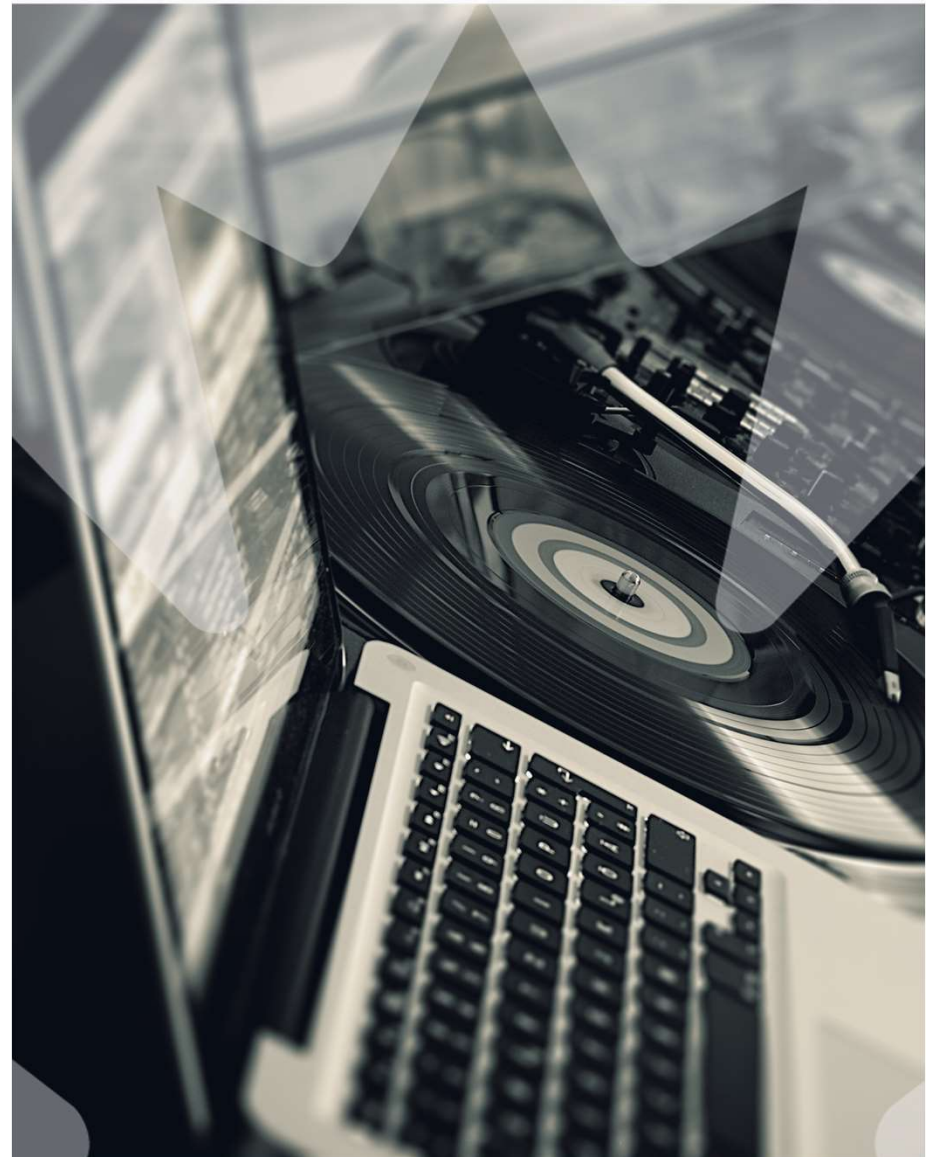




Copyright 101

