the use of digital copyright works
 - b. A legal remedy for infringement of digital copyrights
 - c. A digital lock on copyright works
 - d. An exclusive right of the copyright owner

2. Technological Protection Measures secured legal protection by which means?
 - a. Lobbying by right holders through congress in the U.S.A
 - b. Lobbying by right holders through the EU
 - c. Lobbying by right holders to WIPO
 - d. Lobbying by consumer right organisations to national legislatures

3. The legal protection afforded to Technological Protection Measures offers:
 - a. Protection and remedies against copyright infringement
 - b. A right of access over digital copyright works
 - c. A right to implement Digital Rights Management as an exclusive right
 - d. Protection and remedies against circumvention

4. Legal protection for Technological Protection Measures is seen as necessary by copyright owners because:
 - a. Without legal protection the Technological Protection Measure would constitute an unlawful restriction upon the "First Sale Doctrine"
 - b. It provides a right of access over digital copyright works
 - c. Technological Protection Measures would be incomplete without a legal remedy in the increasingly common occurrence of circumvention of the Technological Protection Measures implemented
 - d. It creates a legal right to control second hand markets of digital copyright works

5. Digital Rights Management may be circumvented legally:
 - a. To perform a permitted act, such as creating a private copy or format shifting
 - b. For non-profit purposes only
 - c. In instances which do not amount to any actual copyright infringement
 - d. Only for research into cryptography which does not prejudice the copyright owner

1. To obtain a permanent injunction the plaintiff must NOT show:
 - a. An irreparable injury.
 - b. The inadequacy of a monetary compensation.
 - c. That the balance of hardship favours the respondent.
 - d. The fact that the public interest is not disserved by the injunction.

2. To establish a “right and ability to supervise” and a “direct financial benefit”, which of the following is required?
 - a. Contributory Infringement.
 - b. No liability.
 - c. Vicarious liability.
 - d. Direct liability.

3. Impounding is:
 - a. A punitive remedy.
 - b. An *ex officio* remedy.
 - c. A permanent injunction.
 - d. A preliminary injunction.