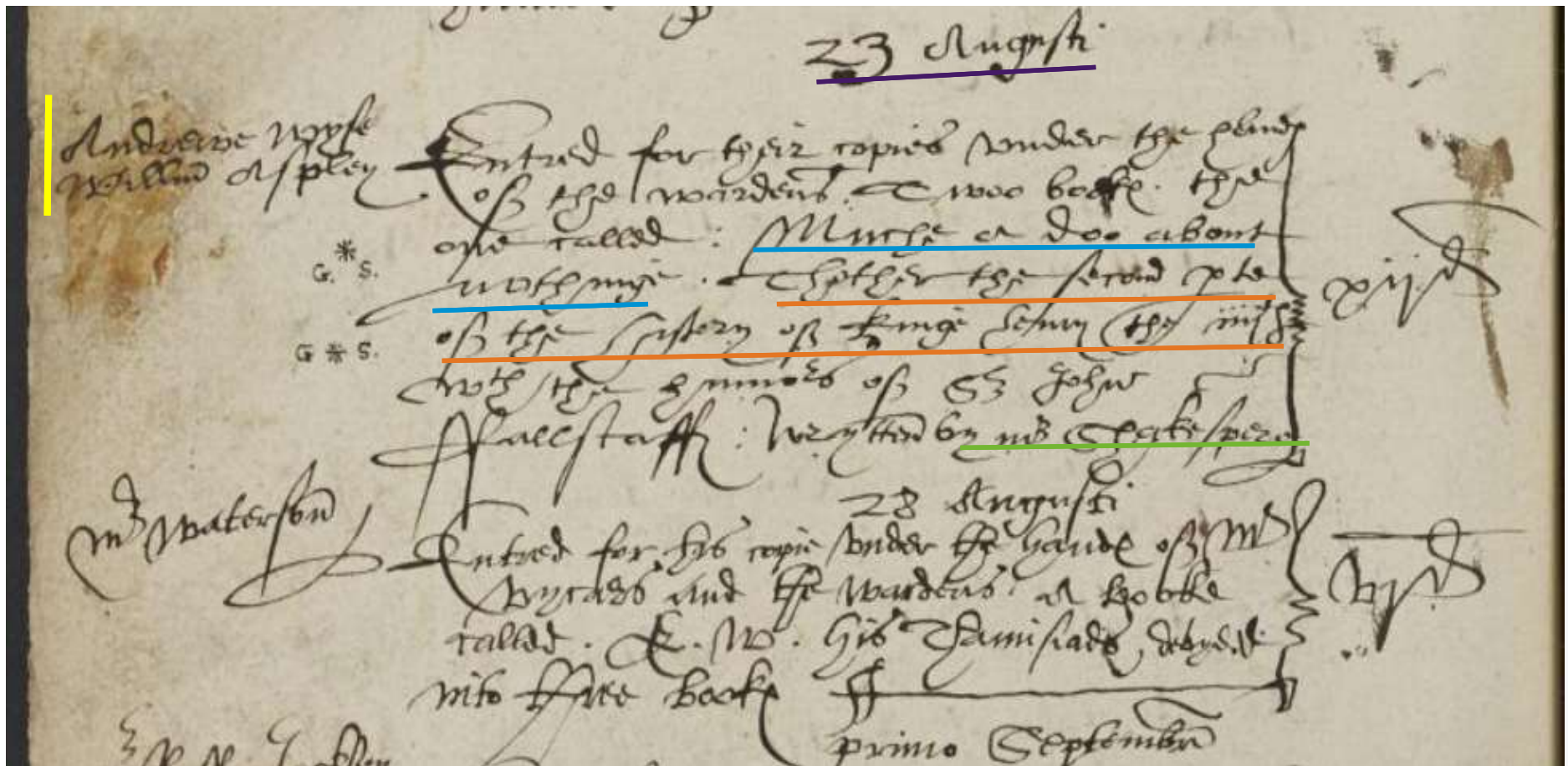
More than just making
copies.



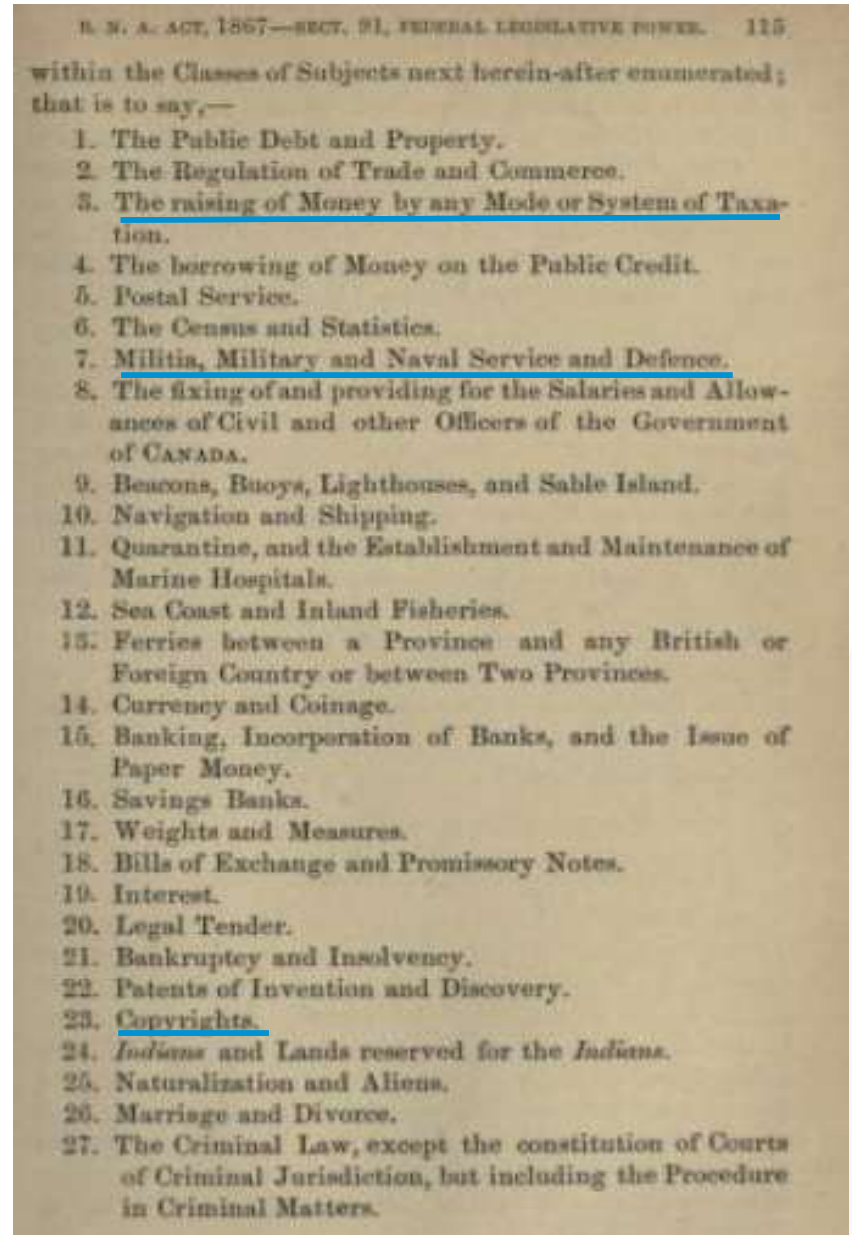
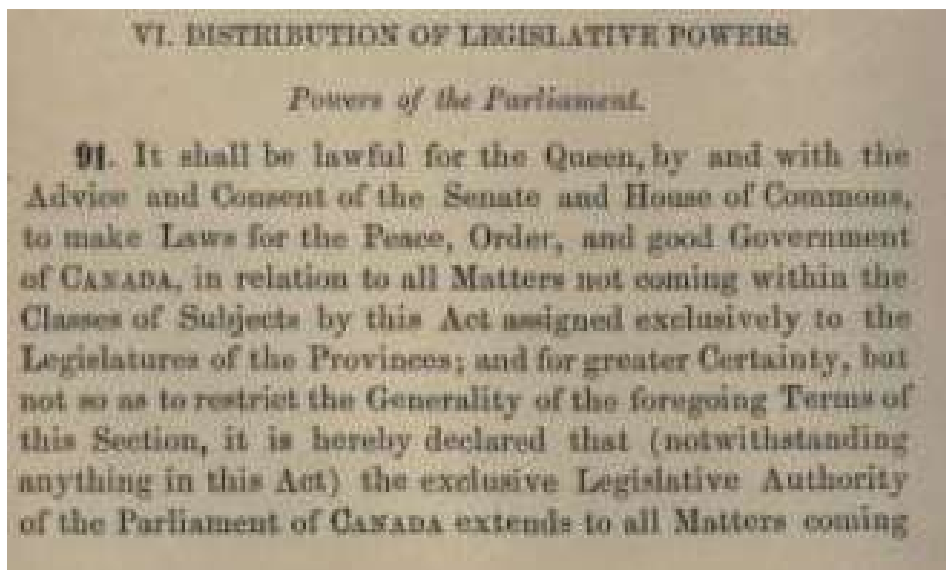
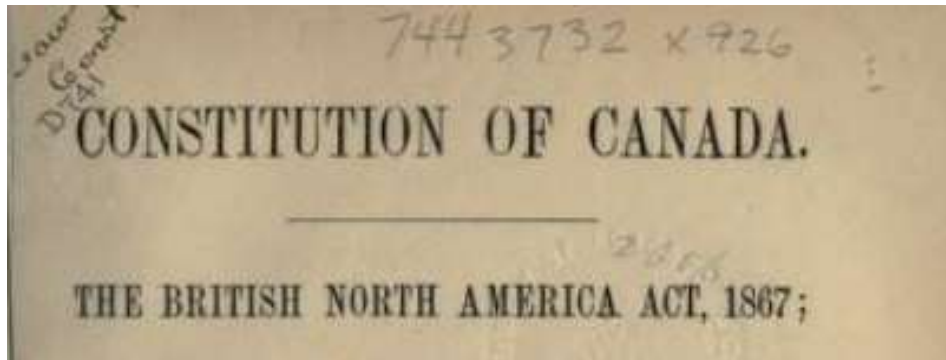
Agenda

- What is Copyright?
- Conditions for Protection
- Subject Matter
- Authorship
- Infringement

Brief history of copyright



Brief history



Canadian Intellectual Property Office (CIPO) mandate



Examine and grant intellectual property (IP) rights



Provide quasi-judicial function for trademarks and patents



Raise awareness for the effective use of IP



Share IP information to support innovation

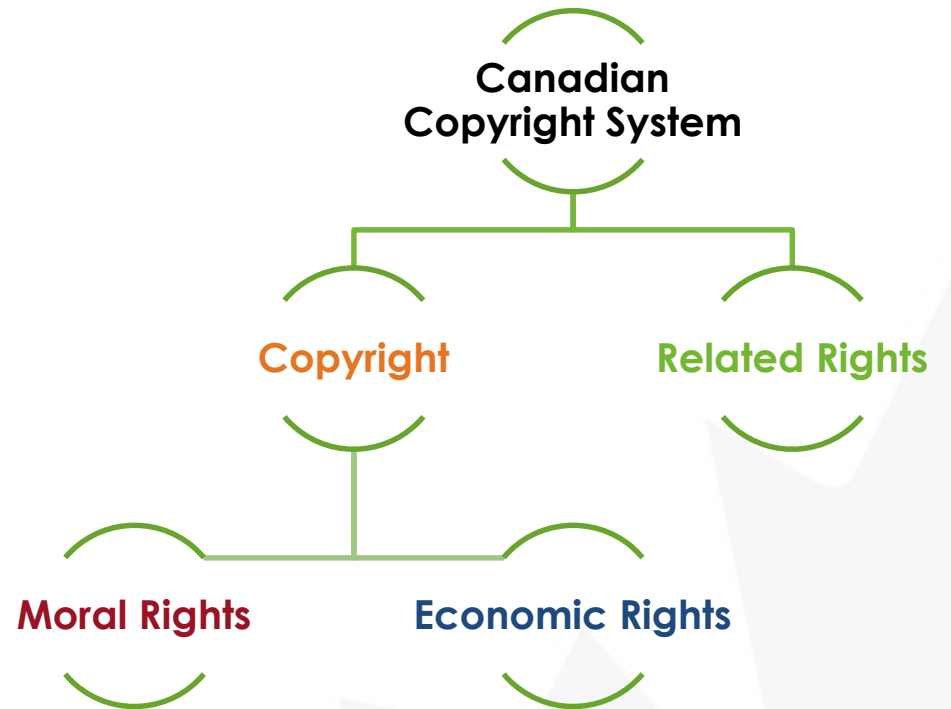


Represent CIPO internationally and support Canadian interests in foreign markets.

- Gain a better understanding on the **importance of protecting** their brand, innovation, creation/invention through IP.
- Understand that IP is an intangible asset that **can provide a business with a sustained competitive advantage** in the marketplace
- Understand the critical **differences between patents, trademarks, industrial designs, copyright, and trade secrets**

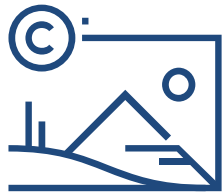
What is Copyright?

- Put simply: **copyright = the right to copy a work**
- More accurately: copyright is an exclusive “**bundle of rights**”
- Also involves “**neighbouring rights**”
- Consists of **moral rights** and **economic rights**

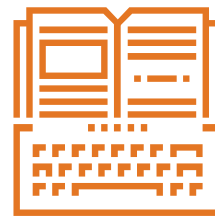


Subject matter

- There are 4 different kinds of “works” :



Artistic



Literary



Musical



Dramatic

Conditions for Protection

1. The work must be “**original**”
2. The work must be an “**expression**”, and not merely an idea
3. The work must be in a “**fixed**” material form



Originality

- Copyright applies only to *original* works
- Test for originality:
 1. Not a mere copy
 2. Skill and judgment
 3. More than trivial skill and judgment
- Examples:
 - Summaries
 - Typographical corrections



Idea v Expression dichotomy

- Copyright protects *expressions* and not *ideas*.
- Example:
 - Jungle book
 - Recipe book
- However if a lot of your ideas have been copied, then you can argue that your expression has been copied
 - *Robinson v Cinar* (SCC, 2013)



Idea v Expression dichotomy



Robinson v Cinar (2013, SCC)

- *Many elements of the show were similar*
 - *Similar titular characters*
 - *Secondary characters shared personality traits*
- *Dissimilarities*
 - *Secondary characters mostly animals in Curiosity*

Fixation

- Work must be “*fixed*” in a material format
- Fixed formats:
 - Paper
 - Video recordings
 - Audio recordings
 - Hard drives / memory cards
- Non-fixed formats
 - Spoken words
- Unclear:
 - RAM in a computer
 - VOIP



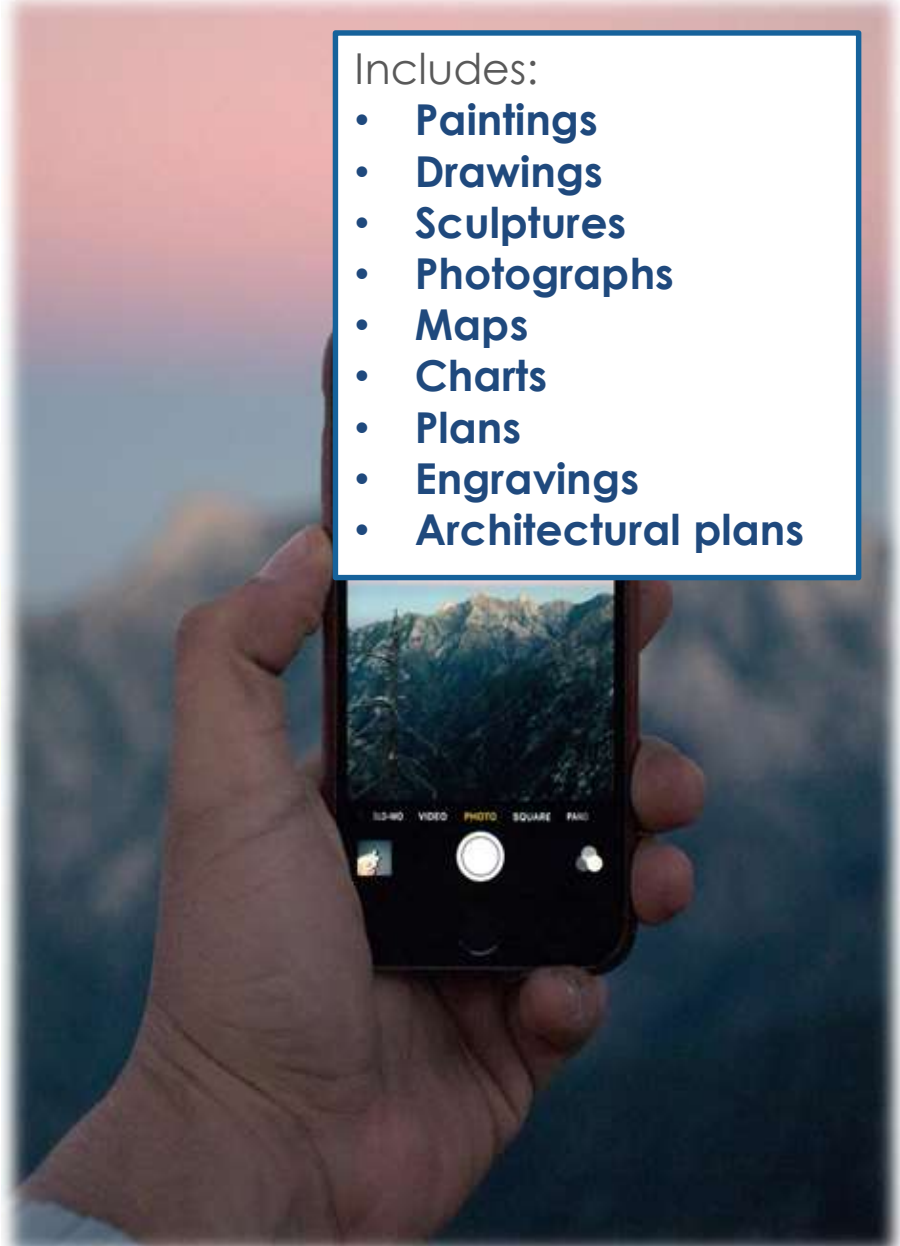
Artistic Works



- An artistic work can fall into a **specific category of artistic work**
OR
- Be a “**generic work of art or artistic craftsmanship**”

Includes:

- **Paintings**
- **Drawings**
- **Sculptures**
- **Photographs**
- **Maps**
- **Charts**
- **Plans**
- **Engravings**
- **Architectural plans**



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Artistic Works

Other examples of **artistic works that have been recognized**:

- plans and sketches for machinery or buildings;
 - logos of distinctive design;
 - advertising material;
 - tombstones;
 - drawings of comic strip characters;
 - photographs and content on a webpage;
 - knitting patterns;
-
- Works of artistic craftsmanship
 - Excludes:
 - Utilitarian and functional works
 - If more than 50 articles – consider industrial design protection.

Literary Works



- Generally, works expressed in **print OR writing**
- Also includes **tables**, and **compilations** of literary works

Literary Works

Traditional Literature:

- Novels/ Short stories/Poems/Biographies

Business Documents:

- Instruction manuals
- Business letters
- Contracts
- Text on packaging

Excluded:

- One or short-worded titles, i.e *Exxon*
- Historical facts

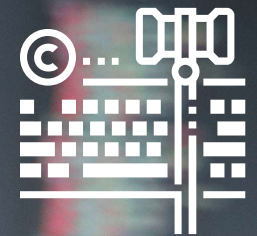
'Tech-Based' Literary Works



Tech-based works, such as **computer programs** and **electronic databases**, are also considered literary works

Why?

- Consist of a **series of instructions** written in source code



Musical Works

“any work of **music or musical composition**, with or without the words”

A **sound recording** is one way through which a musical work can be expressed, in addition to print and writing.

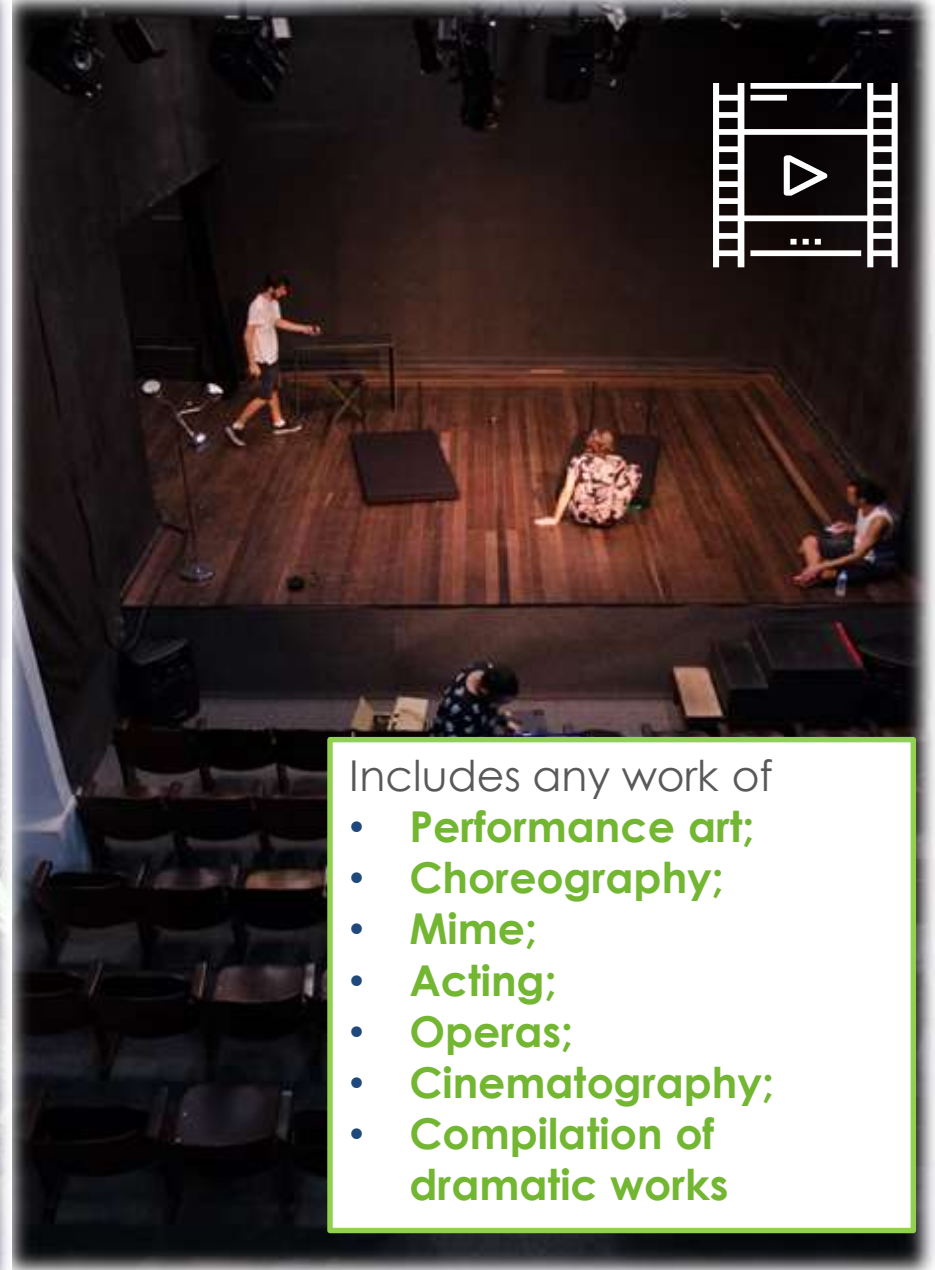
If you own copyright to a musical work you have the exclusive right to the **public performance** of the work.

Dramatic Works

- A dramatic work can fall into a **specific category of dramatic works**

OR

- be a **general dramatic work**

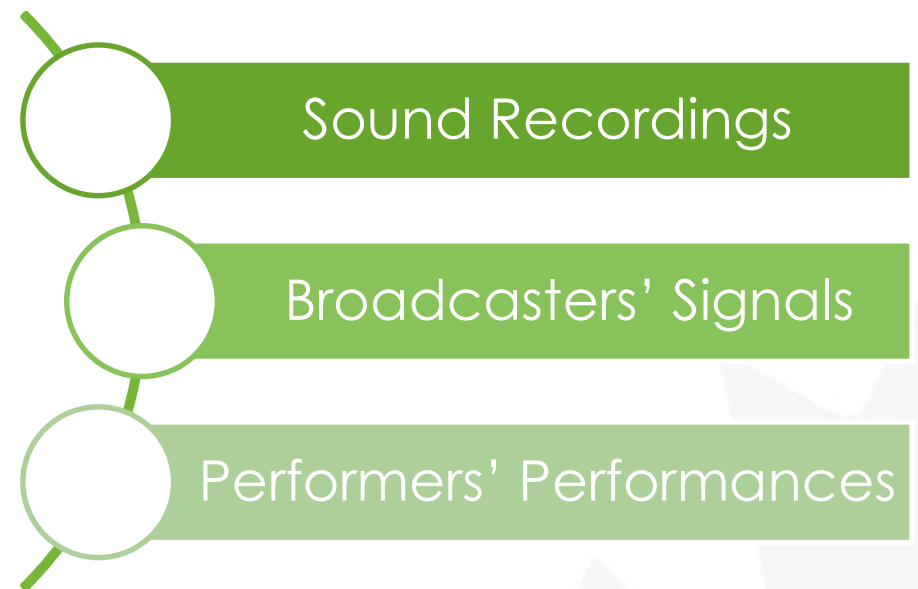


Includes any work of

- **Performance art;**
- **Choreography;**
- **Mime;**
- **Acting;**
- **Operas;**
- **Cinematography;**
- **Compilation of dramatic works**

Neighbouring Rights

- Also commonly called “**Related Rights**”
- Generally, provide the right to be fairly paid
- Do not apply to “works”
- Cover individuals auxiliary to the creation of “works”
- Different in kind from traditional copyrights



The Author as 1st Owner

- The author will **always** remain the author of a work they create
- But, will **not always** be the owner of the work
- 2 basic ways of becoming a copyright owner:
 - Authorship **OR** Buy the rights



Authorship

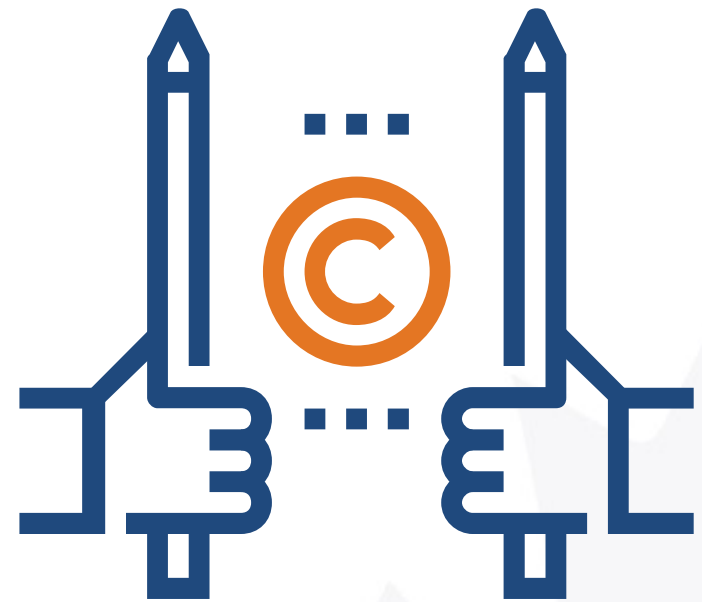
Must be a human?

- Corporations
- Ghosts
- Animals
- Computer aided/generated

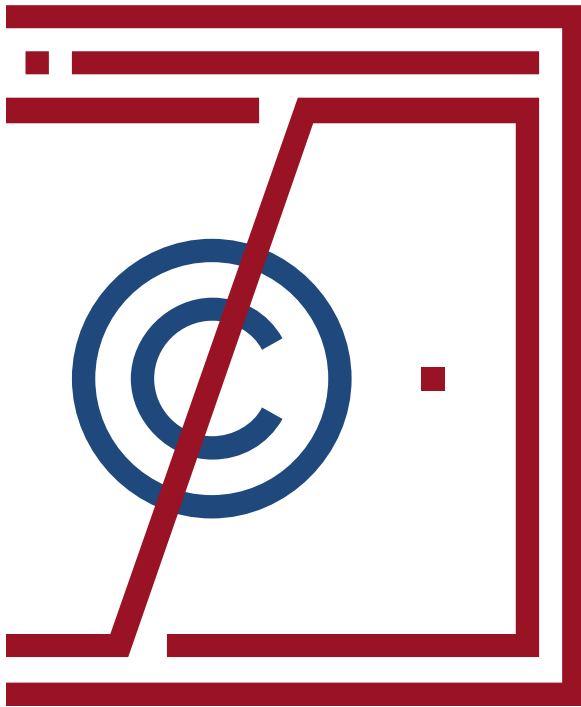


Joint-Authorship

- Work produced by 2 or more authors
- One copyright for whole work; none of the authors enjoys an exclusive right to it
- Unlike “collective works” – where different works are assembled
- Contribution of one author can't be distinct from that of the other(s)



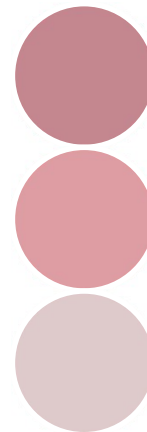
Exceptions



- Author always remains the author of the work, BUT will not always remain the owner, **OR** be the 1st owner
- Examples:
 - Copyright in employment
 - Crown copyright
 - Contractors (more often than not)

Moral Rights

- Not concerned with economic interests
- Cannot be sold, but **can be waived**
- Canadian system recognizes **three moral rights**
- Michael Snow and the Eaton Centre's "Canadian Geese in flight"



Attribution

Integrity

Association

What is Copyright Infringement?

Two types of infringement:

Copying without permission: the act of copying a copyright-protected work without the author's permission,

OR

Substantial copying : copying a substantial part of the work without the author's permission



What is Copyright Infringement?

These 2 Photographers Never Met, But They Took the Exact Same Photo

By Rafi Letzter, Staff Writer | March 9, 2018 07:21am ET



MORE ▾



Source: <https://www.livescience.com/61970-photo-wave-coincidence.html>

What is Copyright Infringement?

Primary Infringement:

- Acts to which the owner has the exclusive rights
- Reproducing, copying, etc.

Secondary Infringement:

- Acts which are related to infringement, typically after an infringing copy has been created
- Selling, distributing, etc.
- “Knows or should have known” - does not require knowledge you are selling infringing copies.
- Potential criminal liabilities

Authorizing Infringement:

- To authorize others to do acts to which the owner has exclusive rights without the owner's permission

Conditions for Protection – Registration?

- Copyright is **unlike any other IP right** in Canada
- Why?
 - **Automatic**; registration is **just an option** and not required
- Fees for Registration in Canada
 - **Online: \$50**
 - **Any other means: \$65**



Terms of Protection

Copyright + Moral Rights

- Life of Author + **50 years**
 - Subject to extend under the USMCA to life + **70 years**
- Non-dramatic cinematographic work or compilation: **50 years**
- Neighbouring Rights:
 - Sound recording: **50 years**. If published before expiry - then 70 years or 100 years from first fixation.
 - Performer's performance: **50 years**, unless fixed in sound recording.
 - Communication signals: **50 years**.

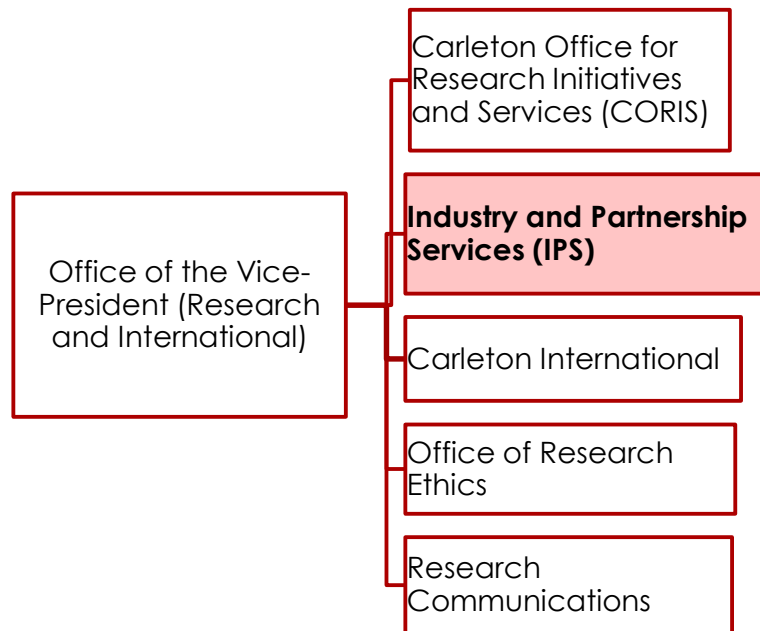
Some considerations

- Defenses/exceptions
 - Fair Dealing doctrine
 - Purpose
 - Fairness
 - User-generated content
- Statutory damages.





Industry and Partnership Services



IPS supports collaboration between companies and other partners and the University's researchers



Identify and negotiate with potential partners



Leverage public funding with external capital and expertise



Provide advice regarding management of IP (commercialization)



Structure a suitable arrangement

4th Floor, Arise Building, x3570

ips@cunet.carleton.ca

<https://carleton.ca/ips/>

How Industry and Partnership Services can help



- Confidentiality, Research, IP Agreement to protect IP ownership
- Identify and Evaluate Discoveries
 - Identify opportunities for innovation transfer and commercialization.
 - Researcher(s) complete a Disclosure Form and request a meeting.
- Promote innovations on- and off-campus
- Conduct IP assessment and recommend IP strategy (patent, trademark, copyright, etc)
- Conduct Market Assessments and identify potential partners
- Develop a commercialization strategy (licensing or assignment) and ensure your IP strategy is aligned with market assessment
- Analyse commercialisation options (Licensing or assignment)
- Assist with patent prosecution and maintenance (due dates)

Contact Dr. Theresa White, Manager- Contracts and Innovation Transfer
theresawhite3@cunet.carleton.ca



CIPO and Carleton **collaboration**

- Virtual office hours
- Available for meetings
- Webinars on IP-related topics
 - Organised by IPS (or any other groups)
 - Invited guest
- Role of the IP advisor
 - Also, what I will not provide



Questions on Copyright?

If I have a Question on Copyright Registration(s) and Applications to Register?

- Canadian Intellectual Property Office

If I have a Question on Copyright Tariffs and Tariff Proceedings?

- Copyright Board of Canada

If I have Any Other General Copyright Query?

- Department of Canadian Heritage's Copyright Policy Branch



Carleton resources on copyrights

- Copyright for researchers, students and staff
 - [Copyright Definitions and FAQ](#)
 - Fair dealing
 - Copyright ownership
 - Licensing
 - Etc...
- copyrights@carleton.ca
- For any questions on copyright at Carleton:
 - Valerie Critchey (Librarian): valerie.critchley@carleton.ca



Contact CIPO



Canada.ca/ip-for-business



Client Service Centre

Phone: 1-866-997-1936



In-person meetings by appointment

Canadian Intellectual Property Office

Place du Portage I

50 Victoria St., Room C-229

Gatineau, QC K1A 0C936



IP Advisor, National Capital region

Caroline Lefebvre – caroline.lefebvre@canada.ca



Find more programs and support for Canadian

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Other CIPO events: Search “CIPO calendar of events”



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OPIC

CIPO IP Resources



IP for Business

Tools and information you need to better acquire, manage and leverage your IP assets.

Includes:

- IP Toolkit
- Doing Business Abroad Guides
- IP Videos
- Case Studies
- IP game and Interactive tools

Canada.ca/ip-for-business



IP Academy

Suite of seminars and training services for businesses.

Includes:

- Seminars & webinars
- IP boot-camps
- Search-a-thons
- Case studies
- Custom training programs

Canada.ca/ip-academy

English



<https://form.simplesurvey.com/f/I/IPAE>

Canada 